IC 36

TITLE 36. LOCAL GOVERNMENT

IC 36-1

ARTICLE 1. GENERAL PROVISIONS

IC 36-1-1

Chapter 1. Legislative Intent

IC 36-1-1-1

Intent of title; citation to prior statute

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

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

IC 36-1-1-2

Preservation of materials related to title

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

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

IC 36-1-2
Chapter 2. Definitions of General Applicability

IC 36-1-2-1
Application to title
Sec. 1. The definitions in this chapter apply throughout this title.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-1.7
"Assessed value"
Sec. 1.7. "Assessed value" has the meaning set forth in IC 6-1.1-1-3.
As added by P.L.6-1997, SEC.202.

IC 36-1-2-2
"Bonds"
Sec. 2. "Bonds" means any evidences of indebtedness, whether payable from property taxes, revenues, or any other source, but does not include notes or warrants representing temporary loans that are payable out of taxes levied and in the course of collection.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-3
"City"
Sec. 3. "City" refers to a consolidated city or other incorporated city of any class, unless the reference is to a school city.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-4
"Clerk"
Sec. 4. "Clerk" means:
(1) clerk of the circuit court, for a county;
(2) county auditor, for a board of county commissioners or county council;
(3) clerk of the city-county council, for a consolidated city;
(4) city clerk, for a second class city;
(5) clerk-treasurer, for a third class city;
(6) clerk-treasurer, for a town; or
(7) chief executive officer of a political subdivision not described in subdivisions (1) through (6).
As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.44, SEC.35; P.L.186-2006, SEC.1.

IC 36-1-2-4.5
"Emergency"
Sec. 4.5. "Emergency" means a situation that could not reasonably be foreseen and that threatens the public health, welfare, or safety and requires immediate action.
As added by P.L.329-1985, SEC.1.

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

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

(1) is adopted by a municipal corporation; and

(2) seeks to control the use of groundwater in a manner and to a degree that protects human health and the environment against unacceptable exposure to a release of hazardous substances or petroleum, or both.

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

IC 36-1-2-5
"Executive"

Sec. 5. "Executive" means:

(1) board of commissioners, for a county not having a consolidated city;

(2) mayor of the consolidated city, for a county having a consolidated city;

(3) mayor, for a city;

(4) president of the town council, for a town;

(5) trustee, for a township;

(6) superintendent, for a school corporation; or

(7) chief executive officer, for any other political subdivision.

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

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

Sec. 6. "Fiscal body" means:

(1) county council, for a county not having a consolidated city;

(2) city-county council, for a consolidated city or county having a consolidated city;

(3) common council, for a city other than a consolidated city;

(4) town council, for a town;

(5) township board, for a township;

(6) governing body or budget approval body, for any other political subdivision that has a governing body or budget approval body; or

(7) chief executive officer of any other political subdivision that does not have a governing body or budget approval body.

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

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

Sec. 7. "Fiscal officer" means:

(1) auditor, for a county not having a consolidated city;

(2) controller, for a:

(A) consolidated city;
(B) county having a consolidated city, except as otherwise provided; or
(C) second class city;
(3) clerk-treasurer, for a third class city;
(4) clerk-treasurer, for a town; or
(5) trustee, for a township.

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

IC 36-1-2-8
"Law"

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

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

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

Sec. 9. "Legislative body" means the:
(1) board of county commissioners, for a county not subject to IC 36-2-3.5 or IC 36-3-1;
(2) county council, for a county subject to IC 36-2-3.5;
(3) city-county council, for a consolidated city or county having a consolidated city;
(4) common council, for a city other than a consolidated city;
(5) town council, for a town;
(6) township board, for a township;
(7) governing body of any other political subdivision that has a governing body; or
(8) chief executive officer of any other political subdivision that does not have a governing body.

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

IC 36-1-2-9.5
"Materials"

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

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

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

Sec. 10. "Municipal corporation" means unit, school corporation, library district, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, or other separate local governmental entity that may sue and be sued. The term does not include special taxing district.

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

IC 36-1-2-11
"Municipality"
Sec. 11. "Municipality" means city or town.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-12
"Person"
Sec. 12. "Person" means individual, firm, limited liability company, corporation, association, fiduciary, or governmental entity.
As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.8-1993, SEC.512.

IC 36-1-2-13
"Political subdivision"
Sec. 13. "Political subdivision" means municipal corporation or special taxing district.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-14
Repealed
(*Repealed by Acts 1982, P.L.1, SEC.71.)*

IC 36-1-2-15
"Regulate"
Sec. 15. "Regulate" includes license, inspect, or prohibit.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-15.5
"Responsible bidder or quoter"
Sec. 15.5. (a) "Responsible bidder or quoter" means one who is capable of performing the contract requirements fully and who has the integrity and reliability that will assure good faith performance.
(b) "Responsive bidder or quoter" means one who has submitted a bid or quote conforming in all material respects to the specifications.
As added by P.L.329-1985, SEC.3.

IC 36-1-2-16
"Safety board"
Sec. 16. "Safety board" means the board of public safety or board of public works and safety of a city.
As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.309, SEC.39.

IC 36-1-2-17
"School corporation"
Sec. 17. "School corporation" means a local public school corporation established under state law. The term includes a school city, school town, school township, metropolitan school district, consolidated school corporation, county school corporation,

township school corporation, community school corporation, or united school corporation.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-18
"Special taxing district"
Sec. 18. "Special taxing district" means a geographic area within which a special tax may be levied and collected on an ad valorem basis on property for the purpose of financing local public improvements that are:
(1) not political or governmental in nature; and
(2) of special benefit to the residents and property of the area.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-19
"Statute"
Sec. 19. "Statute" means a law enacted by the general assembly.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-20
"Taxing district"
Sec. 20. "Taxing district" means a geographic area within which property is taxed by the same taxing entities and at the same total rate.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-21
"Town"
Sec. 21. "Town" refers to an incorporated town, unless the reference is to a school town.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-22
"Township"
Sec. 22. "Township" refers to a civil township, unless the reference is to a congressional township or school township.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-23
"Unit"
Sec. 23. "Unit" means county, municipality, or township.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-2-24
"Works board"
Sec. 24. "Works board" means:
(1) board of commissioners, for a county not having a consolidated city;
(2) board of public works or board of public works and safety, for a city; or

(3) town council, for a town.

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

IC 36-1-3
Chapter 3. Home Rule

IC 36-1-3-1
Application of chapter
Sec. 1. This chapter applies to all units.
As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.251-1993, SEC.1.

IC 36-1-3-2
Policy
Sec. 2. The policy of the state is to grant units all the powers that they need for the effective operation of government as to local affairs.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-3
Rule of law; resolution of doubt as to existence of power of a unit
Sec. 3. (a) The rule of law that any doubt as to the existence of a power of a unit shall be resolved against its existence is abrogated.
(b) Any doubt as to the existence of a power of a unit shall be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-4
Rule of law; powers of unit
Sec. 4. (a) The rule of law that a unit has only:
(1) powers expressly granted by statute;
(2) powers necessarily or fairly implied in or incident to powers expressly granted; and
(3) powers indispensable to the declared purposes of the unit;
is abrogated.
(b) A unit has:
(1) all powers granted it by statute; and
(2) all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute.
(c) The powers that units have under subsection (b)(1) are listed in various statutes. However, these statutes do not list the powers that units have under subsection (b)(2); therefore, the omission of a power from such a list does not imply that units lack that power.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-5
Powers of unit; exercise; township exception
Sec. 5. (a) Except as provided in subsection (b), a unit may exercise any power it has to the extent that the power:
(1) is not expressly denied by the Indiana Constitution or by statute; and
(2) is not expressly granted to another entity.

(b) A township may not exercise power the township has if another unit in which all or part of the township is located exercises that same power.
As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.251-1993, SEC.2.

IC 36-1-3-6
Specific manner for exercising a power; constitutional or statutory provision; ordinance; resolution

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

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

(1) if the unit is a county or municipality, adopt an ordinance prescribing a specific manner for exercising the power;

(2) if the unit is a township, adopt a resolution prescribing a specific manner for exercising the power; or

(3) comply with a statutory provision permitting a specific manner for exercising the power.

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

(1) In a municipality, by the legislative body of the municipality.

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

(3) In any other county, by the executive of the county.

(d) A resolution under subsection (b)(2) must be adopted by the legislative body of the township.
As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.17, SEC.2; P.L.251-1993, SEC.3.

IC 36-1-3-7
Review or regulation of exercise of power by a unit

Sec. 7. State and local agencies may review or regulate the exercise of powers by a unit only to the extent prescribed by statute.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-3-8
Powers specifically withheld

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

(1) The power to condition or limit its civil liability, except as expressly granted by statute.

(2) The power to prescribe the law governing civil actions between private persons.

(3) The power to impose duties on another political subdivision, except as expressly granted by statute.

(4) The power to impose a tax, except as expressly granted by

statute.

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

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

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

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

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

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

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

(B) For a violation of any other ordinance:

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

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

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

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

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

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

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

(3) The power to prescribe a penalty.

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

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

IC 36-1-3-9

Territorial jurisdiction; exception; petition

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

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

outside its corporate boundaries.

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

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

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

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

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

IC 36-1-3.5

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

IC 36-1-3.5-1

Policy; purpose

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

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

IC 36-1-3.5-2

Consolidated city and county; transfer to legislative body

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

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

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

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

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

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

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

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

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

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

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

IC 36-1-3.5-3

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

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

(1) Lake County.

(2) St. Joseph County.

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

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

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

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

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

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

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

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

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

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

IC 36-1-3.5-4

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

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

(1) A county having a consolidated city.

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

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

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

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

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

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

IC 36-1-3.5-5
Transfer to legislative body of Lake County

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

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

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

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

IC 36-1-3.5-6
Transfer to county executive of Allen County

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

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

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

(5) Building and minimum housing department of the county (formerly governed by IC 17-2-72.3).

As added by Acts 1981, P.L.17, SEC.4. Amended by Acts 1982, P.L.127, SEC.8; P.L.12-1992, SEC.145; P.L.119-2012, SEC.172.

IC 36-1-3.5-7

Transfer to legislative body of St. Joseph County

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

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

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

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

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

IC 36-1-3.5-8

Transfer to county executive of Vanderburgh County

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

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

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

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

(3) Control of county parks (formerly governed by IC 17-2-76).

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

IC 36-1-3.5-9

Transfer to county executive of certain counties

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

(1) Elkhart County.

(2) Madison County.

(3) Tippecanoe County.

(4) Delaware County.

(5) LaPorte County.

(6) Vigo County.

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

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

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

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

IC 36-1-3.5-10

Transfer to county executive of Porter County

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

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

County purchasing agency (formerly governed by IC 17-2-77).

As added by Acts 1981, P.L.17, SEC.4. Amended by P.L.12-1992, SEC.149; P.L.170-2002, SEC.136; P.L.119-2012, SEC.176.

IC 36-1-3.5-11

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

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

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

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

IC 36-1-4

Chapter 4. General Corporate Powers

IC 36-1-4-1

Application of chapter

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

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

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

IC 36-1-4-2

Establishment and operation

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

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

IC 36-1-4-3

Power to sue and be sued

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

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

IC 36-1-4-4

Corporate seal

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

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

IC 36-1-4-5

Acquisition of real and personal property

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

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

IC 36-1-4-6

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

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

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

IC 36-1-4-7

Contracts

Sec. 7. A unit may enter into contracts.

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

IC 36-1-4-7.5

Environmentally contaminated real estate; agreement to defend or indemnify

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

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

(1) may have environmental contamination:

(A) that occurred during or before the time the unit owned or leased the parcel of real estate; and

(B) for which the unit may be liable under applicable laws; and

(2) will be used in connection with an economic development project that will:

(A) promote opportunities for employment of the citizens of the unit;

(B) attract new business enterprises to the unit; or

(C) retain or expand a business enterprise within the unit.

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

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

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

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

IC 36-1-4-8
Payment of debts

Sec. 8. A unit may pay debts.

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

IC 36-1-4-9
Borrowing of money

Sec. 9. A unit may borrow money.

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

IC 36-1-4-10
Acceptance of donations

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

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

IC 36-1-4-11
Ordinances

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

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

IC 36-1-4-12
Attendance of witnesses and production of documents at meetings

Sec. 12. A unit may require the attendance of witnesses and the production of documents relevant to matters being considered at meetings of a department or agency.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-13
Contempt and disorder in rooms of department

Sec. 13. A unit may punish contempt and disorder in rooms of a department or agency.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-14
Employees; employment and discharge; class based on merit and qualification

Sec. 14. A unit may hire and discharge employees and establish a system of employment for any class of employees based on merit and qualification.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-15
Compensation of officers and employees

Sec. 15. A unit may fix the level of compensation of its officers and employees.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-16
Ratification of actions of officers or employees; procedure

Sec. 16. A unit may ratify any action of the unit or its officers or employees if that action could have been approved in advance. Ratification of an action under this section must be made by the same procedure that would have been required for approval of the action in advance.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-17
Compromise of claims against unit; collecting owed money

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

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

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

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

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

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

shall deposit that money, less the costs of collection, in the account required by law.
As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.64-1989, SEC.2; P.L.57-1993, SEC.14.

IC 36-1-4-18
Extraterritorial powers

Sec. 18. A municipality may exercise powers granted by sections 5 and 6 of this chapter in areas within four (4) miles outside its corporate boundaries.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-4-19
Applicability of parking ordinances, zoning ordinances, and other requirements in Vanderburgh County

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

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

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

(d) Any requirements for municipal roads or streets do not apply to a road or street within the subject property.
As added by P.L.195-2001, SEC.13. Amended by P.L.33-2003, SEC.1.

IC 36-1-5
Chapter 5. Codification of Ordinances

IC 36-1-5-1
Application of chapter
Sec. 1. This chapter applies to all units except townships.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-5-2
Repealed
(*Repealed by P.L.213-1986, SEC.12.)*

IC 36-1-5-3
Compilation of code
Sec. 3. The legislative body of a unit shall codify, revise, rearrange, or compile the ordinances of the unit into a complete, simplified code excluding formal parts of the ordinances.
As added by Acts 1980, P.L.211, SEC.1. Amended by Acts 1981, P.L.17, SEC.5.

IC 36-1-5-4
Incorporation of material into ordinance or code by reference; procedure
Sec. 4. The legislative body of a unit may incorporate by reference into an ordinance or code any material. The ordinance or code must state that two (2) copies of the material are on file in the office of the clerk for the legislative body for public inspection, and the copies must be on file as stated for public inspection.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-5-5
Printed code constitutes presumptive evidence
Sec. 5. A printed code that has taken effect constitutes presumptive evidence in any legal proceeding:
(1) of the provisions of the code;
(2) of the date of adoption of the code;
(3) that the code has been properly signed, attested, recorded, and approved; and
(4) that any public hearings required have been held, with any notices required given.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-5-6
Restated or reenacted provision of original ordinance
Sec. 6. If the legislative body determines, and declares in a provision of a code, that the provision is a restatement or reenactment of an original ordinance or amendment thereof, then the legal conditions for the effectiveness of an original ordinance need not be met. Such a restated or reenacted provision shall be considered reordained by the adoption of the code.

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

IC 36-1-6
Chapter 6. Enforcement of Ordinances

IC 36-1-6-1
Application of chapter

Sec. 1. This chapter applies to all municipal corporations having the power to adopt ordinances.
As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-6-2
Action to bring compliance with ordinance conditions; expense as lien against property; enforcement of delinquent fees and penalties

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

(1) ten thousand dollars ($10,000) for real property that:

(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) twenty thousand dollars ($20,000) for all other real property not described in subdivision (1).

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

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

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

(1) a list of delinquent fees and penalties that are enforceable under this section, including:

(A) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(B) a description of the premises, as shown on the records of

the county auditor; and

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

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

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

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

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

(h) The municipal corporation shall release:

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

(2) delinquent fees incurred by the seller;

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

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

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

IC 36-1-6-3

Proceeding to enforce ordinance; law applicable

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

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

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

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

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

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

IC 36-1-6-4

Civil action by municipal corporation; action by court

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

(1) violates an ordinance regulating or prohibiting a condition or use of property; or

(2) engages in conduct without a license or permit if an ordinance requires a license or permit to engage in the conduct.

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

(1) Issuing an injunction.

(2) Entering a judgment.

(3) Issuing a continuous enforcement order (as defined in IC 36-7-9-2).

(4) Ordering the suspension or revocation of a license.

(5) Ordering an inspection.

(6) Ordering a property vacated.

(7) Ordering a structure demolished.

(8) Imposing a penalty not to exceed an amount set forth in IC 36-1-3-8(a)(10).

(9) Imposing court costs and fees in accordance with IC 33-37-4-2 and IC 33-37-5.

(10) Ordering a defendant to take appropriate action to bring a property into compliance with an ordinance within a specified time.

(11) Ordering a municipal corporation to take appropriate action to bring a property into compliance with an ordinance in accordance with IC 36-1-6-2.

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

IC 36-1-6-5

Repealed

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

IC 36-1-6-6

Repealed

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

IC 36-1-6-7

Repealed

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

IC 36-1-6-8
Repealed

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

IC 36-1-6-9
Enforcement of ordinances through administrative proceedings; appeal

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

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

(1) The ordinances that may be enforced through an administrative proceeding.

(2) The administrative body before which the proceeding may be brought.

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

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

(1) a violation of the ordinance must be proven by a preponderance of the evidence; and

(2) the administrative body may not impose a penalty other than a fine in an amount within the limit set forth in IC 36-1-3-8(10).

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

(1) the county that brought the enforcement proceeding if the proceeding is brought by a county; or

(2) the county in which the municipality is located if the proceeding is brought by a municipality.

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

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

IC 36-1-6-10
Establishing election districts

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

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

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

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

IC 36-1-6-11

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

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

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

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

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

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

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

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

(1) approved by the department; and

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

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

IC 36-1-7
Chapter 7. Interlocal Cooperation

IC 36-1-7-1
Application of chapter

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

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

IC 36-1-7-2
Permissible powers

Sec. 2. (a) A power that may be exercised by an Indiana political subdivision and by one (1) or more other governmental entities may be exercised:
(1) by one (1) or more entities on behalf of others; or
(2) jointly by the entities.

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

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

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

IC 36-1-7-3
Agreements; contents; powers under agreements

Sec. 3. (a) An agreement under this section must provide for the following:
(1) Its duration.
(2) Its purpose.
(3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget therefor.
(4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination.
(5) Administration through:
(A) a separate legal entity, the nature, organization,

composition, and powers of which must be provided; or
(B) a joint board composed of representatives of the entities that are parties to the agreement, and on which all parties to the agreement must be represented.
(6) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking, whenever a joint board is created under subdivision (5)(B).

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

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

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

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

IC 36-1-7-4

Agreements; when attorney general's approval required

Sec. 4. (a) If an agreement under section 3 of this chapter:
(1) involves as parties:
(A) only Indiana political subdivisions; or
(B) an Indiana political subdivision and:
(i) a public instrumentality; or
(ii) a public corporate body;
created by state law;
(2) is approved by the fiscal body of each party that is an Indiana political subdivision either before or after the agreement is entered into by the executive of the party; and
(3) delegates to the treasurer or disbursing officer of one (1) of the parties that is an Indiana political subdivision the duty to receive, disburse, and account for all monies of the joint undertaking;

then the approval of the attorney general is not required.

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

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

IC 36-1-7-5

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

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

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

(c) Approval or disapproval is governed by the same provisions prescribed by section 4(b) of this chapter for the attorney general.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.37-1993, SEC.4.

IC 36-1-7-6

Agreements; recording; filing

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

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

IC 36-1-7-7

Agreements; law enforcement or firefighting services

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

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

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

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

personnel shall be supervised by the agency requesting assistance.

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

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

IC 36-1-7-8

Interstate compact

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

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

IC 36-1-7-9

Agreements between municipality and county; contents

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

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

(1) Its duration, which may not be more than four (4) years.

(2) The specific functions and services to be performed or furnished by the county on behalf of the municipality.

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

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

(1) A stipulation that distributions from the motor vehicle highway account under IC 8-14-1, the local road and street account under IC 8-14-2, or both, be made to the county rather than to the municipality.

(2) A stipulation that the municipality will appropriate a specified part of those distributions for purposes listed in the agreement.

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

IC 36-1-7-10

Agreements between municipality and county; prerequisites to taking effect

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

(1) approved by the fiscal body of each party;

(2) recorded with the county recorder;

(3) filed with the executive of the municipality and the auditor of the county; and

(4) filed with the auditor of state.

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

IC 36-1-7-11

Power to appropriate money and provide personnel, services, and facilities

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

(1) appropriate monies; and

(2) provide personnel, services, and facilities;

to carry out the agreement.

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

IC 36-1-7-11.5

"Economic development project"; agreements related to economic development projects

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

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

(1) After appropriation by the entity's fiscal body, transfer money derived from any source to any of the following:

(A) One (1) or more entities that have entered into the agreement.

(B) An economic development entity (as defined in section 15 of this chapter) established by an entity that has entered into the agreement.

(C) A regional development authority, including the northwest Indiana regional development authority established by IC 36-7.5-2-1.

(D) A regional transportation authority including the regional bus authority established under IC 36-9-3-2(c).

(2) Transfer any property or provide personnel, services, or facilities to any entity or authority described in subdivision (1)(A) through (1)(D).

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

IC 36-1-7-12

Purchase, sale, or exchange of services, supplies, or equipment

Sec. 12. (a) Whenever a contract provides for the purchase, sale,

or exchange of services, supplies, or equipment between or among Indiana governmental entities only, no notice by publication or posting is required.

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

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

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

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

IC 36-1-7-13

Agreements between school corporations; rights and privileges of teachers

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

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

IC 36-1-7-15

Agreements between economic development entities

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

(1) A department of redevelopment organized under IC 36-7-14.

(2) A department of metropolitan development under IC 36-7-15.1.

(3) A port authority organized under IC 8-10-5.

(4) An airport authority organized under IC 8-22-3.

(5) The Indiana finance authority.

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

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

(1) Except as provided in subsection (d), grant one (1) or more of its powers to another party to the agreement.

(2) Exercise any power granted to it by a party to the agreement.

(3) Pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, IC 36-7-15.1, or IC 8-22-3.5, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

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

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

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

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

IC 36-1-7-16

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

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

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

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

(A) savings; or

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

(3) the department of local government finance will otherwise decrease the maximum permissible property tax levies, maximum permissible property tax rates, or budgets of the political subdivision to:

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

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

(b) The department of local government finance shall establish criteria for making an adjustment to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of a political subdivision described in subsection (a).

(c) The adjustment under subsection (b) must permit the political subdivision to continue to:

(1) include in the political subdivision's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses; and

(2) impose part of a property tax levy that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses.

(d) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b) may not exceed the result of:

(1) the savings or reduction in expenses realized in the first full year of operation after the transfer, combination, or sharing of powers, duties, functions, or resources is implemented, as determined by the department of local government finance; multiplied by

(2) a percentage determined as follows:

(A) Fifty percent (50%) in the first year of the adjustment.

(B) Fifty percent (50%) in the second year of the adjustment.

(C) Thirty percent (30%) in the third year of the adjustment.

(D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

The fiscal body of the political subdivision shall determine and certify to the department of local government finance the amount of the adjustment that the political subdivision wishes to accept under this section. The amount of any adjustment accepted by a political subdivision under this section must comply with the agreement under this chapter under which the political subdivision transfers, combines, or shares powers, duties, functions, or resources.

As added by P.L.58-2011, SEC.1.

IC 36-1-8

Chapter 8. Miscellaneous Fiscal and Administrative Provisions

IC 36-1-8-1

Application of chapter

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

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

IC 36-1-8-2

Cash change fund; establishment; use

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

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

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

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

IC 36-1-8-3

Petty cash fund; establishment; use; reimbursement

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

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

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

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

IC 36-1-8-4

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

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

conditions are met:

(1) It must be necessary to borrow money to enhance the fund that is in need of money for cash flow purposes.

(2) There must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred.

(3) Except as provided in subsection (b), the prescribed period must end during the budget year of the year in which the transfer occurs.

(4) The amount transferred must be returned to the other fund at the end of the prescribed period.

(5) Only revenues derived from the levying and collection of property taxes or special taxes or from operation of the political subdivision may be included in the amount transferred.

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

(1) Passes an ordinance or a resolution that contains the following:

(A) A statement that the fiscal body has determined that an emergency exists.

(B) A brief description of the grounds for the emergency.

(C) The date the loan will be repaid that is not more than six (6) months beyond the budget year in which the transfer occurs.

(2) Immediately forwards the ordinance or resolution to the state board of accounts and the department of local government finance.

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

IC 36-1-8-5

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

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

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

(1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.

(2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.

(3) Funds of a township for redemption of township assistance obligations, to the township assistance fund of the township or

rainy day fund of the township, as provided in section 5.1 of this chapter.

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

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

(d) If there is:

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

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

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

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

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

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

IC 36-1-8-5.1

Rainy day funds established by political subdivisions

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

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

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

(b) An ordinance or a resolution adopted under this section must specify the following:

(1) The purposes of the rainy day fund.

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

(A) Unused and unencumbered funds under:

(i) section 5 of this chapter;

(ii) IC 6-3.5-1.1-21.1;

(iii) IC 6-3.5-6-17.3; or

(iv) IC 6-3.5-7-17.3.

(B) Any other funding source:

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

(ii) not otherwise prohibited by law.

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

(d) In any fiscal year, a political subdivision may transfer under section 5 of this chapter not more than ten percent (10%) of the political subdivision's total annual budget for that fiscal year, adopted under IC 6-1.1-17, to the rainy day fund.

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

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

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

(1) its general fund; or

(2) any other appropriated funds of the county, city, or town;

money that has been deposited in the rainy day fund of the county, city, or town.

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

IC 36-1-8-6

Reversion of unused appropriation; funds received from state or the United States

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

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

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

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

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

IC 36-1-8-7

Bank deposit or cash on hand constituting pledge or guaranty

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

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

IC 36-1-8-8

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

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

(1) a violation of a federal law or regulation;

(2) a violation of a state law or rule;

(3) a violation of an ordinance of a political subdivision; or

(4) the misuse of public resources;

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

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

(1) be dismissed from employment;

(2) have salary increases or employment related benefits withheld;

(3) be transferred or reassigned;

(4) be denied a promotion that the employee otherwise would have received; or

(5) be demoted.

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

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

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

IC 36-1-8-9

Riverboat fund establishment; administration and investment of funds

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

(1) tax revenue under IC 4-33-12-6 or IC 4-33-13;

(2) revenue under an agreement to share the tax revenue received under IC 4-33-12 or IC 4-33-13 by another unit; or

(3) revenue under a development agreement (as defined in section 9.5 of this chapter);

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

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

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

IC 36-1-8-9.1

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

Sec. 9.1. (a) A fund that:

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

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

is legalized and validated.

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

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

IC 36-1-8-9.2

Separate fund for deposit of county slot machine wagering fee revenue

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

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

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

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

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

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

IC 36-1-8-9.5

"Development agreement"

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

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

(c) Funds received under a development agreement:

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

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

(3) are considered miscellaneous revenue.

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

IC 36-1-8-10

"Board" defined; political affiliation of board appointees

Sec. 10. (a) As used in this section, "board" means an administration, an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, a service, or another similarly designated body of a political subdivision.

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

(1) The most recent primary election in which the appointee voted was a primary election held by the party with which the appointee claims affiliation.
(2) If the appointee has never voted in a primary election, the appointee claims a party affiliation.
(3) The appointee is certified as a member of that party by the party's county chairman for the county in which the appointee resides.

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

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

IC 36-1-8-10.5
Employee of political subdivision as candidate for or appointed to office

Sec. 10.5. (a) This section does not apply to the following:
(1) An elected or appointed officer.
(2) An individual described in IC 20-26-4-11.

(b) Subject to IC 3-5-9, an employee of a political subdivision may:
(1) be a candidate for any elected office and serve in that office if elected; or
(2) be appointed to any office and serve in that office if appointed;

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

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

IC 36-1-8-11
Methods of payments to subdivisions or utilities

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

(b) As used in this section, "credit card" means a:
(1) credit card;
(2) debit card;
(3) charge card; or
(4) stored value card.

(c) A payment to a political subdivision or a municipally owned utility for any purpose may be made by any of the following financial instruments that the fiscal body of the political subdivision or the board of the municipally owned utility authorizes for use:
(1) Cash.
(2) Check.
(3) Bank draft.
(4) Money order.

(5) Bank card or credit card.

(6) Electronic funds transfer.

(7) Any other financial instrument authorized by the fiscal body.

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

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

(f) The political subdivision or municipally owned utility may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the political subdivision or municipally owned utility or charged directly to the political subdivision's or municipally owned utility's account, the political subdivision or municipally owned utility may collect from the person using the card an official fee that may not exceed the transaction charge or discount fee charged to the political subdivision or municipally owned utility by bank or credit card vendors. The fee is a permitted additional charge under IC 24-4.5-3-202.

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

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

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

IC 36-1-8-11.5

Payment of claims; electronic funds transfer

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

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

subdivision or municipally owned utility may pay money from its funds by electronic funds transfer.

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

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

IC 36-1-8-12

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

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

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

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

(2) the political subdivision's pro rata share of the remaining money reverts to the political subdivision's general fund.

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

IC 36-1-8-13

Referral of dishonored checks to prosecuting attorney

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

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

IC 36-1-8-14

Three-fourths vote rounded to nearest whole number

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

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

IC 36-1-8-14.2

Payments in lieu of taxes; exemptions

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

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Property taxation.

(6) Real property.

(7) Township assessor.

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

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

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

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

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

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

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

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

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

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

IC 36-1-8-15

Shortened term of county office under constitution; benefits

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

(b) This section applies to an individual:

(1) who was elected at least two (2) times to a county office; and

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

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

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

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

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

IC 36-1-8-16

Property taxes collected for property disposed by county executive

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

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

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

(d) The disbursement of property taxes under subsection (a) shall terminate in the second year the item of real property is subject to taxation after the property is sold or otherwise conveyed.

As added by P.L.169-2006, SEC.47.

IC 36-1-8-17

Combination or reorganization; budgets, rates, and levies

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

(1) the political subdivision combines or reorganizes a department, agency, or function of the political subdivision;

(2) the political subdivision realizes through the combination or reorganization a:

(A) savings; or

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

(3) the department of local government finance will otherwise decrease the maximum permissible property tax levies, maximum permissible property tax rates, or budgets of the political subdivision to:

(A) eliminate double taxation; or

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

(b) The department of local government finance shall establish criteria for making an adjustment to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of a political subdivision described in subsection (a).

(c) The adjustment under subsection (b) must permit the political subdivision to continue to:

(1) include in the political subdivision's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses; and

(2) impose part of a property tax levy that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses.

(d) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b) may not exceed the result of:

(1) the savings or reduction in expenses realized in the first full year of operation after the combination or reorganization is implemented, as determined by the department of local government finance; multiplied by

(2) a percentage determined as follows:

(A) Fifty percent (50%) in the first year of the adjustment.

(B) Fifty percent (50%) in the second year of the adjustment.

(C) Thirty percent (30%) in the third year of the adjustment.

(D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

The fiscal body of the political subdivision shall determine and certify to the department of local government finance the amount of the adjustment that the political subdivision wishes to accept under this section.

As added by P.L.58-2011, SEC.2.

IC 36-1-9
Repealed

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

IC 36-1-9.1
Repealed

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

IC 36-1-9.5

Chapter 9.5. Qualifications of Bidders for Certain Contracts

IC 36-1-9.5-1

Application of chapter

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

(1) The construction or maintenance of buildings, runways, roads, and other improvements.

(2) The purchase of materials, equipment, and supplies.

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

IC 36-1-9.5-2

"Advertisement" defined

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

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

IC 36-1-9.5-3

"Applicant" defined

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

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

IC 36-1-9.5-4

"Application" defined

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

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

IC 36-1-9.5-5

"Award" defined

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

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

IC 36-1-9.5-6

"Bid bond" defined

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

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

IC 36-1-9.5-7

"Bidder" defined

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

IC 36-1-9.5-8
"Certificate of qualification" defined
Sec. 8. As used in this chapter, "certificate of qualification" means the official document that qualifies a contractor to bid on contracts of an entity that require prequalification under this chapter.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-9
"Contract" defined
Sec. 9. As used in this chapter, "contract" means the written agreement between an entity and a contractor setting forth the obligations of the parties.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-10
"Contractor" defined
Sec. 10. As used in this chapter, "contractor" means an individual, a partnership, a firm, a limited liability company, a corporation, or other person contracting with or desiring to contract with an entity for performance of prescribed work.
As added by P.L.85-1991, SEC.3. Amended by P.L.8-1993, SEC.514.

IC 36-1-9.5-11
"Entity" defined
Sec. 11. As used in this chapter, "entity" means the following:
(1) A local board of aviation commissioners operating under IC 8-22-2.
(2) A local airport authority operating under IC 8-22-3.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-12
"Payment bond" defined
Sec. 12. As used in this chapter, "payment bond" means an approved form of security, furnished and executed by the bidder and the bidder's surety, that guarantees the payment of all legal debts related to the construction of the project.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-13
"Performance bond" defined
Sec. 13. As used in this chapter, "performance bond" means an approved form of security, furnished and executed by the bidder and the bidder's surety, that guarantees the complete execution of the contract and all supplemental agreements.
As added by P.L.85-1991, SEC.3.

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

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

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

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

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

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

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

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

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

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

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

(1) The full and complete performance of the contract.

(2) The payment of all debts related to the work.

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

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

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

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

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

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

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

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

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

IC 36-1-9.5-20

Statement of experience; form; contents

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

(1) Financial ability.

(2) Adequacy of plant and equipment.

(3) Organization and experience.

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

IC 36-1-9.5-21

Investigation by entity

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

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

IC 36-1-9.5-22

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

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

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

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

IC 36-1-9.5-23

Statements; order considered; limitation

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

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

an advertised project must be received not later than forty-five (45) calendar days before the bid opening to receive consideration for that bid opening. A statement provided by a contractor applying for prequalification renewal must be received at least fifteen (15) calendar days before the bid opening date to receive consideration for that bid opening.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-24
Assets of contractor; sufficiency

Sec. 24. An applicant may not be given a certificate of qualification unless the review of the applicant's statement shows that the applicant possesses the net current assets determined by the entity to be sufficient to execute the contract and meet all obligations of the contract.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-25
Qualifications necessary; determination

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

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

(1) The contractor's organization and personnel.

(2) The contractor's work experience and prosecution of work on previous contracts.

(3) The condition and adequacy of the contractor's equipment.

(4) The contractor's financial condition and the quality of the financial information furnished by the contractor.

(c) An entity may not arbitrarily or capriciously refuse to issue a certificate of qualification to an applicant.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-26
Recommendation of prequalification administrator

Sec. 26. An entity's prequalification administrator shall make a recommendation to the entity regarding the action that should be taken on an application. An entity may in the exercise of the entity's sole discretion accept or reject the recommendation of a prequalification administrator.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-27
Notice of entity's decision; effective date of certificate

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

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

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

IC 36-1-9.5-28
Contractor evaluation forms; confidentiality

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

(1) Persons with whom the contractor has had business relationships.

(2) Persons who have used the services of the contractor's employees.

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

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

IC 36-1-9.5-29
Duration of certificate's validity; expiration date

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

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

IC 36-1-9.5-30
Notice of nonissuance of certificate

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

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

IC 36-1-9.5-31
Change in contractor's circumstances during certificate validity period; notice to prequalification administrator

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

(1) Notify the entity prequalification administrator of the change of circumstances.

(2) Refrain from further bidding on contracts for which the entity has required prequalification.

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

IC 36-1-9.5-32
Personal interview of contractor by entity; updated statement; audit

Sec. 32. (a) An entity may require a personal interview with any contractor when considering qualifications.

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

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

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

IC 36-1-9.5-33

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

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

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

IC 36-1-9.5-34

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

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

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

(2) List all major items of useful equipment.

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

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

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

IC 36-1-9.5-35

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

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

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

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

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

(1) The minutes covering the election of current officers.

(2) The current authority for individuals' personal signatures to contracts of the corporation, which may be:

(A) a part of the corporation's original articles of incorporation; or

(B) a subsequent official action of the stockholders or the board of directors of the corporation.

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

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

(1) valid evidence that the corporation is registered and in good standing with the secretary of state to do business in Indiana; or

(2) a letter stating that, if the corporation becomes the successful bidder on a contract, authorization will be secured by the corporation not later than fifteen (15) days after the bid opening.

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

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

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

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

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

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

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

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

rating components:

(1) Net current assets multiplied by ten (10).

(2) The lesser of:

(A) the net book value of construction equipment assets multiplied by eight (8); or

(B) one-half (1/2) of the amount determined under subdivision (1).

(3) The lesser of:

(A) net fixed and other assets multiplied by two (2); or

(B) the sum of the amounts determined under subdivisions (1) and (2) multiplied by twenty-five hundredths (0.25).

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

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

IC 36-1-9.5-39

Accepted net current assets; determination

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

(1) Deduct receivables excluding retainage from nongovernmental agencies more than one (1) year old.

(2) Consider notes due not later than one (1) year from the date of the financial statement date to be current liabilities.

(3) Deduct any notes due more than twelve (12) and less than twenty-four (24) months from the date of the financial statement from net fixed assets, and deduct the excess, if any, from the book value of the equipment and net current assets.

(4) Not deduct notes due more than twenty-four (24) months after the date of the financial statement for prequalification purposes.

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

IC 36-1-9.5-40

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

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

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

IC 36-1-9.5-41

Factors not considered in determining net current assets

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

(1) Notes and accounts receivable from affiliated business firms as assets of the applicant unless an audited financial statement showing the debtor has sufficient liquidity to discharge the debt is attached. However, an unaudited statement certified as correct by the debtor shall be accepted if an unaudited statement is submitted for qualification.

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

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

IC 36-1-9.5-42

Valuation of stocks and bonds; useful equipment

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

(1) the book value listed; or

(2) determined by the application of uniform depreciation schedules.

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

IC 36-1-9.5-43

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

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

(1) that cannot satisfactorily be identified as to kind, type, and capacity; or

(2) for which the essential information concerning the equipment's cost and age is not supplied.

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

(1) The contractor's organization and personnel.

(2) The contractor's work experience and prosecution of work on previous contracts.

(3) The contractor's quality of workmanship on contracts.

(4) The condition and adequacy of the contractor's equipment.

(5) The contractor's experience with the general public and equal employment opportunity requirements.

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

IC 36-1-9.5-44
Unlimited qualification; factors prohibiting qualification for work over $200,000

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

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

(1) has not performed work of any character under the firm name; and

(2) does not have personnel of approved experience.

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

IC 36-1-9.5-45
Change in qualification; notice

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

(b) A request from a contractor for a change in the contractor's qualification status must be in writing and must be received by the entity not less than fifteen (15) days before the bid opening date. A request from a contractor for a change in the contractor's qualification status will not be considered until after the expiration of ninety (90) days after the certificate date.

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

IC 36-1-9.5-46
Suspension of certificate; grounds; notice

Sec. 46. (a) A prequalification administrator may recommend to an entity that a contractor's certificate of qualification be suspended if:

(1) the contractor's work is unsatisfactory;

(2) the rate of progress is such that the prequalification administrator determines that the contractor will be unable to complete the contract on time; or

(3) the contractor has failed to adequately document a current or previous contract.

(b) Notification of a suspension shall be made in writing and shall become effective on the date determined by the entity. A suspension may be lifted when the entity determines that the contractor has taken the necessary corrective action.

As added by P.L.85-1991, SEC.3. Amended by P.L.1-1992, SEC.182.

IC 36-1-9.5-47
Withdrawal of certificate; notice

Sec. 47. An entity may withdraw a certificate of qualification only if the entity has determined that the firm, limited liability company,

or corporation is no longer active or in existence. The entity shall provide notification of the withdrawal in writing. The notification of withdrawal becomes effective on the date determined by the entity.
As added by P.L.85-1991, SEC.3. Amended by P.L.8-1993, SEC.516.

IC 36-1-9.5-48
Revocation of certificate; grounds; notice; disqualification period

Sec. 48. (a) An entity may revoke a certificate of qualification only if the entity determines that the contractor or subcontractor has done at least one (1) of the following:

(1) Fails to timely pay or satisfactorily settle any bills due for labor and material on former or existing contracts.

(2) Violates:

(A) a state or federal statute; or

(B) a rule or regulation of a state or federal department, board, bureau, agency, or commission.

(3) Defaults on a contract.

(4) Fails to enter into a contract with the entity.

(5) Falsifies any document required by the entity, the state board of accounts, or any other agency.

(6) Is convicted of a bidding crime in any jurisdiction.

(7) Enters a plea of guilty or nolo contendere to a bidding crime in any state.

(8) Does any of the following:

(A) Makes a public admission concerning a bidding crime in any state.

(B) Makes a presentation as an unindicted co-conspirator in a bidding crime in any state.

(C) Gives testimony that is protected by a grant of immunity in a trial for a bidding crime in any jurisdiction.

(9) Fails to perform any part of an existing or previous contract.

(10) Fails to submit in a timely manner information, documented explanations, or evidence required in the contract documents or proposal.

(11) Has been debarred by a federal agency.

(12) Failed to comply with any proposal requirements established by the entity concerning disadvantaged business enterprise goals or women business enterprise goals.

(b) An entity shall provide notification of a pending action for revocation in writing, setting forth the grounds for the proposed certificate revocation. The revocation becomes effective on the date determined by the entity.

(c) A period of disqualification under this chapter may not exceed two (2) years.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-49
Reconsideration request by aggrieved contractor

Sec. 49. A contractor dissatisfied with a decision by an entity under this chapter may make a written request for reconsideration to

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

IC 36-1-9.5-50
Justification for reconsideration; personal interview; recommendation to entity; notice of entity decision

Sec. 50. (a) A request under section 49 of this chapter must include written justification concerning the contractor's qualification. In addition, the contractor may request a personal interview. The prequalification administrator shall consider the written request by certified or registered mail or personal service not later than fifteen (15) days after receiving the written request. The prequalification administrator may request additional information, documentation, or a personal interview with the contractor.

(b) The prequalification administrator shall make a recommendation to the entity.

(c) The entity shall notify the contractor in writing of the entity's decision. The decision becomes effective on the date determined by the entity.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-51
Appeal hearing request; notice of time and place; burden of proof

Sec. 51. (a) If a contractor is dissatisfied with the decision under section 50 of this chapter, the contractor may make a written request by certified or registered mail or personal service within fifteen (15) days after receiving the decision for an appeal hearing.

(b) A contractor shall send a request under this section to the prequalification administrator. After receiving the request, the entity shall serve written notice of the date, place, and time of the hearing and written notice of the appointment of an administrative law judge on the contractor.

(c) A hearing shall be held not later than fourteen (14) days after the receipt of the request, unless otherwise ordered by an administrative law judge.

(d) At the hearing, the contractor bears the burden of proof.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-52
Failure to follow appeals procedure; waiver

Sec. 52. If a contractor fails to follow the appeals procedures of this chapter within the specified time, the contractor accepts the decision of the entity as final and waives any right to further administrative appeal.
As added by P.L.85-1991, SEC.3.

IC 36-1-9.5-53
Application of prequalification requirements; subcontractors' qualification

Sec. 53. (a) The prequalification requirements of this section do

not apply to the following:

(1) Professional services.

(2) Hauling materials or supplies to or from a job site.

(3) Concession contracts.

(b) If an entity determines that qualification is required under this chapter for a particular contract, it is unlawful for a successful bidder on the contract to enter into a subcontract with any other person involving the performance of any part of any work upon which the bidder may be engaged for the entity in an amount greater than one hundred thousand dollars ($100,000) unless the subcontractor has been properly qualified under the terms of this chapter for the work sublet to the subcontractor. However, the entity may reduce this amount based on the subcontractor's performance with the entity and others.

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

IC 36-1-9.5-54

Revenue department access to names of contractors and subcontractors; tax delinquents; award of contracts; deduction of delinquent taxes from payment

Sec. 54. (a) An entity may allow the department of state revenue access to the name of each person who is either:

(1) bidding on a contract to be awarded under this chapter; or

(2) a contractor or a subcontractor under this chapter.

(b) If an entity is notified by the department of state revenue that a bidder is on the most recent tax warrant list, the entity may not award a contract to that bidder until:

(1) the bidder provides to the entity a statement from the department of state revenue that the bidder's delinquent tax liability has been satisfied; or

(2) the entity receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) The department of state revenue may notify:

(1) the entity; and

(2) the auditor of state;

that a contractor or subcontractor under this chapter is on the most recent tax warrant list, including the amount that the person owes in delinquent taxes. The auditor of state shall deduct from the contractor's or subcontractor's payment the amount owed in delinquent taxes. The auditor of state shall remit this amount to the department of state revenue and pay the remaining balance to the contractor or subcontractor.

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

IC 36-1-9.5-55

Violations; penalties

Sec. 55. (a) An applicant for qualification who knowingly makes a false statement with respect to the applicant's financial worth in an application for qualification, financial statement, or other written instrument filed by the applicant with the entity under this chapter

commits a Class C infraction.

(b) A person who violates this section is disqualified from submitting bids on contracts advertised for letting by the entity for two (2) years following the date of judgment.

As added by P.L.85-1991, SEC.3. Amended by P.L.1-1992, SEC.183.

IC 36-1-10

Chapter 10. Leasing and Lease-Purchasing Structures

IC 36-1-10-1

Application of chapter

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

(1) political subdivisions and agencies of political subdivisions that determine to acquire structures, transportation projects, or systems by lease or lease-purchase;

(2) a convention and visitor bureau established under IC 6-9-2 that determines to acquire a visitor center by lease or lease purchase; and

(3) a convention and visitor commission established by IC 6-9-11 that determines to acquire a sports and recreation facility by lease or lease purchase.

(b) This chapter does not apply to:

(1) the lease of library buildings under IC 36-12-10, unless the library board of the public library adopts a resolution to proceed under this chapter instead of IC 36-12-10;

(2) the lease of school buildings under IC 20-47;

(3) a hospital established and operated under IC 16-22 or IC 16-23;

(4) a health and hospital corporation established and operated under IC 16-22-8; or

(5) boards of aviation commissioners established under IC 8-22-2.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.104-1983, SEC.3; P.L.54-1983, SEC.26; P.L.182-1985, SEC.14; P.L.130-1987, SEC.4; P.L.37-1988, SEC.9; P.L.343-1989(ss), SEC.12; P.L.2-1993, SEC.196; P.L.46-1998, SEC.9; P.L.11-2001, SEC.7; P.L.1-2005, SEC.232; P.L.2-2006, SEC.186; P.L.194-2007, SEC.10.

IC 36-1-10-2

Definitions

Sec. 2. As used in this chapter:

"Leasing agent" means the board or officer of a political subdivision or agency with the power to lease structures.

"Parking facility" refers to a parking facility as defined in IC 36-9-1.

"Structure" means:

(1) a building used in connection with the operation of a political subdivision; or

(2) a parking facility.

The term includes the site, the equipment, and appurtenances to the building or parking facility.

"System" means:

(1) a computer (as defined in IC 36-8-15-4);

(2) a communications system (as defined in IC 36-8-15-3(1)); or

(3) mobile or remote equipment that is coordinated by or linked with a computer or communications system.

"Transportation project" means a road or highway project jointly undertaken by the Indiana department of transportation and any county through which a toll road project under IC 8-15-2 passes. A transportation project must be located within an area described in IC 8-15-2-1(a)(3) or IC 8-15-2-1(a)(4).

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.10; P.L.343-1989(ss), SEC.13; P.L.18-1990, SEC.289.

IC 36-1-10-3

Persons entitled to lease property to political subdivision or agency

Sec. 3. Any of the following persons may lease property to a political subdivision or agency under this chapter:

(1) A profit or not-for-profit corporation organized under Indiana law or admitted to do business in Indiana.

(2) A partnership, association, limited liability company, or firm.

(3) An individual.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.8-1993, SEC.517.

IC 36-1-10-4

Repealed

(*Repealed by P.L.1-1990, SEC.356.)*

IC 36-1-10-4.1

Leasing agents; compliance with chapter; procedure in lease without option to purchase

Sec. 4.1. (a) A leasing agent who wants to lease a structure or transportation project must comply with this chapter. A leasing agent who wants to lease a system must comply with this chapter or IC 5-22.

(b) A leasing agent who enters into a lease under this section without an option to purchase must follow the procedure prescribed by section 5 of this chapter.

As added by P.L.1-1990, SEC.357. Amended by P.L.49-1997, SEC.68.

IC 36-1-10-5

Leases without option to purchase; procedure

Sec. 5. Notwithstanding sections 6, 12, 16, and 17 of this chapter, the following procedure shall be followed whenever a lease does not contain an option to purchase:

(1) The term of the lease may not be longer than ten (10) years; however, a lease may be for a longer term if the lease is approved by the department of local government finance.

(2) The lease must provide that the lease is subject to annual appropriation by the appropriate fiscal body.

(3) The leasing agent must have a copy of the lease filed and

kept in a place available for public inspection.

A leasing agent may lease part of a structure.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.131-1984, SEC.4; P.L.330-1985, SEC.1; P.L.90-2002, SEC.462.

IC 36-1-10-6

Limitation on term of lease

Sec. 6. A leasing agent may not enter into a lease for a period of more than fifty (50) years.

As added by Acts 1981, P.L.57, SEC.36.

IC 36-1-10-7

Lease of structures, systems, or transportation projects; petition; need

Sec. 7. A leasing agent may not lease a structure, transportation project, or system unless:

(1) the leasing agent receives a petition signed by fifty (50) or more taxpayers of the political subdivision or agency; and

(2) the fiscal body of the political subdivision determines, after investigation, that the structure, transportation project, or system is needed.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.330-1985, SEC.2; P.L.37-1988, SEC.12; P.L.343-1989(ss), SEC.15.

IC 36-1-10-8

Joint leasing

Sec. 8. (a) If two (2) or more leasing agents propose to enter into a lease jointly, joint meetings of the leasing agents may be held. However, joint leasing must be approved by each leasing agent's fiscal body.

(b) A lease executed by two (2) or more leasing agents as joint lessees must set out the amount of the total rental to be paid by each. A lessee has no right of occupancy or use of the transportation project or system until the total rental is paid as stipulated by the contract.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.13; P.L.343-1989(ss), SEC.16.

IC 36-1-10-9

Leases; terms and conditions; options to renew or purchase; exercise of option to purchase

Sec. 9. (a) The lease may provide that the leasing agent has an option to renew the lease for a further term or to purchase the property. The terms and conditions of the purchase must be specified in the lease.

(b) Whenever the leasing agent exercises an option to purchase the property, then the political subdivision or agency may issue and sell bonds for the purpose of procuring money to pay the purchase price. If the leasing agent does not exercise an option to purchase the property, then upon the expiration of the lease and upon full

performance by the leasing agent, the property becomes the absolute property of the political subdivision or agency. The lessor shall convey title to the political subdivision or agency.
As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.74-1987, SEC.18.

IC 36-1-10-10
Plans, specifications, and estimates for structures, systems, and transportation projects

Sec. 10. (a) A lessor proposing to build, acquire, improve, remodel, or expand a structure for lease to a political subdivision or agency shall submit plans, specifications, and estimates to the leasing agent before executing a lease. The leasing agent shall submit the plans and specifications to the division of fire and building safety or the building law compliance officer, and other agencies designated by law.

(b) A lessor proposing to acquire a transportation project or system may enter into a lease without submitting plans, designs, or specifications to any political subdivision or agency. However, before the execution of the lease, the lessor must submit to the lessee or lessees an estimate of the cost and a description of the transportation project or system.
As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.8-1984, SEC.122; P.L.37-1988, SEC.14; P.L.188-1988, SEC.1; P.L.343-1989(ss), SEC.17; P.L.1-2006, SEC.552.

IC 36-1-10-11
Property held in fee simple; sale procedure

Sec. 11. (a) The lessor must hold in fee simple land on which a structure is to be erected, acquired, improved, remodeled, or expanded. The lessor must hold in fee simple a structure that is to be acquired, improved, remodeled, or expanded.

(b) The leasing agent may sell land or a structure owned by the political subdivision or agency to the lessor under the following procedure if the political subdivision wants to lease a structure proposed to be built, acquired, improved, remodeled, or expanded on that land:

(1) The leasing agent shall appoint two (2) appraisers to appraise the fair market value of the land or structure.
(2) The appraisers must be professionally engaged in making appraisals or licensed under IC 25-34.1.
(3) The appraisers shall return their appraisal to the leasing agent within two (2) weeks after the date of their appointment.
(4) The leasing agent shall sell the land or structure for not less than the appraised value. However, if the political subdivision or agency acquired the land or structure during the three (3) years preceding the date of the appointment of the appraisers, the land or structure may not be sold for an amount less than the amount paid by the political subdivision or agency for the land or structure.

(5) The leasing agent shall be paid in cash upon the agent's delivery of the deed.

(6) The leasing agent is not required to comply with any other law relating to the sale of land or structures by a political subdivision.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.188-1988, SEC.2.

IC 36-1-10-12

Lease in anticipation of acquisition or construction of structure, system, or transportation project

Sec. 12. (a) The leasing agent may, in anticipation of the acquisition of a site on which a structure is to be constructed, acquired, improved, remodeled, or expanded, enter into a contract to lease a structure from the lessor before the actual acquisition of the site and the construction, acquisition, improvement, remodeling, or expansion of the structure. The lease may not provide for payment of any rental by the leasing agent if a new structure is to be constructed until it is complete and ready for occupancy. However, the lease may provide for payment of lease rental for any part of the structure to be used by the political subdivision or its agency for any period during improvement, remodeling, or expansion of the structure.

(b) A leasing agent may, in anticipation of the acquisition of a system, enter into a lease with the lessor before the completion of the acquisition. A leasing agent may, in anticipation of the acquisition or construction of a transportation project, enter into a lease with the lessor before the completion of construction or acquisition. Such a lease must require the payment of lease rental by the lessee or lessees to begin when acquisition of the system, or a discrete, functional part of the system, or acquisition or construction of the transportation project, has been completed and is ready for use, but not before that time. An opinion or report of an independent expert that the system, or a discrete, functional part of the system, or a transportation project is complete and ready for use is conclusive and binding on all parties and on all taxpayers of an eligible entity.

(c) The lease may provide that the leasing agent shall pay all taxes and assessments, maintain insurance for the benefit of the lessor, and assume all responsibilities for repair and alterations during the term of the lease.

(d) The leasing agent may require the lessor, as a condition of entering into a lease, to furnish a bond guaranteeing the lease in an amount specified by the leasing agent.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.74-1987, SEC.19; P.L.37-1988, SEC.15; P.L.188-1988, SEC.3; P.L.343-1989(ss), SEC.18.

IC 36-1-10-13

Hearing; procedure; execution of lease

Sec. 13. (a) After the leasing agent and the lessor have agreed upon the terms and conditions of the lease but before the execution

of the lease, the leasing agent shall publish notice, in accordance with IC 5-3-1, of a public hearing to be held before the leasing agent. The cost of the publication of the notice shall be paid by the lessor. Notice of the hearing must be given at least ten (10) days before the hearing is held.

(b) The notice must state the date, place, and hour of the hearing and provide a summary of the principal terms of the lease. Additionally, the notice must contain the name of the proposed lessor, the location and character of the structure, transportation project, or system to be leased, the rental to be paid, and the number of years the lease is to be in effect.

(c) The proposed lease, drawings, plans, specifications, and estimates for the structure, or description and cost estimate of the transportation project or system, are open to public inspection during the ten (10) day period and at the hearing.

(d) All persons are entitled to be heard at the hearing as to whether the execution of the lease is necessary and whether the rental is fair and reasonable for the proposed structure or system. After the hearing, which may be adjourned from time to time, the leasing agent may modify, confirm, or rescind the proposed lease, but the rental as set out in the published notice may not be increased. The leasing agent may rely on the testimony of independent experts as to the fairness and reasonableness of the lease.

(e) If the execution of the lease as originally agreed upon or as modified is authorized by the leasing agent, the leasing agent shall give notice of the execution of the lease by publication in accordance with IC 5-3-1.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.74-1987, SEC.20; P.L.37-1988, SEC.16; P.L.343-1989(ss), SEC.19; P.L.25-1995, SEC.82.

IC 36-1-10-14

Disagreement with execution of lease; petition; hearing; decision

Sec. 14. (a) If lease rentals are payable, in whole or in part, from property taxes, ten (10) or more taxpayers in the political subdivision who disagree with the execution of a lease under this chapter may file a petition in the office of the county auditor of the county in which the leasing agent is located, within thirty (30) days after publication of notice of the execution of the lease. The petition must state the taxpayer's objections and the reasons why the lease is unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) nor more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the political subdivision where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the leasing agent and to the first ten (10) taxpayer petitioners listed on the petition by a letter signed by the commissioner or deputy commissioner of the department. The letter shall be sent to the first ten (10) taxpayer petitioners at their usual place of residence at least five (5) days before the date of the hearing. The decision by the department of local government finance on the objections presented in the petition is final.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.17; P.L.90-2002, SEC.463.

IC 36-1-10-15

Actions to contest validity of lease or to enjoin performance under lease

Sec. 15. An action to contest the validity of a lease under this chapter, or to enjoin performance under the lease, must be brought within thirty (30) days after publication of notice of the execution of the lease by the leasing agent or, if an appeal has been taken to the department of local government finance, then within thirty (30) days after the decision of the department.

As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.90-2002, SEC.464.

IC 36-1-10-16

Conveyance of structure to lessor and lease back; purchase price; option to purchase

Sec. 16. (a) A political subdivision or agency owning a structure with respect to which its revenue bonds are outstanding may, to refinance those bonds, convey the structure to the lessor in fee simple and lease it from the lessor in accordance with this chapter, subject to the approval of the department of local government finance.

(b) The price of a purchase under this section must be at least the sum of:

(1) the principal amount of the outstanding revenue bonds;

(2) interest on those bonds to the maturity date of bonds not subject to redemption before maturity and to the first redemption date of bonds subject to redemption before maturity; and

(3) the redemption premiums on all bonds subject to redemption before maturity.

An amount not less than this sum shall be deposited in trust for the payment of the outstanding revenue bonds in a manner consistent with the ordinance or trust agreement under which the bonds were issued. The money deposited in the trust, and investment income from it, not required for the payment of the bonds, shall be applied to the payment of the obligations issued by the lessor for the acquisition of the structure, and to a corresponding reduction of rentals for the leasing agent.

(c) Each lease entered into under this section must include an option permitting the political subdivision or agency to purchase the

structure at a price not exceeding the amount required to retire all outstanding obligations issued by the lessor to acquire the property covered by the lease. The lease and sale of a parking facility under this section does not preclude the lease of air rights.
As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.90-2002, SEC.465.

IC 36-1-10-17
Annual appropriation and tax levy

Sec. 17. (a) A political subdivision or agency that executes a lease under this chapter shall, subject to subsection (d), make an annual appropriation and tax levy at a rate to provide sufficient money to pay the rental payable from property taxes stipulated in the lease.

(b) The appropriation and levy are subject to review by other bodies that have the authority to ascertain that the levy is sufficient to raise the amount required to pay the rental payable from property taxes under the lease.

(c) The appropriation and levy may be reduced in any year to the extent other money or any reimbursement under IC 36-7-14-39 are pledged or available for the payment of the lease rental.

(d) A political subdivision or agency that executes a lease for a transportation project may only levy a tax under this section for an amount necessary to restore debt service reserve funds and may not levy a tax for lease rental payments.
As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.18; P.L.343-1989(ss), SEC.20.

IC 36-1-10-18
Tax exemption of leased structures, systems, and transportation projects; taxation of rental paid lessor

Sec. 18. Structures, transportation projects, and systems leased by a lessor contracting with the political subdivision or agency under this chapter are exempt from all state, county, and other taxes. However, the rental paid to a lessor under the terms of a lease is subject to taxation.
As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.19; P.L.343-1989(ss), SEC.21.

IC 36-1-10-19
Assignment or conveyance of lease; conveyance of structure, system, or transportation project

Sec. 19. A lessor may assign or convey a lease entered into under this chapter to any other person as set forth in the lease. A lessor may convey the structures, transportation projects, or system to any person. However, an assignment or conveyance under this section does not affect the terms and conditions of the lease.
As added by Acts 1981, P.L.57, SEC.36. Amended by P.L.37-1988, SEC.20; P.L.343-1989(ss), SEC.22.

IC 36-1-10-20

Repealed

(*Repealed by P.L.25-1995, SEC.94.)*

IC 36-1-10-20.1

Repealed

(*Repealed by P.L.25-1995, SEC.94.)*

IC 36-1-10-21

Not-for-profit corporations; issuance and sale of bonds and other securities

Sec. 21. (a) A not-for-profit corporation qualifying as a lessor corporation under this chapter may issue and sell bonds and other securities. Mortgage bonds issued by a lessor corporation that are a first lien on the leased property shall be considered legal and proper investments for state banks and trust companies, insurance companies, and fiduciaries.

(b) Bonds issued by a lessor corporation may be sold at a private sale, a negotiated sale, or a public sale. If bonds are sold at public sale, they shall be sold pursuant to IC 5-1-11, but the notice of sale shall be published in the manner required for bonds of the county in which the leased property is or will be located.

(c) Approval of the securities commissioner is not required in connection with the issuance and sale of the bonds.

As added by P.L.2-1989, SEC.23.

IC 36-1-10.5

Chapter 10.5. Purchase of Land or Structures

IC 36-1-10.5-1

Application of chapter

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

(1) political subdivisions; and

(2) their agencies.

(b) This chapter does not apply to the purchase of:

(1) real property having a total price (including land and structures, if any) of twenty-five thousand dollars ($25,000) or less;

(2) airport land or structures under IC 8-22;

(3) library land or structures under IC 36-12;

(4) school land or structures under IC 20-47;

(5) hospital land or structures by a hospital or health and hospital corporation established and operated under IC 16-22 or IC 16-23;

(6) land or structures acquired for a road or street right-of-way for a federal-aid project funded in any part under 23 U.S.C. 101 et seq.;

(7) land or structures by redevelopment commissions under IC 36-7-14 or IC 36-7-15.1, or redevelopment authorities under IC 36-7-14.5; or

(8) land by a municipally owned water utility, if:

(A) the municipally owned water utility has performed or contracted with another party to perform sampling and drilling tests of the land; and

(B) the sampling and drilling tests indicate the land has water resources.

As added by P.L.336-1987, SEC.1. Amended by P.L.188-1988, SEC.4; P.L.114-1989, SEC.2; P.L.2-1993, SEC.197; P.L.221-1997, SEC.1; P.L.1-2005, SEC.233; P.L.2-2006, SEC.187; P.L.194-2007, SEC.11.

IC 36-1-10.5-2

"Parking facility" defined

Sec. 2. As used in this chapter, "parking facility" refers to a parking facility as defined in IC 36-9-1.

As added by P.L.336-1987, SEC.1.

IC 36-1-10.5-3

"Purchasing agent" defined

Sec. 3. As used in this chapter, "purchasing agent" means the board or officer of a political subdivision or agency with the power to purchase land or structures.

As added by P.L.336-1987, SEC.1.

IC 36-1-10.5-4

"Structure" defined

Sec. 4. As used in this chapter, "structure" means:

(1) a building used in connection with the operation of a political subdivision; or

(2) a parking facility.

The term includes the site, equipment, and appurtenances to the building or parking facility.

As added by P.L.336-1987, SEC.1.

IC 36-1-10.5-5

Purchase of land or structure; required procedures

Sec. 5. A purchasing agent shall purchase land or a structure only after compliance with the following procedures:

(1) The fiscal body of the political subdivision shall pass a resolution to the effect that it is interested in making a purchase of specified land or a structure.

(2) The purchasing agent shall appoint two (2) appraisers to appraise the fair market value of the land or structure. The appraisers must be professionally engaged in making appraisals or be trained as an appraiser and licensed as a broker under IC 25-34.1.

(3) The appraisers shall return their separate appraisals to the purchasing agent within thirty (30) days after the date of their appointment. The purchasing agent shall keep the appraisals on file in the purchasing agent's office for five (5) years after they are given to the purchasing agent.

(4) The purchasing agent shall give a copy of both appraisals to the fiscal body.

As added by P.L.336-1987, SEC.1.

IC 36-1-10.5-6

Limitation on purchase price

Sec. 6. A purchasing agent may not purchase any land or structure for a price greater than the average of the two (2) appraisals received under section 5 of this chapter.

As added by P.L.336-1987, SEC.1.

IC 36-1-11

Chapter 11. Disposal of Real or Personal Property

IC 36-1-11-1

Application of chapter

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the disposal of property by:

(1) political subdivisions; and

(2) their agencies.

(b) This chapter does not apply to the following:

(1) The disposal of property under an urban homesteading program under IC 36-7-17.

(2) The lease of school buildings under IC 20-47.

(3) The sale of land to a lessor in a lease-purchase contract under IC 36-1-10.

(4) The disposal of property by a redevelopment commission established under IC 36-7.

(5) The leasing of property by a board of aviation commissioners established under IC 8-22-2 or an airport authority established under IC 8-22-3.

(6) The disposal of a municipally owned utility under IC 8-1.5.

(7) The sale or lease of property by a unit to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code or the sale or reletting of that property by the nonprofit corporation.

(8) The disposal of surplus property by a hospital established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.

(9) The sale or lease of property acquired under IC 36-7-13 for industrial development.

(10) The sale, lease, or disposal of property by a local hospital authority under IC 5-1-4.

(11) The sale or other disposition of property by a county or municipality to finance housing under IC 5-20-2.

(12) The disposition of property by a soil and water conservation district under IC 14-32.

(13) The sale, lease, or disposal of property by the health and hospital corporation established and operated under IC 16-22-8.

(14) The disposal of personal property by a library board under IC 36-12-3-5(c).

(15) The sale or disposal of property by the historic preservation commission under IC 36-7-11.1.

(16) The disposal of an interest in property by a housing authority under IC 36-7-18.

(17) The disposal of property under IC 36-9-37-26.

(18) The disposal of property used for park purposes under IC 36-10-7-8.

(19) The disposal of textbooks that will no longer be used by

school corporations under IC 20-26-12.

(20) The disposal of residential structures or improvements by a municipal corporation without consideration to:

(A) a governmental entity; or

(B) a nonprofit corporation that is organized to expand the supply or sustain the existing supply of good quality, affordable housing for residents of Indiana having low or moderate incomes.

(21) The disposal of historic property without consideration to a nonprofit corporation whose charter or articles of incorporation allows the corporation to take action for the preservation of historic property. As used in this subdivision, "historic property" means property that is:

(A) listed on the National Register of Historic Places; or

(B) eligible for listing on the National Register of Historic Places, as determined by the division of historic preservation and archeology of the department of natural resources.

(22) The disposal of real property without consideration to:

(A) a governmental agency; or

(B) a nonprofit corporation that exists for the primary purpose of enhancing the environment;

when the property is to be used for compliance with a permit or an order issued by a federal or state regulatory agency to mitigate an adverse environmental impact.

(23) The disposal of property to a person under an agreement between the person and a political subdivision or an agency of a political subdivision under IC 5-23.

(24) The disposal of residential real property pursuant to a federal aviation regulation (14 CFR 150) Airport Noise Compatibility Planning Program as approved by the Federal Aviation Administration.

As added by Acts 1981, P.L.57, SEC.37. Amended by Acts 1982, P.L.208, SEC.1; P.L.16-1983, SEC.21; P.L.182-1985, SEC.15; P.L.214-1986, SEC.1; P.L.2-1987, SEC.49; P.L.214-1989, SEC.5; P.L.336-1989(ss), SEC.44; P.L.162-1991, SEC.4; P.L.2-1993, SEC.198; P.L.98-1993, SEC.11; P.L.1-1994, SEC.172; P.L.165-1994, SEC.1; P.L.1-1995, SEC.79; P.L.310-1995, SEC.1; P.L.82-1995, SEC.7; P.L.49-1997, SEC.69; P.L.76-1998, SEC.1; P.L.1-2005, SEC.234; P.L.184-2005, SEC.37; P.L.2-2006, SEC.188; P.L.154-2012, SEC.4.

IC 36-1-11-2

Definitions

Sec. 2. The following definitions apply throughout this chapter:

(1) "Disposal" means sale, exchange, transfer, or lease of property.

(2) "Disposing agent" means the board or officer of a political subdivision or agency having the power to award contracts for which public notice is required, with respect to property of the political subdivision or agency.

(3) "Key number" has the meaning set forth in IC 6-1.1-1-8.5.

(4) "Operating agreement" has the meaning set forth in IC 5-23-2-7.

(5) "Person" means any association, corporation, limited liability company, fiduciary, individual, joint venture, partnership, sole proprietorship, or any other legal entity.

(6) "Property" means all fixtures and real property to be included in a disposal.

(7) "Tract" has the meaning set forth in IC 6-1.1-1-22.5.

As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.23; P.L.82-1995, SEC.8; P.L.49-1997, SEC.70.

IC 36-1-11-3
Approval

Sec. 3. (a) This section does not apply to the disposal of real property under section 5, 5.5, 5.9, or 8 of this chapter.

(b) Disposal of real property under this chapter is subject to the approval of:

(1) the executive of the political subdivision or agency; or

(2) the fiscal body of the political subdivision or agency, if there is no executive.

The executive or fiscal body may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1. However, in a municipality the executive shall designate a board or commission of the municipality to give notice, conduct the hearing, and notify the executive of its recommendation.

(c) Except as provided in section 3.2 of this chapter, in addition, the fiscal body of a unit must approve:

(1) every sale of real property having an appraised value of fifty thousand dollars ($50,000) or more;

(2) every lease of real property for which the total annual rental payments will be twenty-five thousand dollars ($25,000) or more; and

(3) every transfer of real property under section 14 or 15 of this chapter.

As added by Acts 1981, P.L.57, SEC.37. Amended by Acts 1982, P.L.208, SEC.2; P.L.331-1985, SEC.1; P.L.330-1985, SEC.3; P.L.35-1990, SEC.43; P.L.82-1995, SEC.9; P.L.124-1998, SEC.11; P.L.27-2008, SEC.1.

IC 36-1-11-3.1
Sale of residential real property; disapproval

Sec. 3.1. (a) In addition to any other reason for disapproving a disposal of property under section 3 of this chapter, the executive of a consolidated city may disapprove a sale of a tract of residential property to any bidder who does not by affidavit declare that:

(1) the bidder will reside on that property for at least one (1) year after the bidder obtains possession of it; and

(2) the bidder is eligible to purchase the property under section 16 of this chapter.

(b) When the executive exercises disapproval under this section, the property may be sold to the highest bidder who also presents an affidavit declaring that:

(1) the bidder will reside on that property for a one (1) year period after the bidder obtains possession; and

(2) the bidder is eligible to purchase the property under section 16 of this chapter.

As added by Acts 1981, P.L.306, SEC.1. Amended by P.L.60-1988, SEC.24.

IC 36-1-11-3.2

Approval of sale, lease, or transfer of real property in certain cities

Sec. 3.2. (a) This section applies to a city having a population of:

(1) more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400);

(2) more than twenty-nine thousand six hundred (29,600) but less than twenty-nine thousand nine hundred (29,900); or

(3) more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).

(b) Notwithstanding section 3(c) of this chapter, the fiscal body of a city must approve:

(1) every sale of real property having an appraised value of ten thousand dollars ($10,000) or more;

(2) every lease of real property for which the total annual rental payments will be five thousand dollars ($5,000) or more; and

(3) every transfer of real property under section 14 or 15 of this chapter.

As added by P.L.124-1998, SEC.12. Amended by P.L.170-2002, SEC.138; P.L.119-2012, SEC.177.

IC 36-1-11-4

Sale or transfer of real property; procedure

Sec. 4. (a) A disposing agent who wants to sell or transfer real property must comply with this section, except as permitted by section 4.1, 4.2, 5, 5.5, 5.7, 5.9, 8, 14, or 15 of this chapter.

(b) The disposing agent shall first have the property appraised by two (2) appraisers. The appraisers must be:

(1) professionally engaged in making appraisals;

(2) licensed under IC 25-34.1; or

(3) employees of the political subdivision familiar with the value of the property.

(c) After the property is appraised, the disposing agent shall publish a notice in accordance with IC 5-3-1 setting forth the terms and conditions of the sale and, when subsection (e) is employed, may engage an auctioneer licensed under IC 25-6.1 to advertise the sale and to conduct a public auction. The advertising conducted by the auctioneer is in addition to any other notice required by law and shall include a detailed description of the property to be sold stating the key numbers, if any, of the tracts within that property. If the disposing agent determines that the best sale of the property can be

made by letting the bidders determine certain conditions of the sale (such as required zoning or soil or drainage conditions) as a prerequisite to purchasing the property, the disposing agent may permit the bidders to specify those conditions. The notice must state the following:

(1) Bids will be received beginning on a specific date.

(2) The sale will continue from day to day for a period determined by the disposing agent of not more than sixty (60) days.

(3) The property may not be sold to a person who is ineligible under section 16 of this chapter.

(4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(d) A bid must be open to public inspection. A bidder may raise the bidder's bid, and subject to subsection (e), that raise takes effect after the board has given written notice of that raise to the other bidders.

(e) The disposing agent may also engage an auctioneer licensed under IC 25-6.1 to conduct a sale by public auction. The auction may be conducted either at the time for beginning the sale in accordance with the public notice or after the beginning of the sale. The disposing agent shall give each bidder who has submitted a bid written notice of the time and place of the auction.

(f) The disposing agent may, before expiration of the time set out in the notice, sell the property to the highest and best bidder. The highest and best bidder must have complied with any requirement under subsection (c)(4). However, the disposing agent may sell the property for less than ninety percent (90%) of the average of the two (2) appraisals of the tracts only after an additional notice stating the amount of the bid to be accepted is published in accordance with IC 5-3-1. The disposing agent may reject all bids. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.

(g) If the disposing agent determines that, in the exercise of good business judgment, the disposing agent should hire a broker or auctioneer to sell the property, the disposing agent may do so and pay the broker or auctioneer a reasonable compensation out of the gross proceeds of the sale. A disposing agent may hire a broker to sell real property directly rather than using the bid process under subsections (c) through (f) if:

(1) the disposing agent publishes a notice of the determination to hire the broker in accordance with IC 5-3-1; and

(2) the property has been up for bid for at least sixty (60) days before the broker is hired, and either no bids were received or the disposing agent has rejected all bids that were received.

The disposing agent may hire one (1) of the appraisers as the broker or auctioneer.

(h) The following apply if a broker is hired under subsection (g):

(1) The property may not be sold to a person who is ineligible under section 16 of this chapter.

(2) If the property is sold to a trust (as defined in IC 30-4-1-1(a)), the following information must be placed in the public record relating to the sale:

(A) Each beneficiary of the trust.

(B) Each settlor empowered to revoke or modify the trust.

As added by Acts 1981, P.L.57, SEC.37. Amended by Acts 1982, P.L.208, SEC.3; P.L.32-1983, SEC.10; P.L.331-1985, SEC.2; P.L.330-1985, SEC.4; P.L.60-1988, SEC.25; P.L.336-1989(ss), SEC.45; P.L.165-1994, SEC.2; P.L.188-2007, SEC.2; P.L.27-2008, SEC.2; P.L.188-2011, SEC.1.

IC 36-1-11-4.1

Sale or transfer of real property, including provision for leaseback; notice; bids

Sec. 4.1. (a) This section applies to a disposing agent who wants to sell or transfer real property, and as a condition of sale, includes a provision for a leaseback or leaseback with option to repurchase.

(b) The disposing agent shall publish notice in accordance with IC 5-3-1 setting forth the terms and conditions of the sale. The notice must state the following:

(1) Bids will be received beginning on a specific date.

(2) The sale will continue from day to day for a period determined by the disposing agent of not more than sixty (60) days.

(3) The property may not be sold or transferred to a person who is ineligible under section 16 of this chapter.

(4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(c) A bid must be open to public inspection.

(d) After the period for receiving bids has expired, a disposing agent may sell the property to the highest and best eligible bidder. The highest and best eligible bidder must have complied with any requirement under subsection (b)(4).

(e) IC 36-1-10 does not apply to this section.

As added by Acts 1982, P.L.208, SEC.4. Amended by P.L.60-1988, SEC.26; P.L.336-1989(ss), SEC.46.

IC 36-1-11-4.2

Sale or transfer of real property not acquired through eminent domain to promote an economic development project or facilitate compatible land use planning

Sec. 4.2. (a) This section applies to a disposing agent who wants to sell or transfer real property not acquired through eminent domain procedures for any of the following purposes:

(1) To promote an economic development project.

(2) To facilitate compatible land use planning.

(b) The disposing agent shall first have the property appraised by two (2) appraisers. The appraisers must be:

(1) professionally engaged in making appraisals;

(2) licensed under IC 25-34.1; or

(3) employees of the political subdivision familiar with the value of the property.

(c) Subject to subsection (d), the disposing agent may:

(1) negotiate a sale or transfer; and

(2) dispose of the real property;

at a value that is not less than the average of the two (2) appraisals under subsection (b).

(d) The disposing agent may dispose of the real property for a value that is not less than the average of the two (2) appraisals under subsection (b) only after publishing a notice in accordance with IC 5-3-1 stating the amount of the offer to be accepted. The disposing agent may reject all offers. If the disposing agent rejects all offers, the disposing agent must make a written determination to reject all offers explaining why all offers were rejected.

As added by P.L.165-1994, SEC.3. Amended by P.L.188-2011, SEC.2.

IC 36-1-11-4.3

Public easement or right-of-way

Sec. 4.3. Notwithstanding any provision of this chapter, a sale or transfer under this chapter of property constituting a public easement or right of way does not deprive a public utility of the use of all or part of the public easement or right of way that is sold or transferred if, at the time of the sale or transfer, the public utility is occupying and using all or part of that public easement or right of way for the location and operation of its facilities.

As added by P.L.188-2011, SEC.3.

IC 36-1-11-5

Sale of property having certain value or previously part of right-of-way; rights of abutting landowners; procedures

Sec. 5. (a) As used in this section, "abutting landowner" means an owner of property that:

(1) touches, borders on, or is contiguous to the property that is the subject of sale; and

(2) does not constitute a:

(A) public easement; or

(B) public right-of-way.

(b) As used in this section, "offering price" means the appraised value of real property plus all costs associated with the sale, including:

(1) appraisal fees;

(2) title insurance;

(3) recording fees; and

(4) advertising costs.

(c) The disposing agent may proceed under this section if either

of the following applies:

(1) The assessed value of a tract of real property to be sold is less than fifteen thousand dollars ($15,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired.

(2) If the property has not been assessed and the property was previously part of a public right-of-way.

(d) The disposing agent may determine that:

(1) the highest and best use of the tract is sale to an abutting landowner;

(2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or

(3) it is economically unjustifiable to sell the tract under section 4 of this chapter.

(e) Within ten (10) days after the disposing agent makes a determination under subsection (d), the disposing agent shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

(1) the property may not be sold to a person who is ineligible under section 16 of this chapter; and

(2) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the disposing agent shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The disposing agent shall also have each tract appraised. The appraiser must be professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than six thousand dollars ($6,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent is not required to have the tract appraised.

(g) If, within ten (10) days after the date of publication of the notice under subsection (e), the disposing agent receives an eligible offer to purchase a tract listed in the notice at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract under section 4(c) through 4(g) of this chapter.

(h) Notwithstanding subsection (g), if within ten (10) days after the date of publication of the notice under subsection (e) the disposing agent does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract as follows:

(1) If only one (1) abutting landowner makes an eligible offer

to purchase the tract, then subject to section 16 of this chapter and without further appraisal or notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (e)(2).

(3) If no eligible abutting landowner submits an offer to purchase the tract, the disposing agent may sell the tract to any person who submits the highest offer for the tract, except a person who is ineligible to purchase the tract under section 16 of this chapter.

As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.47-1983, SEC.5; P.L.332-1985, SEC.1; P.L.333-1985, SEC.1; P.L.60-1988, SEC.27; P.L.336-1989(ss), SEC.47; P.L.165-1994, SEC.4; P.L.170-2003, SEC.17; P.L.188-2011, SEC.4.

IC 36-1-11-5.5

School corporations; sale or transfer of real property or tangible or intangible personal property or licenses

Sec. 5.5. Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a school corporation may sell or transfer:

(1) real property; or

(2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses that are used in, or related to, the operation of a radio station by a school corporation;

for no compensation or a nominal fee to a not-for-profit corporation created for educational or recreational purposes unless the corporation is subject to section 16 of this chapter.

As added by Acts 1982, P.L.208, SEC.5. Amended by P.L.215-1986, SEC.1; P.L.60-1988, SEC.28; P.L.342-1989(ss), SEC.36; P.L.165-1994, SEC.5; P.L.49-1997, SEC.71.

IC 36-1-11-5.6

Sale or transfer of property to a nonprofit corporation

Sec. 5.6. Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a county having a population of more than seventy thousand (70,000) but less than seventy thousand fifty (70,050) may sell or transfer:

(1) real property; or

(2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property;

for no compensation or a nominal fee to a nonprofit corporation created for agricultural, educational, or recreational purposes.

As added by P.L.10-2001, SEC.1. Amended by P.L.170-2002, SEC.139; P.L.119-2012, SEC.178.

IC 36-1-11-5.7
Sale or transfer of real property or tangible or intangible personal property or licenses to volunteer fire department, fire protection district, or fire protection territory

Sec. 5.7. (a) As used in this section, "fire department" refers to any of the following:

(1) A volunteer fire department (as defined in IC 36-8-12-2).

(2) The board of fire trustees of a fire protection district established under IC 36-8-11.

(3) The provider unit of a fire protection territory established under IC 36-8-19.

(b) Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a political subdivision may sell or transfer:

(1) real property; or

(2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses;

without consideration or for a nominal consideration to a fire department for construction of a fire station or other purposes related to firefighting.

As added by P.L.188-2007, SEC.3. Amended by P.L.128-2008, SEC.6.

IC 36-1-11-5.9
Sale or transfer of real property acquired by tax default; rights of abutting landowners; procedures

Sec. 5.9. (a) As used in this section, "abutting landowner" has the meaning set forth in section 5(a) of this chapter.

(b) As used in this section, "real property acquired by tax default" means the following:

(1) Real property for which a county holds a tax deed issued under IC 6-1.1-25.

(2) Real property acquired by a political subdivision from a county under section 8 of this chapter if at the time of transfer the county held a tax deed issued under IC 6-1.1-25 for the real property.

(c) Notwithstanding sections 4, 4.1, 4.2, and 5 of this chapter, and subject to the procedures described in subsections (d) and (e), a disposing agent of a political subdivision may sell or transfer real property acquired by tax default without consideration or for a nominal consideration to an abutting landowner.

(d) A disposing agent who desires to transfer real property acquired by tax default to an abutting landowner shall send notice by certified mail to all abutting landowners. The notice must identify the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include a statement

that:

(1) the disposing agent is authorized to transfer the property for no consideration or for nominal consideration;

(2) the property may not be sold to a person who is ineligible under section 16 of this chapter; and

(3) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(e) Not earlier than fourteen (14) days after a disposing agent sends the notice described in subsection (d) to the abutting landowners of a tract, the disposing agent shall conduct the negotiation and sale of the tract under this section as follows:

(1) If only one (1) eligible abutting landowner makes an offer to purchase the tract, then subject to section 16 of this chapter and without appraisal or further notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (d)(3).

As added by P.L.27-2008, SEC.3.

IC 36-1-11-6
Repealed

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

IC 36-1-11-7
Exchange of property with persons other than governmental entity; procedure

Sec. 7. (a) A disposing agent who exchanges property must proceed under this section, except as permitted by section 8 of this chapter.

(b) An exchange may be made with a person who is:

(1) not a governmental entity; and

(2) eligible under section 16 of this chapter;

only after advertisement following as nearly as practical the procedure prescribed by section 4 of this chapter, with the property the disposing agent conveys to be partial or full payment for the property the disposing agent receives.

As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.29.

IC 36-1-11-8
Exchange of property with governmental entity

Sec. 8. A transfer or exchange of property may be made with a

governmental entity upon terms and conditions agreed upon by the entities as evidenced by adoption of a substantially identical resolution by each entity. Such a transfer may be made for any amount of real property, cash, or other personal property, as agreed upon by the entities.
As added by Acts 1981, P.L.57, SEC.37.

IC 36-1-11-9
Trade or exchange as part of purchase price of new property

Sec. 9. Whenever a disposing agent purchases new property with a condition that property of a similar nature is to be traded in or exchanged as part of the purchase and in reduction of the purchase price, the exchange or trade-in may be made without compliance with section 7 of this chapter but must comply with section 16 of this chapter.
As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.30.

IC 36-1-11-10
Lease of property; procedure

Sec. 10. (a) A disposing agent may lease property rather than sell, transfer, or exchange it under this chapter only if the disposing agent determines that a lease rather than a sale, transfer, or exchange would be in the best interest of the disposing agent's political subdivision or agency and the public. Except as provided in section 12 of this chapter, the disposing agent must proceed under this section in leasing property.

(b) The disposing agent shall first have the property appraised in the manner prescribed in section 4(b) of this chapter, except that the appraisers shall determine the fair market rental value of the property.

(c) The disposing agent shall receive bids in the manner prescribed in section 4 of this chapter and lease the property to the highest and best bidder. The disposing agent may reject all bids. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.

(d) The disposing agent shall determine the terms and conditions of any lease under this section, which may include options to renew and options to purchase. The property may not be leased to a person who is ineligible under section 16 of this chapter.

(e) The terms of a lease with option to purchase may provide that all or part of the rental payments under the lease apply to the purchase price. The purchase price must be equal to at least the minimum sale price determined under section 4(f) of this chapter.

(f) Property owned by a political subdivision or agency may be leased for a term longer than three (3) years if the lease is approved by the fiscal body of the political subdivision.

(g) The disposing agent may lease the real property under this section for a value that is less than ninety percent (90%) of the

appraised fair market rental value as determined by the average of the two (2) appraisals under section 4(b) of this chapter only after publishing an additional notice in accordance with IC 5-3-1, stating the amount of the bid to be accepted. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.
As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.339-1983, SEC.1; P.L.60-1988, SEC.31; P.L.188-2011, SEC.5.

IC 36-1-11-11
Execution of deed or other instrument

Sec. 11. Whenever:

(1) there is a dispute concerning the interest in any property of a political subdivision, and the executive considers the dispute not frivolous; or

(2) it would facilitate the establishment of title to any property;

a deed or other instrument may be executed on behalf of the political subdivision to a person who is eligible to receive the deed or instrument under section 16 of this chapter for any consideration that the disposing agent considers fair and in the public interest.
As added by Acts 1981, P.L.57, SEC.37. Amended by P.L.60-1988, SEC.32.

IC 36-1-11-12
Lease of property; alternative procedure

Sec. 12. The following procedure may be used instead of that in section 10 of this chapter if the disposing agent makes a written determination (which must include the disposing agent's reasons) that the use of section 10 of this chapter is not feasible, and authorization to use this procedure is granted by the executive of the political subdivision or agency:

(1) Proposals to develop specifications shall be solicited through a request for proposals, which must include all of the following:

(A) The factors or criteria that will be used in evaluating the proposals, including a statement that:

(i) the property may not be leased to a person who is ineligible under section 16 of this chapter; and

(ii) a proposal submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each beneficiary of the trust and each settlor empowered to revoke or modify the trust.

(B) A statement concerning the relative importance of price and the other evaluation factors.

(C) A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility.

(D) A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.

(2) Notice of the request for proposals shall be given by publication in accordance with IC 5-3-1.
(3) As provided in the request for proposals, discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.
(4) Eligible offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals.
(5) After the procedures outlined in this section have been completed, the disposing agent shall make a determination as to the most appropriate response to the request for proposals and shall dispose of the subject property in accordance with that response.
(6) Access to the proposals under this chapter shall be determined in accordance with the provisions of IC 5-23-7.
(7) The person submitting the successful proposal is not responsible for the requirements set forth in IC 5-22 with regard to the purchase of supplies if the purchase of supplies was included within the proposal or the supplies are not paid for with public funds.

As added by P.L.339-1983, SEC.2. Amended by P.L.60-1988, SEC.33; P.L.336-1989(ss), SEC.48; P.L.82-1995, SEC.10; P.L.49-1997, SEC.72.

IC 36-1-11-13
Restrictions on lease of county-owned property

Sec. 13. Notwithstanding any other law, a disposing agent for a county may not lease county-owned property at a rate that deviates more than five percent (5%) from the average square footage rate charged for similar property in that county.

As added by P.L.38-1984, SEC.3.

IC 36-1-11-14
Gift of tract; reconveyance

Sec. 14. If a tract was originally transferred to a political subdivision as a gift and public funds have not been expended to improve the property since the original transfer, the disposing agent may convey it back to the original grantor or the grantor's successors with their consent without consideration upon a determination by the disposing agent that:

(1) the property is surplus; and
(2) the original grantor or the grantor's successors are eligible to receive the tract under section 16 of this chapter.

As added by P.L.331-1985, SEC.3. Amended by P.L.60-1988, SEC.34.

IC 36-1-11-15
Tract transferred as gift by not-for-profit corporation or organization; reconveyance

Sec. 15. If a tract was originally transferred to a political subdivision as a gift by a not-for-profit corporation or organization, the disposing agent may convey it back to the original grantor or the grantor's successors with their consent without consideration upon a determination by the disposing agent that:

(1) the property is surplus; and

(2) the original grantor or the grantor's successors are eligible to receive the tract under section 16 of this chapter.

As added by P.L.330-1985, SEC.5. Amended by P.L.60-1988, SEC.35.

IC 36-1-11-16

Purchase, receipt, or lease of property by ineligible persons; eligible persons; effect of ineligibility

Sec. 16. (a) This section applies to the following:

(1) A person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale on a tract of real property listed under IC 6-1.1-24-1.

(2) A person who is an agent of the person described in subdivision (1).

(b) A person subject to this section may not purchase, receive, or lease a tract that is offered in a sale, exchange, or lease under this chapter.

(c) If a person purchases, receives, or leases a tract that the person was not eligible to purchase, receive, or lease under this section, the sale, transfer, or lease of the property is void and the county retains the interest in the tract it possessed before the sale, transfer, or lease of the tract.

As added by P.L.60-1988, SEC.36. Amended by P.L.342-1989(ss), SEC.37; P.L.98-2000, SEC.18.

IC 36-1-11-17

Terms of reconveyance or return

Sec. 17. If property disposed of under this chapter is to be reconveyed or automatically returned to the political subdivision or an agency of a political subdivision that disposed of the property, the terms of the reconveyance or return shall be as agreed to before the disposal. If the terms of the reconveyance are not set forth before the disposal, the political subdivision shall obtain at least two (2) appraisals and pay not more than the average of the two (2) appraisals.

As added by P.L.82-1995, SEC.11.

IC 36-1-12

Chapter 12. Public Work Projects

IC 36-1-12-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 21 of this chapter by P.L.20-1991 applies to public works contracts for which notices calling for sealed proposals for the work are published after June 30, 1991.

(2) The amendments made to this chapter by P.L.133-2007 apply only to public works contracts entered into after June 30, 2007.

As added by P.L.220-2011, SEC.641.

IC 36-1-12-1

Application of chapter; alternatives to chapter

Sec. 1. (a) Except as provided in this section, this chapter applies to all public work performed or contracted for by:

(1) political subdivisions; and

(2) their agencies;

regardless of whether it is performed on property owned or leased by the political subdivision or agency.

(b) This chapter does not apply to an officer or agent who, on behalf of a municipal utility, maintains, extends, and installs services of the utility if the necessary work is done by the employees of the utility.

(c) This chapter does not apply to hospitals organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1, unless the public work is financed in whole or in part with cumulative building fund revenue.

(d) This chapter does not apply to tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.

(e) As an alternative to this chapter, the governing body of a political subdivision or its agencies may do the following:

(1) Enter into a design-build contract as permitted under IC 5-30.

(2) Participate in a utility efficiency program or enter into a guaranteed savings contract as permitted under IC 36-1-12.5.

(f) This chapter does not apply to a person that has entered into an operating agreement with a political subdivision or an agency of a political subdivision under IC 5-23.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.182-1985, SEC.16; P.L.214-1989, SEC.7; P.L.24-1993, SEC.5; P.L.2-1993, SEC.199; P.L.1-1994, SEC.173; P.L.82-1995, SEC.12; P.L.49-1997, SEC.73; P.L.168-2006, SEC.2; P.L.71-2009, SEC.4; P.L.99-2009, SEC.3; P.L.1-2010, SEC.145.

IC 36-1-12-1.2

Definitions

Sec. 1.2. The following definitions apply throughout this chapter:

(1) "Board" means the board or officer of a political subdivision or an agency having the power to award contracts for public work.

(2) "Contractor" means a person who is a party to a public work contract with the board.

(3) "Subcontractor" means a person who is a party to a contract with the contractor and furnishes and performs labor on the public work project. The term includes material men who supply contractors or subcontractors.

(4) "Escrowed income" means the value of all property held in an escrow account over the escrowed principal in the account.

(5) "Escrowed principal" means the value of all cash and securities or other property placed in an escrow account.

(6) "Operating agreement" has the meaning set forth in IC 5-23-2-7.

(7) "Person" means any association, corporation, limited liability company, fiduciary, individual, joint venture, partnership, sole proprietorship, or any other legal entity.

(8) "Property" means all:

(A) personal property, fixtures, furnishings, inventory, and equipment; and

(B) real property.

(9) "Public fund" means all funds that are:

(A) derived from the established revenue sources of a political subdivision or an agency of a political subdivision; and

(B) deposited in a general or special fund of a municipal corporation, or another political subdivision or agency of a political subdivision.

The term does not include funds received by any person managing or operating a public facility under a duly authorized operating agreement under IC 5-23 or proceeds of bonds payable exclusively by a private entity.

(10) "Retainage" means the amount to be withheld from a payment to the contractor or subcontractor until the occurrence of a specified event.

(11) "Specifications" means a description of the physical characteristics, functional characteristics, extent, or nature of any public work required by the board.

(12) "Substantial completion" refers to the date when the construction of a structure is sufficiently completed, in accordance with the plans and specifications, as modified by any complete change orders agreed to by the parties, so that it can be occupied for the use for which it was intended.

As added by P.L.329-1985, SEC.9. Amended by P.L.82-1995, SEC.13; P.L.73-1995, SEC.3; P.L.49-1997, SEC.74.

IC 36-1-12-1.4

Repealed

(*Repealed by P.L.82-1995, SEC.20.)*

IC 36-1-12-1.6
Repealed

(*Repealed by P.L.82-1995, SEC.20.)*

IC 36-1-12-2
"Public work" defined

Sec. 2. As used in this chapter, "public work" means the construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement that is paid for out of a public fund or out of a special assessment. The term also includes any public work leased by a political subdivision under a lease containing an option to purchase.

As added by Acts 1981, P.L.57, SEC.38. Amended by Acts 1981, P.L.56, SEC.2; P.L.329-1985, SEC.12; P.L.337-1987, SEC.1.

IC 36-1-12-2.2
Repealed

(*Repealed by P.L.82-1995, SEC.20.)*

IC 36-1-12-2.4
Repealed

(*Repealed by P.L.82-1995, SEC.20.)*

IC 36-1-12-2.6
Repealed

(*Repealed by P.L.82-1995, SEC.20.)*

IC 36-1-12-3
Public work projects

Sec. 3. (a) The board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work, by means of its own workforce, without awarding a contract whenever the cost of that public work project is estimated to be less than one hundred fifty thousand dollars ($150,000). Before a board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work. For purposes of this subsection, the cost of a public work project includes:

(1) the actual cost of materials, labor, equipment, and rental;

(2) a reasonable rate for use of trucks and heavy equipment owned; and

(3) all other expenses incidental to the performance of the project.

(b) This subsection applies only to a municipality or a county. The workforce of a municipality or county may perform a public work described in subsection (a) only if:

(1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and

(2) for a public work project under subsection (a) whose cost is estimated to be more than one hundred thousand dollars ($100,000), the board:

(A) publishes a notice under IC 5-3-1 that:

(i) describes the public work that the board intends to perform with its own workforce; and

(ii) sets forth the projected cost of each component of the public work as described in subsection (a); and

(B) determines at a public meeting that it is in the public interest to perform the public work with the board's own workforce.

A public work project performed by a board's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bids.

(c) When the project involves the rental of equipment with an operator furnished by the owner, or the installation or application of materials by the supplier of the materials, the project is considered to be a public work project and subject to this chapter. However, an annual contract may be awarded for equipment rental and materials to be installed or applied during a calendar or fiscal year if the proposed project or projects are described in the bid specifications.

(d) A board of aviation commissioners or an airport authority board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work by means of its own workforce and owned or leased equipment, in the construction, maintenance, and repair of any airport roadway, runway, taxiway, or aircraft parking apron whenever the cost of that public work project is estimated to be less than one hundred thousand dollars ($100,000).

(e) Municipal and county hospitals must comply with this chapter for all contracts for public work that are financed in whole or in part with cumulative building fund revenue, as provided in section 1(c) of this chapter. However, if the cost of the public work is estimated to be less than fifty thousand dollars ($50,000), as reflected in the board minutes, the hospital board may have the public work done without receiving bids, by purchasing the materials and performing the work by means of its own workforce and owned or leased equipment.

(f) If a public works project involves a structure, an improvement, or a facility under the control of a department (as defined in IC 4-3-19-2(2)), the department may not artificially divide the project to bring any part of the project under this section.

As added by Acts 1981, P.L.57, SEC.38. Amended by Acts 1981, P.L.56, SEC.3; P.L.329-1985, SEC.16; P.L.337-1987, SEC.2; P.L.66-1987, SEC.29; P.L.12-1991, SEC.6; P.L.21-1995, SEC.146;

P.L.82-1995, SEC.14; P.L.49-1997, SEC.75; P.L.172-2011, SEC.138.

IC 36-1-12-3.5
Contracts for engineering, architectural, or accounting services; applicability of restrictions of general statutes

Sec. 3.5. When any public work is proposed to be performed and the board determines by a two-thirds (2/3) vote that it is expedient and in the best public interest to employ professional engineering, architectural, or accounting services for the planning and financing of the public work and the preparation of plans and specifications, then the limitations and restrictions in the general statutes with respect to invalidity of contracts without an appropriation therefor, payment of fees solely from the proceeds of bonds or assessments when and if issued, and payment of fees solely from a special fund or funds to be provided in the future, do not apply to contracts for those professional services to the extent that such limitations and restrictions might otherwise prevent the payment of fees for services actually rendered in connection with those contracts or affect the obligation to pay those fees.
As added by Acts 1982, P.L.33, SEC.16.

IC 36-1-12-4 Version a
Procedure if cost of public works project is at least a certain amount

Note: This version of section effective until 7-1-2012. See also following version of this section, effective 7-1-2012.

Sec. 4. (a) This section applies whenever the cost of a public work project will be:

(1) except as provided in subdivision (2), at least one hundred fifty thousand dollars ($150,000); or

(2) in the case of a board of aviation commissioners or an airport authority board, at least one hundred thousand dollars ($100,000).

(b) The board must comply with the following procedure:

(1) The board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the project involves the resurfacing (as defined by IC 8-14-2-1) of a road, street, or bridge, the specifications must show how the weight or volume of the materials will be accurately measured and verified.

(2) The board shall file the plans and specifications in a place reasonably accessible to the public, which shall be specified in the notice required by subdivision (3).

(3) Upon the filing of the plans and specifications, the board shall publish notice in accordance with IC 5-3-1 calling for sealed proposals for the public work needed.

(4) The notice must specify the place where the plans and specifications are on file and the date fixed for receiving bids.

(5) The period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board. The period of time between the date of the first publication and receiving bids may not be more than:

(A) six (6) weeks if the estimated cost of the public works project is less than twenty-five million dollars ($25,000,000); and

(B) ten (10) weeks if the estimated cost of the public works project is at least twenty-five million dollars ($25,000,000).

(6) The board shall require the bidder to submit a financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that the bidder has available for the performance of the public work. The statement shall be submitted on forms prescribed by the state board of accounts.

(7) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received shall be opened publicly and read aloud at the time and place designated and not before. Notwithstanding any other law, bids may be opened after the time designated if both of the following apply:

(A) The board makes a written determination that it is in the best interest of the board to delay the opening.

(B) The day, time, and place of the rescheduled opening are announced at the day, time, and place of the originally scheduled opening.

(8) Except as provided in subsection (c) or (after June 30, 2011) section 22 of this chapter, the board shall:

(A) award the contract for public work or improvements to the lowest responsible and responsive bidder; or

(B) reject all bids submitted.

(9) If the board awards the contract to a bidder other than the lowest bidder, the board must state in the minutes or memoranda, at the time the award is made, the factors used to determine which bidder is the lowest responsible and responsive bidder and to justify the award. The board shall keep a copy of the minutes or memoranda available for public inspection.

(10) In determining whether a bidder is responsive, the board may consider the following factors:

(A) Whether the bidder has submitted a bid or quote that conforms in all material respects to the specifications.

(B) Whether the bidder has submitted a bid that complies specifically with the invitation to bid and the instructions to bidders.

(C) Whether the bidder has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

(11) In determining whether a bidder is a responsible bidder, the board may consider the following factors:

(A) The ability and capacity of the bidder to perform the work.

(B) The integrity, character, and reputation of the bidder.

(C) The competence and experience of the bidder.

(12) The board shall require the bidder to submit an affidavit:

(A) that the bidder has not entered into a combination or agreement:

(i) relative to the price to be bid by a person;

(ii) to prevent a person from bidding; or

(iii) to induce a person to refrain from bidding; and

(B) that the bidder's bid is made without reference to any other bid.

(c) Notwithstanding subsection (b)(8), a county may award sand, gravel, asphalt paving materials, or crushed stone contracts to more than one (1) responsible and responsive bidder if the specifications allow for bids to be based upon service to specific geographic areas and the contracts are awarded by geographic area. The geographic areas do not need to be described in the specifications.

As added by Acts 1981, P.L.57, SEC.38. Amended by Acts 1981, P.L.56, SEC.4; P.L.329-1985, SEC.17; P.L.213-1986, SEC.4; P.L.252-1993, SEC.3; P.L.82-1995, SEC.15; P.L.22-2001, SEC.1; P.L.169-2006, SEC.48; P.L.113-2010, SEC.108; P.L.139-2011, SEC.6; P.L.172-2011, SEC.139; P.L.6-2012, SEC.241.

IC 36-1-12-4 Version b

Bidding procedures for projects costing more than certain amounts

Note: This version of section effective 7-1-2012. See also preceding version of this section, effective until 7-1-2012.

Sec. 4. (a) This section applies whenever the cost of a public work project will be:

(1) except as provided in subdivision (2), at least one hundred fifty thousand dollars ($150,000); or

(2) in the case of a board of aviation commissioners or an airport authority board, at least one hundred thousand dollars ($100,000).

(b) The board must comply with the following procedure:

(1) The board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the project involves the resurfacing (as defined by IC 8-14-2-1) of a road, street, or bridge, the specifications must show how the weight or volume of the materials will be accurately measured and verified.

(2) The board shall file the plans and specifications in a place reasonably accessible to the public, which shall be specified in the notice required by subdivision (3).

(3) Upon the filing of the plans and specifications, the board shall publish notice in accordance with IC 5-3-1 calling for

sealed proposals for the public work needed.
(4) The notice must specify the place where the plans and specifications are on file and the date fixed for receiving bids.
(5) The period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board. The period of time between the date of the first publication and receiving bids may not be more than:

(A) six (6) weeks if the estimated cost of the public works project is less than twenty-five million dollars ($25,000,000); and

(B) ten (10) weeks if the estimated cost of the public works project is at least twenty-five million dollars ($25,000,000).

(6) The board shall require the bidder to submit a financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that the bidder has available for the performance of the public work. The statement shall be submitted on forms prescribed by the state board of accounts.
(7) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received shall be opened publicly and read aloud at the time and place designated and not before. Notwithstanding any other law, bids may be opened after the time designated if both of the following apply:

(A) The board makes a written determination that it is in the best interest of the board to delay the opening.

(B) The day, time, and place of the rescheduled opening are announced at the day, time, and place of the originally scheduled opening.

(8) Except as provided in subsection (c), the board shall:

(A) award the contract for public work or improvements to the lowest responsible and responsive bidder; or

(B) reject all bids submitted.

(9) If the board awards the contract to a bidder other than the lowest bidder, the board must state in the minutes or memoranda, at the time the award is made, the factors used to determine which bidder is the lowest responsible and responsive bidder and to justify the award. The board shall keep a copy of the minutes or memoranda available for public inspection.
(10) In determining whether a bidder is responsive, the board may consider the following factors:

(A) Whether the bidder has submitted a bid or quote that conforms in all material respects to the specifications.

(B) Whether the bidder has submitted a bid that complies specifically with the invitation to bid and the instructions to bidders.

(C) Whether the bidder has complied with all applicable

statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

(11) In determining whether a bidder is a responsible bidder, the board may consider the following factors:

(A) The ability and capacity of the bidder to perform the work.

(B) The integrity, character, and reputation of the bidder.

(C) The competence and experience of the bidder.

(12) The board shall require the bidder to submit an affidavit:

(A) that the bidder has not entered into a combination or agreement:

(i) relative to the price to be bid by a person;

(ii) to prevent a person from bidding; or

(iii) to induce a person to refrain from bidding; and

(B) that the bidder's bid is made without reference to any other bid.

(c) Notwithstanding subsection (b)(8), a county may award sand, gravel, asphalt paving materials, or crushed stone contracts to more than one (1) responsible and responsive bidder if the specifications allow for bids to be based upon service to specific geographic areas and the contracts are awarded by geographic area. The geographic areas do not need to be described in the specifications.

As added by Acts 1981, P.L.57, SEC.38. Amended by Acts 1981, P.L.56, SEC.4; P.L.329-1985, SEC.17; P.L.213-1986, SEC.4; P.L.252-1993, SEC.3; P.L.82-1995, SEC.15; P.L.22-2001, SEC.1; P.L.169-2006, SEC.48; P.L.113-2010, SEC.108; P.L.139-2011, SEC.6; P.L.172-2011, SEC.139; P.L.6-2012, SEC.241; P.L.17-2012, SEC.2; P.L.67-2012, SEC.2.

IC 36-1-12-4.5

Bond or certified check; filing by bidders

Sec. 4.5. (a) The political subdivision or agency:

(1) shall require a bond or a certified check to be filed with each bid by a bidder in the amount determined and specified by the board in the notice of the letting if the cost of the public work is estimated to be more than two hundred thousand dollars ($200,000); and

(2) may require a bond or a certified check to be filed with each bid by a bidder in the amount determined and specified by the board in the notice of the letting if the cost of the public work is estimated to be not more than two hundred thousand dollars ($200,000).

(b) The amount of the bond or certified check may not be set at more than ten percent (10%) of the contract price. The bond or certified check shall be made payable to the political subdivision or agency.

(c) All checks of unsuccessful bidders shall be returned to them by the board upon selection of successful bidders. Checks of successful bidders shall be held until delivery of the performance bond, as provided in section 14(e) of this chapter.

As added by P.L.329-1985, SEC.18. Amended by P.L.133-2007, SEC.12.

IC 36-1-12-4.7
Procedures for inviting quotes; applicable dollar amounts

Sec. 4.7. (a) This section applies whenever a public work project is estimated to cost:

(1) except as provided in subdivision (2), at least fifty thousand dollars ($50,000) and less than one hundred fifty thousand dollars ($150,000); or

(2) in the case of a board of aviation commissioners or an airport authority board, at least fifty thousand dollars ($50,000) and less than one hundred thousand dollars ($100,000).

(b) The board must proceed under the following provisions:

(1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.

(2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.

(3) The board shall award the contract for the public work to the lowest responsible and responsive quoter.

(4) The board may reject all quotes submitted.

As added by P.L.82-1995, SEC.16. Amended by P.L.22-2001, SEC.2; P.L.1-2002, SEC.154; P.L.169-2006, SEC.49; P.L.195-2007, SEC.7; P.L.172-2011, SEC.140; P.L.17-2012, SEC.3; P.L.67-2012, SEC.3.

IC 36-1-12-4.9
Alternate procedures for projects costing less than $150,000

Sec. 4.9. (a) This section applies to a public work for the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property if the cost of the public work is estimated to be less than one hundred fifty thousand dollars ($150,000).

(b) The board may award a contract for public work described in subsection (a) in the manner provided in IC 5-22.

As added by P.L.176-2009, SEC.24.

IC 36-1-12-5
Procedures for inviting quotes; small projects

Sec. 5. (a) This section applies whenever a public work project is estimated to cost less than fifty thousand dollars ($50,000). Except as provided in subsection (g) for local boards of aviation commissioners and local airport authorities, if a contract is to be awarded, the board may proceed under section 4 of this chapter or under subsection (b) or (c).

(b) The board must proceed under the following provisions:

(1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.

(2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.

(3) The board shall award the contract for the public work to the lowest responsible and responsive quoter.

(4) The board may reject all quotes submitted.

(5) If the board rejects all quotes under subdivision (4), the board may negotiate and enter into agreements for the work in the open market without inviting or receiving quotes if the board establishes in writing the reasons for rejecting the quotes.

(c) The board may not proceed under subsection (b) for the resurfacing (as defined in IC 8-14-2-1) of a road, street, or bridge, unless:

(1) the weight or volume of the materials in the project is capable of accurate measurement and verification; and

(2) the specifications define the geographic points at which the project begins and ends.

(d) For the purposes of this section, if contiguous sections of a road, street, or bridge are to be resurfaced in a calendar year, all of the work shall be considered to comprise a single public work project.

(e) The board may purchase or lease supplies in the manner provided in IC 5-22 and perform the public work by means of its own workforce without awarding a public work contract.

(f) Before the board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work.

(g) This subsection applies to local boards of aviation commissioners operating under IC 8-22-2 and local airport authorities operating under IC 8-22-3. If the contract is to be awarded by a board to which this subsection applies, or to a designee of the board under subsection (h), the board or its designee may proceed under section 4 of this chapter or under the following provisions. The board or its designee may invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing the persons a copy of the plans and specifications for the work not less than seven (7) days before the time fixed for receiving quotes. If the board or its designee receives a satisfactory quote, the board or its designee shall award the contract to the lowest responsible and responsive quoter for the class of work required. The board or its designee may reject all quotes submitted and, if no valid

quotes are received for the class of work, contract for the work without further invitations for quotes.

(h) The board may delegate its authority to award a contract for a public works project that is estimated to cost less than fifty thousand dollars ($50,000) to the airport personnel in charge of airport public works projects.

(i) Quotes for public works projects costing less than twenty-five thousand dollars ($25,000) may be obtained by soliciting at least three (3) quotes by telephone or facsimile transmission. The seven (7) day waiting period required by subsection (b)(1) does not apply to quotes solicited under this subsection.

As added by Acts 1981, P.L.57, SEC.38. Amended by Acts 1981, P.L.56, SEC.5; P.L.329-1985, SEC.19; P.L.85-1991, SEC.4; P.L.21-1995, SEC.147; P.L.82-1995, SEC.17; P.L.49-1997, SEC.76; P.L.195-2007, SEC.8; P.L.172-2011, SEC.141; P.L.17-2012, SEC.4; P.L.67-2012, SEC.4.

IC 36-1-12-6

Contracts; notice to proceed; failure to award and execute contract and to issue notice; election by bidder to reject contract

Sec. 6. (a) Except as provided in subsections (b) and (c), the board shall award the contract and shall provide the successful bidder with written notice to proceed within sixty (60) days after the date on which bids are opened.

(b) If general obligation bonds are to be sold to finance the construction that is the subject of the bid, the board shall allow the bidder ninety (90) days.

(c) If revenue bonds are to be issued, when approved by the utility regulatory commission, or if special taxing district, special benefit, or revenue bonds are to be issued and sold to finance the construction, the board shall allow the bidder one hundred fifty (150) days.

(d) A failure to award and execute the contract and to issue notice within the time required by this section entitles the successful bidder to:

(1) reject the contract and withdraw his bid without prejudice; or

(2) extend the time to award the contract and provide notice to proceed at an agreed later date.

If the successful bidder elects to reject the contract and withdraw his bid, notice of that election must be given to the board in writing within fifteen (15) days of the sixty (60) day expiration date or any other extension date.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.23-1988, SEC.116.

IC 36-1-12-7

Public buildings; approval of plans and specifications by licensed architect or engineer

Sec. 7. Public work performed or contracted for on a public

building, the cost of which is more than one hundred thousand dollars ($100,000) may be undertaken by the board only in accordance with plans and specifications approved by an architect or engineer licensed under IC 25-4 or IC 25-31.
As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.3-1989, SEC.225; P.L.312-1995, SEC.1.

IC 36-1-12-8
Road, street, or bridge work; open price provisions; price adjustments of materials; limitations

Sec. 8. The board may award a public work contract for road, street, or bridge work subject to the open price provisions of IC 26-1-2-305. The contract may provide that prices for construction materials are subject to price of materials adjustment. When price adjustments are part of the contract, the method of price adjustments shall be specified in the contract. However, this section does not authorize the expenditure of money above the total amount of money appropriated by the political subdivision or agency for road, street, or bridge contracts.
As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.329-1985, SEC.20.

IC 36-1-12-9
Emergencies; contracts by invitation

Sec. 9. (a) The board, upon a declaration of emergency, may contract for a public work project without advertising for bids if bids or quotes are invited from at least two (2) persons known to deal in the public work required to be done.

(b) The minutes of the board must show the declaration of emergency and the names of the persons invited to bid or provide quotes.
As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.329-1985, SEC.21.

IC 36-1-12-10
Plans and specifications; approval by various agencies

Sec. 10. All plans and specifications for public buildings must be approved by the state department of health, the division of fire and building safety, and other state agencies designated by statute.
As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.8-1984, SEC.123; P.L.2-1992, SEC.886; P.L.1-2006, SEC.553.

IC 36-1-12-11
Completion of project; procedure

Sec. 11. (a) The board must, within sixty (60) days after the completion of the public work project, file in the division of fire and building safety a complete set of final record drawings for the public work project. However, this requirement does not apply to a public work project constructed at a cost less than one hundred thousand dollars ($100,000). In addition, the filing of the drawings is required

only if the project involves a public building.

(b) The division of fire and building safety shall provide a depository for all final record drawings filed, and retain them for inspection and loan under regulated conditions. The fire prevention and building safety commission may designate the librarian of Indiana as the custodian of the final record drawings. The librarian shall preserve the final record drawings in the state archives as public documents.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.8-1984, SEC.124; P.L.329-1985, SEC.22; P.L.1-2006, SEC.554.

IC 36-1-12-12

Final payment; requirements; claims by subcontractors, laborers, or suppliers; disputes

Sec. 12. (a) When a public work project is to be performed, the board shall withhold final payment to the contractor until the contractor has paid the subcontractors, material suppliers, laborers, and those furnishing services. However, if there is not a sufficient sum owed to the contractor to pay those bills, the sum owed to the contractor shall be prorated in payment of the bills among the claimants entitled to payment.

(b) To receive payment a subcontractor, material supplier, laborer, or person furnishing services must file a claim with the board not later than sixty (60) days after that person performed the last labor, furnished the last material, or performed the last service as provided in section 13 of this chapter.

(c) If there is no dispute among the claimants, the board shall pay the claim from the money due the contractor and deduct the amount of the claims from the contract price. The board shall take a receipt for each payment made on a claim.

(d) If there is a dispute among the claimants, the board shall retain sufficient money to pay the claims until the dispute is settled and the correct amount is determined. However, the board may make a final and complete settlement with the contractor after thirty (30) days after the date of the completion and acceptance of the public work if the contractor has materially fulfilled all of its obligations under the public works contract.

(e) If the board receives a claim from a subcontractor or a material supplier under this section, the board shall withhold the amount of the claim until the claim is resolved under this section.

(f) A claim form must be signed by an individual from the political subdivision or agency who is directly responsible for the project and who can verify:

(1) the quantity of a purchased item; or

(2) the weight or volume of the material applied, in the case of a road, street, or bridge project.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.329-1985, SEC.23; P.L.75-2012, SEC.9.

IC 36-1-12-13

Contract provision for payment of subcontractors, laborers, or suppliers

Sec. 13. A contract for public work must contain a provision for the payment of subcontractors, laborers, material suppliers, and those performing services. The board shall withhold money from the contract price in a sufficient amount to pay the subcontractors, laborers, material suppliers, and those furnishing services.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.337-1987, SEC.3.

IC 36-1-12-13.1

Payment bond for public work projects in excess of $200,000; claims; suits on bond; waiver of payment bond

Sec. 13.1. (a) Except as provided in subsection (e), the appropriate political subdivision or agency:

(1) shall require the contractor to execute a payment bond to the appropriate political subdivision or agency, approved by and for the benefit of the political subdivision or agency, in an amount equal to the contract price if the cost of the public work is estimated to be more than two hundred thousand dollars ($200,000); and

(2) may require the contractor to execute a payment bond to the appropriate political subdivision or agency, approved by and for the benefit of the political subdivision or agency, in an amount equal to the contract price if the cost of the public work is estimated to be not more than two hundred thousand dollars ($200,000).

The payment bond is binding on the contractor, the subcontractor, and their successors and assigns for the payment of all indebtedness to a person for labor and service performed, material furnished, or services rendered. The payment bond must state that it is for the benefit of the subcontractors, laborers, material suppliers, and those performing services.

(b) The payment bond shall be deposited with the board. The payment bond must specify that:

(1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;

(2) a defect in the public work contract; or

(3) a defect in the proceedings preliminary to the letting and awarding of the public work contract;

does not discharge the surety. The surety of the payment bond may not be released until one (1) year after the board's final settlement with the contractor.

(c) A person to whom money is due for labor performed, material furnished, or services provided must, not later than sixty (60) days after that person completed the labor or service or after that person furnished the last item of material:

(1) file with the board signed duplicate statements of the amount due; and

(2) deliver a copy of the statement to the contractor.

The board shall forward to the surety of the payment bond one (1) of the signed duplicate statements. However, failure of the board to forward a signed duplicate statement does not affect the rights of a person to whom money is due. In addition, a failure of the board to forward the statement does not operate as a defense for the surety.

(d) An action may not be brought against the surety before thirty (30) days after:

(1) the filing of the signed duplicate statements with the board; and

(2) delivery of a copy of the statement to the contractor.

If the indebtedness is not paid in full at the end of that thirty (30) day period the person may bring an action in court. The court action must be brought not later than sixty (60) days after the date of the final completion and acceptance of the public work.

(e) This subsection applies to contracts for a capital improvement entered into by, for, or on behalf of the Indiana stadium and convention building authority created by IC 5-1-17-6. The board awarding the contract for the capital improvement project may waive any payment bond requirement if the board, after public notice and hearing, determines:

(1) that:

(A) an otherwise responsive and responsible bidder is unable to provide the payment bond; or

(B) the cost or coverage of the payment bond is not in the best interest of the project; and

(2) that an adequate alternative is provided through a letter of credit, additional retainage of at least ten percent (10%) of the contract amount, a joint payable check system, or other sufficient protective mechanism.

As added by P.L.337-1987, SEC.4. Amended by P.L.82-1995, SEC.18; P.L.120-2006, SEC.4; P.L.133-2007, SEC.13; P.L.75-2012, SEC.10.

IC 36-1-12-14

Contracts in excess of $200,000; retaining portions of payments; escrow agreements; performance bonds; payment on substantial completion; actions against surety contracts less than $250,000

Sec. 14. (a) This section applies to public work contracts in excess of two hundred thousand dollars ($200,000) for projects other than highways, roads, streets, alleys, bridges, and appurtenant structures situated on streets, alleys, and dedicated highway rights-of-way. A board may require a contractor and subcontractor to include contract provisions for retainage as set forth in this section for contracts that are not more than two hundred thousand dollars ($200,000). This section also applies to a lessor corporation qualifying under IC 20-47-2 or IC 20-47-3 or any other lease-back arrangement containing an option to purchase, notwithstanding the statutory provisions governing those leases.

(b) A board that enters into a contract for public work, and a

contractor who subcontracts parts of that contract, shall include in their respective contracts provisions for the retainage of portions of payments by the board to contractors, by contractors to subcontractors, and for the payment of subcontractors. At the discretion of the contractor, the retainage shall be held by the board or shall be placed in an escrow account with a bank, savings and loan institution, or the state as the escrow agent. The escrow agent shall be selected by mutual agreement between board and contractor or contractor and subcontractor under a written agreement among the bank or savings and loan institution and:

(1) the board and the contractor; or

(2) the subcontractor and the contractor.

The board shall not be required to pay interest on the amounts of retainage that it holds under this section.

(c) To determine the amount of retainage to be withheld, the board shall:

(1) withhold no more than ten percent (10%) nor less than six percent (6%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed, and nothing further after that; or

(2) withhold no more than five percent (5%) nor less than three percent (3%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.

If upon substantial completion of the public work minor items remain uncompleted, an amount computed under subsection (f) shall be withheld until those items are completed.

(d) The escrow agreement must contain the following provisions:

(1) The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent.

(2) The escrow agent shall hold the escrowed principal and income until receipt of notice from the board and the contractor, or the contractor and the subcontractor, specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After receipt of the notice, the escrow agent shall remit the designated part of escrowed principal and the same proportion of then escrowed income to the person specified in the notice.

(3) The escrow agent shall be compensated for the agent's services. The parties may agree on a reasonable fee comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income.

The escrow agreement may include other terms and conditions consistent with this subsection, including provisions authorizing the escrow agent to commingle the escrowed funds with funds held in other escrow accounts and limiting the liability of the escrow agent.

(e) Except as provided by subsections (i) and (h), the contractor shall furnish the board with a performance bond equal to the contract price. If acceptable to the board, the performance bond may provide for incremental bonding in the form of multiple or chronological

bonds that, when taken as a whole, equal the contract price. The surety on the performance bond may not be released until one (1) year after the date of the board's final settlement with the contractor. The performance bond must specify that:

(1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;

(2) a defect in the public work contract; or

(3) a defect in the proceedings preliminary to the letting and awarding of the public work contract;

does not discharge the surety.

(f) The board or escrow agent shall pay the contractor within sixty-one (61) days after the date of substantial completion, subject to sections 11 and 12 of this chapter. Payment by the escrow agent shall include all escrowed principal and escrowed income. If within sixty-one (61) days after the date of substantial completion there remain uncompleted minor items, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until the item is completed. Required warranties begin not later than the date of substantial completion.

(g) Actions against a surety on a performance bond must be brought within one (1) year after the date of the board's final settlement with the contractor.

(h) This subsection applies to public work contracts of less than two hundred fifty thousand dollars ($250,000). The board may waive the performance bond requirement of subsection (e) and accept from a contractor an irrevocable letter of credit for an equivalent amount from an Indiana financial institution approved by the department of financial institutions instead of a performance bond. Subsections (e) through (g) apply to a letter of credit submitted under this subsection.

(i) This subsection applies to the Indiana stadium and convention building authority created by IC 5-1-17-6. The board awarding the contract for a capital improvement project may waive any performance bond requirement if the board, after public notice and hearing, determines:

(1) that:

(A) an otherwise responsive and responsible bidder is unable to provide the performance bond; or

(B) the cost or coverage of the performance bond is not in the best interest of the project; and

(2) that an adequate alternative is provided through a letter of credit, additional retainage of at least ten percent (10%) of the contract amount, a joint payable check system, or other sufficient protective mechanism.

As added by Acts 1981, P.L.57, SEC.38. Amended by P.L.70-1989, SEC.3; P.L.43-2003, SEC.1; P.L.120-2006, SEC.5; P.L.2-2006, SEC.189; P.L.1-2007, SEC.239; P.L.133-2007, SEC.14.

IC 36-1-12-15

Wage scale and antidiscrimination provisions

Sec. 15. (a) A contract by the board for public work must conform to the wage scale provisions of IC 5-16-7.

(b) A contract by the board for public work must conform with the antidiscrimination provisions of IC 5-16-6. The board may consider a violation of IC 5-16-6 a material breach of the contract, as provided in IC 22-9-1-10.

As added by Acts 1981, P.L.57, SEC.38.

IC 36-1-12-16

Necessity of compliance with chapter

Sec. 16. A contract for public work by a political subdivision or agency is void if it is not let in accordance with this chapter.

As added by Acts 1981, P.L.57, SEC.38.

IC 36-1-12-17

Road or street work contracts; timely payment of claims; final payment; interest for late payment

Sec. 17. (a) A contract for road or street work must contain a provision for the timely payment of claims made by the contractor.

(b) Each contract must provide for final payment within one hundred twenty (120) days after final acceptance and completion of the contract. Final payment may not be made on any amount that is in dispute, but final payment may be made on that part of a contract or those amounts that are not in dispute.

(c) For each day after one hundred twenty (120) days, the board shall pay to the contractor interest for late payment of money due to the contractor. However, interest may not be paid for those days that the delay in payment is not directly attributable to the board. The annual percentage rate of interest that the board shall pay on the unpaid balance is twelve percent (12%).

As added by P.L.340-1983, SEC.1.

IC 36-1-12-18

Change or alteration of specifications; change orders

Sec. 18. (a) If, in the course of the construction, reconstruction, or repair of a public work project, it becomes necessary to change or alter the original specifications, a change order may be issued to add, delete, or change an item or items in the original contract. The change order becomes an addendum to the contract and must be approved and signed by the board and the contractor.

(b) If a licensed architect or engineer is assigned to the public work project, the change order must be prepared by that person.

(c) A change order may not be issued before commencement of the actual construction, reconstruction, or repairs except in the case of an emergency. In that case, the board must make a declaration, and the board's minutes must show the nature of the emergency.

(d) The total of all change orders issued that increase the scope of the project may not exceed twenty percent (20%) of the amount of the original contract. A change order issued as a result of

circumstances that could not have been reasonably foreseen does not increase the scope of the project.

(e) All change orders must be directly related to the original public work project.

(f) If additional units of materials included in the original contract are needed, the cost of these units in the change order must be the same as those shown in the original contract.

As added by P.L.329-1985, SEC.24.

IC 36-1-12-19

Dividing cost of a single public work project into two or more projects; prohibition; penalty

Sec. 19. (a) For purposes of this section, the cost of a public work project includes the cost of materials, labor, equipment rental, and all other expenses incidental to the performance of the project.

(b) The cost of a single public work project may not be divided into two (2) or more projects for the purpose of avoiding the requirement to solicit bids.

(c) A bidder or quoter or a person who is a party to a public work contract who knowingly violates this section commits a Class A infraction and may not be a party to or benefit from any contract under this chapter for two (2) years from the date of the conviction.

(d) Any board member or officer of a political subdivision or agency who knowingly violates this section commits a Class A infraction.

As added by P.L.216-1986, SEC.1.

IC 36-1-12-20

Trench safety systems; cost recovery

Sec. 20. (a) This section applies to a public works project that may require creation of a trench of at least five (5) feet in depth.

(b) IOSHA regulations 29 C.F.R. 1926, Subpart P, for trench safety systems shall be incorporated into the contract documents for a public works project.

(c) The contract documents for a public works project shall provide that the cost for trench safety systems shall be paid for:

(1) as a separate pay item; or

(2) in the pay item of the principal work with which the safety systems are associated.

As added by P.L.26-1989, SEC.21.

IC 36-1-12-21

Plumbing installations; proof of licensure

Sec. 21. (a) A person who submits a bid for a public works contract under this chapter that involves the installation of plumbing must submit evidence that the person is a licensed plumbing contractor under IC 25-28.5-1.

(b) If a public works contract under this chapter is awarded to a person who does not meet the requirements of subsection (a), the contract is void.

As added by P.L.20-1991, SEC.13.

IC 36-1-12-22
Repealed

(*Repealed by P.L.17-2012, SEC.5; P.L.67-2012, SEC.5.)*

IC 36-1-12-23
Application of IC 5-22-16.5 to award of contracts under article

Sec. 23. (a) IC 5-22-16.5 (Disqualification of Contractors Dealing with the Government of Iran) applies to the awarding of contracts, including contracts for professional services, under this chapter.

(b) For purposes of applying IC 5-22-16.5 to contracts awarded under this chapter, the following apply:

(1) A reference to an "offer" in IC 5-22-16.5 refers to:

(A) a bid for a contract; or

(B) a proposal to provide professional services;

under this chapter.

(2) A person may not be awarded a contract under this chapter if the person would be disqualified from being awarded a contract under IC 5-22-16.5.

(3) The procedures, rights, and application of penalties described in IC 5-22-16.5 shall be applied in the context of this chapter so that the public policy of IC 5-22-16.5 and this chapter are both implemented.

As added by P.L.21-2012, SEC.8.

IC 36-1-12.5

Chapter 12.5. Guaranteed Savings Contracts; Energy Efficiency Programs Used by School Corporations

IC 36-1-12.5-0.5

"Actual savings" defined

Sec. 0.5. As used in this chapter, "actual savings" includes stipulated savings.

As added by P.L.98-2002, SEC.1.

IC 36-1-12.5-0.6

"Billable revenues" defined; "billable revenue increases" defined; "revenues" defined

Sec. 0.6. As used in this chapter, "billable revenues", "billable revenue increases", and "revenues" include only revenues of a municipal water or wastewater utility operated by a political subdivision.

As added by P.L.168-2006, SEC.3.

IC 36-1-12.5-0.7

"Causally connected work" defined

Sec. 0.7. As used in this chapter, "causally connected work" means work that is required to properly implement a conservation measure.

As added by P.L.98-2002, SEC.2. Amended by P.L.168-2006, SEC.4.

IC 36-1-12.5-1

"Conservation measure" defined

Sec. 1. (a) As used in this chapter, "conservation measure":

(1) means:

(A) a facility alteration;

(B) an alteration of a structure (as defined in IC 36-1-10-2);

(C) a technology upgrade; or

(D) with respect to an installation described in subdivision (2)(G) or (2)(H), an alteration of a structure or system;

designed to provide billable revenue increases or reduce energy or water consumption costs, wastewater costs, or other operating costs; and

(2) includes the following:

(A) Providing insulation of the facility or structure and systems in the facility or structure.

(B) Installing or providing for window and door systems, including:

(i) storm windows and storm doors;

(ii) caulking or weatherstripping;

(iii) multi-glazed windows and doors;

(iv) heat absorbing or heat reflective glazed and coated windows and doors;

(v) additional glazing;

(vi) the reduction in glass area; and

(vii) other modifications that reduce energy consumption.

(C) Installing automatic energy control systems.

(D) Modifying or replacing heating, ventilating, or air conditioning systems.

(E) Unless an increase in illumination is necessary to conform to Indiana laws or rules or local ordinances, modifying or replacing lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility or structure.

(F) Providing for other conservation measures that provide billable revenue increases or reduce energy or water consumption, reduce operating costs, or reduce wastewater costs, including future:

(i) labor costs;

(ii) costs or revenues for contracted services; and

(iii) related capital expenditures.

(G) Installing equipment upgrades that improve accuracy of billable revenue generating systems.

(H) Installing automated, electronic, or remotely controlled systems or measures that reduce direct personnel costs.

(b) The term does not include an alteration of a water or wastewater structure or system that increases the capacity of the structure or system.

As added by P.L.24-1993, SEC.6. Amended by P.L.208-1995, SEC.3; P.L.98-2002, SEC.3; P.L.168-2006, SEC.5; P.L.71-2009, SEC.5; P.L.99-2009, SEC.4.

IC 36-1-12.5-1.5
"Governing body" defined

Sec. 1.5. As used in this chapter, "governing body" means the following:

(1) With respect to school corporations, the governing body (as defined in IC 20-18-2-5).

(2) With respect to a public library, the library board (as defined in IC 36-12-1-3).

(3) With respect to a library described in IC 36-12-7-8, the trustees of the library.

(4) With respect to a political subdivision that operates a municipal water or wastewater utility and in connection with the installation of a conservation measure to a water or wastewater structure or system under this chapter, the board or officer that has the power to award contracts.

(5) With respect to other political subdivisions for any other project or program under this chapter, the legislative body (as defined in IC 36-1-2-9).

As added by P.L.208-1995, SEC.4. Amended by P.L.227-1999, SEC.12; P.L.1-2005, SEC.235; P.L.168-2006, SEC.6.

IC 36-1-12.5-2
"Guaranteed savings contract" defined

Sec. 2. As used in this chapter, "guaranteed savings contract" refers to a contract entered into under this chapter, in which a qualified provider enters into an agreement with the governing body to:

(1) evaluate and recommend to the governing body conservation measures; and

(2) provide for the implementation of at least one (1) conservation measure.

As added by P.L.24-1993, SEC.6. Amended by P.L.208-1995, SEC.5; P.L.168-2006, SEC.7.

IC 36-1-12.5-2.5
"Industry engineering standards" defined

Sec. 2.5. As used in this chapter, "industry engineering standards" includes the following:

(1) Lifecycle costing.

(2) The R. S. Means estimating method developed by the R. S. Means Company.

(3) Historical data.

(4) Manufacturer's data.

(5) American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) standards.

As added by P.L.98-2002, SEC.4. Amended by P.L.1-2010, SEC.146.

IC 36-1-12.5-3
"Qualified provider" defined

Sec. 3. (a) As used in this chapter, "qualified provider" means the following:

(1) Before July 1, 1999, the term means a person that satisfies both of the following:

(A) The person is experienced in the design, implementation, and installation of energy conservation measures.

(B) The person submits to the school corporation or political subdivision a performance bond to ensure the qualified provider's faithful performance of the qualified provider's obligations over the term of the guaranteed energy savings contract.

(2) After June 30, 1999, the term means a person that satisfies all of the following:

(A) Subject to subdivision (3), the person is experienced in the design, implementation, and installation of energy conservation measures.

(B) The person is certified and meets the requirements of IC 4-13.6-4. The person's response to the request for proposals must include a copy of the person's certificate of qualification issued under IC 4-13.6-4.

(C) Subject to subdivision (3), the person provides energy conservation engineering services by a professional engineer licensed under IC 25-31 who is under the person's direct employment and supervision. The person's response to the

request for proposals must include the license number of each professional engineer employed by the person to satisfy the requirement of this clause.

(D) The person provides:

(i) monitoring for the facility performance guarantee; and

(ii) service personnel under the person's direct employment and supervision;

for the duration of the contract's guarantee.

(E) The person performs at least twenty percent (20%) of the work (measured in dollars of the total contract price) with its own workforce.

(F) The person submits to the school corporation or political subdivision a performance bond to ensure the qualified provider's faithful performance of the qualified provider's obligations over the term of:

(i) the guaranteed energy savings contract; or

(ii) the guaranteed savings contract.

(3) With respect to conservation measures for which a contract is executed after June 30, 2006, the term includes a person that satisfies the following:

(A) The person is experienced in the design, implementation, and installation of conservation measures.

(B) The person provides engineering services with respect to conservation measures by a professional engineer licensed under IC 25-31 who is under the person's direct employment and supervision. The person's response to the request for proposals must include the license number of each professional engineer employed by the person to satisfy the requirement of this clause.

(b) For purposes of a guaranteed energy savings contract entered into before July 1, 1999, a person who was a qualified provider under subsection (a)(1) at the time the contract was entered into remains a qualified provider for that contract after June 30, 1999. If the person enters into:

(1) a guaranteed energy savings contract after June 30, 1999, and before July 1, 2006, the person must satisfy the requirements of subsection (a)(2); or

(2) a guaranteed savings contract after June 30, 2006, the person must satisfy the requirements of subsection (a)(2) and (a)(3);

to be considered a qualified provider.

As added by P.L.24-1993, SEC.6. Amended by P.L.208-1995, SEC.6; P.L.58-1999, SEC.10; P.L.168-2006, SEC.8.

IC 36-1-12.5-3.5

"Related capital expenditures" defined

Sec. 3.5. As used in this chapter, "related capital expenditures" includes capital costs that:

(1) the governing body reasonably believes will be incurred during the contract term;

(2) are part of or are causally connected to the conservation measures being implemented; and

(3) are documented by industry engineering standards.

As added by P.L.98-2002, SEC.5. Amended by P.L.168-2006, SEC.9.

IC 36-1-12.5-3.7

"Stipulated savings" defined

Sec. 3.7. As used in this chapter, "stipulated savings" are assumed savings that are documented by industry engineering standards.

As added by P.L.98-2002, SEC.6.

IC 36-1-12.5-4

"Utility efficiency program" defined

Sec. 4. As used in this chapter, "utility efficiency program" refers to an energy, a water, or a wastewater efficiency program that:

(1) includes a conservation measure;

(2) is established by a public utility (as defined in IC 8-1-8.7-2); and

(3) is undertaken pursuant to this chapter.

As added by P.L.24-1993, SEC.6. Amended by P.L.168-2006, SEC.10.

IC 36-1-12.5-5

Agreements to participate in programs or enter into contracts; necessary findings, notice, and provisions

Sec. 5. (a) The governing body may enter into an agreement with a public utility to participate in a utility efficiency program or enter into a guaranteed savings contract with a qualified provider to increase the political subdivision's billable revenues or reduce the school corporation's or the political subdivision's energy or water consumption, wastewater usage costs, or operating costs if, after review of the report described in section 6 of this chapter, the governing body finds:

(1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount to be saved in energy consumption costs and other operating costs over twenty (20) years from the date of installation if the recommendations in the report were followed;

(2) in the case of conservation measures that are part of a project related to the alteration of a water or wastewater structure or system, that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount of increased billable revenues or the amount to be saved in energy and water consumption costs, wastewater usage costs, and other operating costs over twenty (20) years from the date of installation if the recommendations in the report were

followed; and

(3) in the case of a guaranteed savings contract, the qualified provider provides a written guarantee as described in subsection (d)(3).

(b) Before entering into an agreement to participate in a utility efficiency program or a guaranteed savings contract under this section, the governing body must publish notice under subsection (c) indicating:

(1) that the governing body is requesting public utilities or qualified providers to propose conservation measures through:

(A) a utility efficiency program; or

(B) a guaranteed savings contract; and

(2) the date, the time, and the place where proposals must be received.

(c) The notice required by subsection (b) must:

(1) be published in two (2) newspapers of general circulation in the county where the school corporation or the political subdivision is located;

(2) be published two (2) times with at least one (1) week between publications and with the second publication made at least thirty (30) days before the date by which proposals must be received; and

(3) meet the requirements of IC 5-3-1-1.

(d) An agreement to participate in a utility efficiency program or guaranteed savings contract under this section must provide that:

(1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of twenty (20) years or the average life of the conservation measures installed from the date of final installation;

(2) in the case of conservation measures that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of twenty (20) years or the average life of the conservation measures installed from the date of final installation;

(3) in the case of the guaranteed savings contract:

(A) the:

(i) savings in energy and water consumption costs, wastewater usage costs, and other operating costs; and

(ii) increase in billable revenues;

due to the conservation measures are guaranteed to cover the costs of the payments for the measures; and

(B) the qualified provider will reimburse the school corporation or political subdivision for the difference between the guaranteed savings and the actual savings; and

(4) payments are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(e) An agreement or a contract under this chapter is subject to IC 5-16-7.

As added by P.L.24-1993, SEC.6. Amended by P.L.212-1995, SEC.2; P.L.208-1995, SEC.7; P.L.168-2006, SEC.11; P.L.71-2009, SEC.6; P.L.99-2009, SEC.5.

IC 36-1-12.5-5.3

Certification of subcontractor required

Sec. 5.3. (a) This section applies only to a guaranteed energy savings contract or a guaranteed savings contract entered into after June 30, 1999.

(b) A qualified provider may enter into a subcontract:

(1) with a value of more than one hundred fifty thousand dollars ($150,000); and

(2) for the performance of any part of a guaranteed energy savings contract or guaranteed savings contract;

only if the subcontractor is certified under IC 4-13.6-4.

As added by P.L.58-1999, SEC.11. Amended by P.L.168-2006, SEC.12.

IC 36-1-12.5-5.5

Procedures for issuance of bonds by political subdivisions not applicable

Sec. 5.5. IC 6-1.1-20 does not apply to an agreement to participate in:

(1) a utility efficiency program; or

(2) a guaranteed savings contract;

entered into under this chapter.

As added by P.L.212-1995, SEC.3. Amended by P.L.168-2006, SEC.13.

IC 36-1-12.5-6

Report before installation or remodeling

Sec. 6. (a) Before the public utility or the qualified provider may install equipment in, make modifications to, or remodel a building or complex of buildings under a utility efficiency program or a guaranteed savings contract, the public utility or the qualified provider (whichever applies) must issue a report that includes estimates for the following:

(1) All costs attributable to the work stipulated in the agreement or the contract, including the costs of design, engineering, installation, maintenance, repairs, or debt service.

(2) The amounts by which:
(A) energy or water consumption;
(B) wastewater costs; or
(C) operating costs;
will be reduced.
(3) The amounts by which billable revenues will be increased.

(b) The report must also contain a listing of contractors and subcontractors to be used by the public utility or the qualified provider with respect to the conservation measures.

As added by P.L.24-1993, SEC.6. Amended by P.L.168-2006, SEC.14.

IC 36-1-12.5-7
Installment payment contracts; maximum period

Sec. 7. (a) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is not related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of twenty (20) years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(b) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of twenty (20) years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(c) With respect to a conservation measure described in section 1(a)(2)(G) or 1(a)(2)(H) of this chapter, annual revenues or savings from a guaranteed savings contract may be less than annual payments on the contract if during the length of the contract total savings and increased billable revenues occur as provided for by the contract.

(d) The financing of a guaranteed savings contract may be provided by:
(1) the vendor under the guaranteed savings contract; or
(2) a third party financial institution or company.

As added by P.L.24-1993, SEC.6. Amended by P.L.212-1995, SEC.4; P.L.208-1995, SEC.8; P.L.168-2006, SEC.15; P.L.71-2009, SEC.7; P.L.99-2009, SEC.6.

IC 36-1-12.5-8
Approval required

Sec. 8. Conservation measures installed under a utility efficiency program or a guaranteed savings contract must be approved by the following:

(1) The state department of health, division of fire and building safety, and any other state agency designated by statute.

(2) An architect or engineer licensed under IC 25-4 or IC 25-31 if the conservation measures have a cost of more than fifty thousand dollars ($50,000).

As added by P.L.24-1993, SEC.6. Amended by P.L.1-2006, SEC.555; P.L.168-2006, SEC.16.

IC 36-1-12.5-9
Payroll records required; inspection

Sec. 9. (a) The contractor and each subcontractor engaged in installing conservation measures under a guaranteed savings contract shall keep full and accurate records indicating the names, classifications, and work performed by each worker employed by the respective contractor and subcontractor in connection with the work, together with an accurate record of the number of hours worked by each worker and the actual wages paid.

(b) The payroll records required to be kept under this section must be open to inspection by an authorized representative of the governing body or the department of labor.

As added by P.L.24-1993, SEC.6. Amended by P.L.208-1995, SEC.9; P.L.168-2006, SEC.17.

IC 36-1-12.5-10
Submission of contract and annual report to lieutenant governor

Sec. 10. The governing body shall:

(1) provide to the lieutenant governor not more than sixty (60) days after the date of execution of the guaranteed savings contract:

(A) a copy of the executed guaranteed savings contract;

(B) the:

(i) energy or water consumption costs;

(ii) wastewater usage costs; and

(iii) billable revenues, if any;

before the date of execution of the guaranteed savings contract; and

(C) the documentation using industry engineering standards for:

(i) stipulated savings; and

(ii) related capital expenditures; and

(2) annually report to the lieutenant governor, in accordance with procedures established by the lieutenant governor, the savings resulting in the previous year from the guaranteed savings contract or utility efficiency program.

As added by P.L.24-1993, SEC.6. Amended by P.L.208-1995,

SEC.10; P.L.98-2002, SEC.7; P.L.1-2006, SEC.556; P.L.168-2006, SEC.18.

IC 36-1-12.5-11
Contracts that include stipulated savings

Sec. 11. (a) A guaranteed savings contract that includes stipulated savings must specify the methodology used to calculate the savings using industry engineering standards.

(b) Stipulated savings may be used for conservation measures including the following:

(1) Heating.
(2) Air conditioning.
(3) Ventilating.
(4) Lighting.
(5) Roofing.
(6) Windows.
(7) Water conservation.
(8) Fuel and power improvements.
(9) Wastewater generation.
(10) Billable revenue increases.
(11) Any work that is causally connected to the conservation measures listed in subdivisions (1) through (10).

(c) The guaranteed savings contract shall:

(1) describe stipulated savings for:
(A) conservation measures; and
(B) work causally connected to the conservation measures; and
(2) document assumptions by industry engineering standards.

As added by P.L.98-2002, SEC.8. Amended by P.L.168-2006, SEC.19.

IC 36-1-12.5-12
Improvements not causally connected to conservation measure

Sec. 12. (a) An improvement that is not causally connected to a conservation measure may be included in a guaranteed savings contract if:

(1) the total value of the improvement does not exceed fifteen percent (15%) of the total value of the guaranteed savings contract; and
(2) either:
(A) the improvement is necessary to conform to a law, a rule, or an ordinance; or
(B) an analysis within the guaranteed savings contract demonstrates that:
(i) there is an economic advantage to the political subdivision in implementing an improvement as part of the guaranteed savings contract; and
(ii) the savings justification for the improvement is documented by industry engineering standards.

(b) The information required under subsection (a) must be

reported to the lieutenant governor.
As added by P.L.98-2002, SEC.9. Amended by P.L.1-2006, SEC.557; P.L.168-2006, SEC.20.

IC 36-1-12.7

Chapter 12.7. Use of Energy Efficient Technology

IC 36-1-12.7-1

Application of definitions in IC 36-1-12

Sec. 1. The definitions in IC 36-1-12 apply throughout this chapter.

As added by P.L.159-2003, SEC.3.

IC 36-1-12.7-2

"Energy efficient technology"

Sec. 2. As used in this chapter, "energy efficient technology" refers to any of the following:

(1) Geothermal heating and cooling.

(2) Geothermal hot water generation.

(3) Solar hot water generation.

(4) Photovoltaic power generation.

(5) Wind power generation.

(6) Combined heat and power.

(7) Heat recovery chillers.

(8) Condensing boilers and low temperature heat.

(9) Air to air energy recovery devices.

(10) Autoclaved aerated concrete.

(11) Automated meter readers.

(12) Any other energy technology that has long term environmental value, energy efficiency, and cost effectiveness.

As added by P.L.159-2003, SEC.3.

IC 36-1-12.7-3

Board to consider energy efficient technologies

Sec. 3. The board shall examine and consider energy efficient technologies for a public works project using a life cycle analysis.

As added by P.L.159-2003, SEC.3.

IC 36-1-12.7-4

Use of energy efficient technologies

Sec. 4. To the extent technically and economically feasible, the board shall consider the use of energy efficiency technology in the plans and specifications for the public works project.

As added by P.L.159-2003, SEC.3.

IC 36-1-12.7-5

Records of contacts and analysis of energy efficient technologies in contract file

Sec. 5. The board shall keep a record of the following in the public works contract file:

(1) The contacts the board makes with persons that provide energy efficient technology to implement this chapter.

(2) An analysis of the feasibility of using energy efficient technology in the public works project.

As added by P.L.159-2003, SEC.3.

IC 36-1-13

Chapter 13. Cost Saving Incentive Programs

IC 36-1-13-1

Employee

Sec. 1. As used in this chapter, "employee" refers to an employee of a political subdivision.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-2

Program

Sec. 2. As used in this chapter, "program" refers to a cost saving incentive program established by a political subdivision under this chapter.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-3

Program establishment

Sec. 3. (a) A political subdivision may establish a program to provide incentives to employees of the political subdivision to develop and implement cost saving measures for the political subdivision.

(b) A program established under this chapter may include awards to employees who suggest cost saving measures to the political subdivision.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-4

Method of program establishment

Sec. 4. If a political subdivision that elects to establish a program has the power to adopt ordinances, the program shall be established by ordinance. If a political subdivision that elects to establish a program does not have the power to adopt ordinances, the program shall be established by resolution.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-5

Awards; appropriations; joint awards; program details

Sec. 5. (a) An ordinance or a resolution adopted under section 4 of this chapter must provide for the following:

(1) The designation of an established or a new entity of the political subdivision to:

(A) review cost saving measures and suggestions submitted by employees; and

(B) determine whether a cost saving measure or a suggestion is entitled to an award under the program.

(2) The manner by which the amount of an award for a cost saving measure or a suggestion eligible for an award under the program will be determined. The political subdivision may base the amount of the award on anticipated savings or on other

criteria specified in the ordinance or resolution that the political subdivision considers appropriate.

(3) The maximum award that may be received.

(4) Payment of awards to employees eligible to receive awards under the program.

(b) The political subdivision may make necessary appropriations to implement the program.

(c) The ordinance or resolution that establishes a program may provide for a joint award for a group of employees that develop and implement a cost saving measure.

(d) The ordinance or resolution that establishes a program may provide for other details of the program that:

(1) the political subdivision considers appropriate; and

(2) are consistent with this chapter.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-6

Finality of decisions; additional awards

Sec. 6. (a) A decision of the entity designated or established under the ordinance or resolution that establishes a program is final as to the following:

(1) The eligibility of a measure or a suggestion for an award.

(2) The amount of an award.

(b) An employee of a political subdivision that establishes a program under this chapter is not entitled to an award other than is provided in this chapter and under the ordinance or resolution that establishes a program.

As added by P.L.254-1993, SEC.1.

IC 36-1-13-7

Program termination

Sec. 7. A political subdivision that establishes a program under this chapter may terminate the program by adopting an ordinance or a resolution that provides for payment of awards for measures or suggestions:

(1) eligible for an award under the program; and

(2) implemented or made before the ordinance or resolution that terminates the program takes effect.

As added by P.L.254-1993, SEC.1.

IC 36-1-14
Chapter 14. Donations

IC 36-1-14-1
Requirements for donations to foundations; exception

Sec. 1. (a) This section does not apply to donations of gaming revenue to a public school endowment corporation under IC 20-47-1-3.

(b) As used in this section, "gaming revenue" means either of the following:

(1) Tax revenue received by a unit under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.

(2) Revenue received by a unit under IC 4-35-8.5 or an agreement to share revenue received by another unit under IC 4-35-8.5.

(c) Notwithstanding IC 8-1.5-2-6(d), a unit may donate the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or gaming revenue to a foundation under the following conditions:

(1) The foundation is a charitable nonprofit community foundation.

(2) The foundation retains all rights to the donation, including investment powers.

(3) The foundation agrees to do the following:

(A) Hold the donation as a permanent endowment.

(B) Distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit.

(C) Return the donation to the general fund of the unit if the foundation:

(i) loses the foundation's status as a public charitable organization;

(ii) is liquidated; or

(iii) violates any condition of the endowment set by the fiscal body of the unit.

As added by P.L.313-1995, SEC.1. Amended by P.L.17-2000, SEC.2; P.L.1-2005, SEC.236; P.L.231-2005, SEC.51; P.L.1-2006, SEC.558; P.L.2-2006, SEC.190; P.L.142-2009, SEC.32.

IC 36-1-14-2
Income from community foundation

Sec. 2. A unit may use income received under this chapter from a community foundation only for purposes of the unit.

As added by P.L.313-1995, SEC.1.

IC 36-1-14.2

Chapter 14.2. Insurance for Charitable Health Care Services

IC 36-1-14.2-1

Authorization to disburse funds; use; liability

Sec. 1. A state or local governmental unit is authorized to disburse funds to a medical clinic or health care facility that provides health care to individuals without compensation. Funding obtained under this section must be used by the clinic or facility to purchase professional liability insurance to provide the clinic or facility with:

(1) medical malpractice protection; and

(2) compensation for required surcharges;

under IC 34-18. However, the disbursement of funds by a state or local governmental unit does not create any liability for that unit as a result of any acts or omissions of the medical clinic or health care facility that receives the funds.

As added by P.L.286-1995, SEC.2. Amended by P.L.1-1998, SEC.203.

IC 36-1-14.2-2

Purchase of professional liability insurance

Sec. 2. Whenever a medical clinic or health care facility purchases professional liability insurance under section 1 of this chapter, the clinic or facility must purchase the insurance directly from an insurance company.

As added by P.L.286-1995, SEC.2.

IC 36-1-14.2-3

Immunity from civil liability

Sec. 3. A person who provides health care to an individual at a medical clinic or health care facility described in this chapter is immune from civil liability to the extent described in IC 34-30-13.

As added by P.L.286-1995, SEC.2. Amended by P.L.1-1998, SEC.204.

IC 36-1-14.3
Repealed

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

IC 36-1-15
Chapter 15. Debt Limitation

IC 36-1-15-1
Application of chapter

Sec. 1. This chapter applies to:

(1) a unit; and

(2) any other political subdivision for which a statute imposes an assessed value limitation on the aggregate amount of bonds that the political subdivision may issue.

As added by P.L.6-1997, SEC.203.

IC 36-1-15-2
Legislative intent

Sec. 2. It is the intent of the general assembly that the amount of debt incurred by a political subdivision after February 28, 2001, not exceed, in the aggregate, the amount of debt that the political subdivision could have incurred under:

(1) Article 13, Section 1 of the Constitution of the State of Indiana; and

(2) any statute imposing an assessed value limitation on the aggregate amount of bonds that a political subdivision may issue;

if property were assessed at thirty-three and one-third percent (33.33%) of true tax value.

As added by P.L.6-1997, SEC.203.

IC 36-1-15-3
Computation of adjusted value of taxable property within political subdivision

Sec. 3. The department of local government finance shall compute, in conjunction with the approvals required under:

(1) IC 6-1.1-18.5-8(b); and

(2) IC 20-46-7-8, IC 20-46-7-9, and IC 20-46-7-10;

an adjusted value of the taxable property within each political subdivision. The department of local government finance may request a certification of net assessed valuation from the county auditor in order to make a calculation under this section.

As added by P.L.6-1997, SEC.203. Amended by P.L.90-2002, SEC.466; P.L.2-2006, SEC.191.

IC 36-1-15-4
Adjusted value

Sec. 4. The adjusted value of the taxable property in a political subdivision is equal to the result determined under STEP TWO of the following formula:

STEP ONE: Determine the value of the taxable property within the political subdivision for the last assessment for state and county taxes using one hundred percent (100%) of true tax value.

STEP TWO: Divide the STEP ONE amount by three (3).
As added by P.L.6-1997, SEC.203.

IC 36-1-15-5
Duties of department of local government finance

Sec. 5. The department of local government finance shall do the following:

(1) Maintain a schedule of the adjusted value of taxable property of each political subdivision.

(2) Provide the political subdivision and the county auditor for the county in which a political subdivision is located with the latest adjusted value of taxable property determined for the political subdivision.

As added by P.L.6-1997, SEC.203. Amended by P.L.90-2002, SEC.467.

IC 36-1-15-6
Restrictions on indebtedness

Sec. 6. Subject to section 7 of this chapter, a political subdivision may not become indebted in any manner or for any purpose in an amount in the aggregate that exceeds two percent (2%) of the latest adjusted value of taxable property determined for the political subdivision immediately preceding the incurring of the indebtedness. However, if a statute limits the debt of a political subdivision to a percentage other than two percent (2%) of the value of taxable property in the political subdivision, the political subdivision may not become indebted in an amount that exceeds the percentage set by statute multiplied by the latest adjusted value of taxable property determined for the political subdivision immediately preceding the incurring of the indebtedness.
As added by P.L.6-1997, SEC.203.

IC 36-1-15-7
Permitted excess of debt limitation

Sec. 7. A political subdivision may incur debt that exceeds the maximum amount allowed under section 6 of this chapter as necessary for the public protection and defense only:

(1) in time of war, foreign invasion, or other great public calamity; and

(2) upon petition of a majority of the property owners in number and value within the limits of the political subdivision.

The amount of the excess may not be greater than the amount specified in the petition.
As added by P.L.6-1997, SEC.203.

IC 36-1-15-8
Debt in excess of maximum amount void

Sec. 8. Debt in excess of the maximum amount specified in sections 6 and 7 of this chapter is void.
As added by P.L.6-1997, SEC.203.

IC 36-1-15-9

Liability for erroneous determination or computation

Sec. 9. The department of local government finance is not liable for an erroneous determination or computation made by the department under this chapter.

As added by P.L.6-1997, SEC.203. Amended by P.L.90-2002, SEC.468.

IC 36-1-16

Chapter 16. Displays on Public Property

IC 36-1-16-1

Applicability of chapter

Sec. 1. This chapter governs the display of objects on real property owned by a political subdivision.

As added by P.L.22-2000, SEC.2.

IC 36-1-16-2

Display of Ten Commandments on political subdivision property

Sec. 2. An object containing the words of the Ten Commandments may be displayed on real property owned by a political subdivision along with other documents of historical significance that have formed and influenced the United States legal or governmental system. Such display of an object containing the words of the Ten Commandments shall be in the same manner and appearance generally as other documents and objects displayed, and shall not be presented or displayed in any fashion that results in calling attention to it apart from the other displayed documents and objects.

As added by P.L.22-2000, SEC.2.

IC 36-1-17

Chapter 17. Defense Expenses for Unit and Municipal Corporation Officers and Employees

IC 36-1-17-1

"Criminal action"

Sec. 1. As used in this chapter, "criminal action" means a prosecution against an individual alleging the commission of a felony or misdemeanor.

As added by P.L.128-2005, SEC.1.

IC 36-1-17-2

Legal expenses of officer or employee

Sec. 2. Except as provided in section 3 of this chapter, a unit or municipal corporation may not pay the legal expenses incurred by an officer or employee of the unit or the municipal corporation:

(1) in defending against:

(A) a criminal action;

(B) a civil action brought by the attorney general of the United States, a United States attorney, the attorney general of Indiana, or an Indiana prosecuting attorney under:

(i) IC 34-24-1;

(ii) IC 34-24-2;

(iii) IC 34-24-3;

(iv) IC 5-11-5;

(v) IC 5-11-6;

(vi) IC 5-13-6;

(vii) IC 5-13-14-3; or

(viii) 18 U.S.C. 1964; or

(C) a proceeding to enforce an ordinance or a statute defining an infraction; or

(2) who is the target of a grand jury investigation, if the scope of the investigation includes a claim that the officer or employee committed a criminal act.

As added by P.L.128-2005, SEC.1.

IC 36-1-17-3

Legal expenses of officer or employee charged with crime or infraction

Sec. 3. (a) An officer or employee of a unit or municipal corporation who is charged with:

(1) a crime; or

(2) an infraction;

relating to an act that was within the scope of the official duties of the officer or employee may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred in the officer's or employee's defense against those charges, if all charges have been dismissed or the officer or employee has been found not guilty of all charges. The fiscal body of the unit or municipal corporation shall reimburse the

officer or employee for reasonable and customarily charged expenses, as determined by the fiscal body of the unit or municipal corporation, incurred in the officer's or employee's defense against those charges, if all charges have been dismissed or the officer or employee has been found not guilty of all charges.

(b) An officer or employee of a unit or municipal corporation who is the target of a grand jury investigation may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred by the officer or employee resulting from the grand jury investigation, if the grand jury fails to indict the officer or employee and the acts investigated by the grand jury were within the scope of the official duties of the officer or employee. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses, as determined by the fiscal body of the unit or municipal corporation, incurred by the officer or employee as a result of the grand jury investigation, if the grand jury fails to indict the officer or employee.

(c) An officer or employee of a unit or municipal corporation who is the defendant in a civil action described in section 2(1)(B)(i) through section 2(1)(B)(viii) of this chapter and brought by a person described in section 2(1)(B) of this chapter that involves an action within the scope of the official duties of the officer or employee may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred in the officer's or employee's defense in the civil action. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses incurred in the officer's or employee's defense against the civil action if:

(1) all claims that formed the basis of the civil action have been dismissed; or

(2) a judgment is rendered in favor of the officer or employee on all counts in the civil action.

As added by P.L.128-2005, SEC.1.

IC 36-1-17-4

Application for legal expenses; hearing; questions and information regarding reimbursement

Sec. 4. The fiscal body of a unit or municipal corporation may:

(1) act on an application under section 3 of this chapter without a hearing; and

(2) require an officer or employee seeking reimbursement under this chapter to:

(A) answer questions under oath; or

(B) provide information or documents concerning the case or investigation for which the officer or employee is seeking reimbursement.

As added by P.L.128-2005, SEC.1.

IC 36-1-18

Chapter 18. Donations to a State University From a Political Subdivision

IC 36-1-18-1

Application

Sec. 1. This chapter applies to a county, city, town, or township in which a state educational institution is located whenever:

(1) at least:

(A) fifty (50) freeholders and taxpayers of the political subdivision, if the political subdivision is a county; or

(B) twenty-five (25) freeholders of the political subdivision, if the political subdivision is a city, town, or township;

petition the legislative body of the political subdivision to make a donation to a state educational institution that is located in the political subdivision;

(2) the donation proposed in the petition does not exceed:

(A) twenty-five thousand dollars ($25,000), if the petition is made to a county or city; or

(B) ten thousand dollars ($10,000), if the petition is made to a township or town; and

(3) neither the political subdivision nor any other political subdivision in the same county has made another donation to the state educational institution under this chapter, IC 21-7-1 (before its repeal), or Acts 1897, c.39, s.2 (before its repeal).

As added by P.L.2-2007, SEC.381.

IC 36-1-18-2

Donation by political subdivision; ordinance or resolution required

Sec. 2. The legislative body of a political subdivision may adopt:

(1) an ordinance, if the political subdivision is a county, city, or town; or

(2) a resolution, if the political subdivision is a township;

to make a donation to a state educational institution located in the political subdivision. The amount of the donation may not exceed the amount named in the petition submitted to the political subdivision under this chapter.

As added by P.L.2-2007, SEC.381.

IC 36-1-18-3

Warrant for donation

Sec. 3. An ordinance or resolution under this chapter is sufficient justification for the proper officer to draw a warrant and pay the donation authorized by the political subdivision's legislative body.

As added by P.L.2-2007, SEC.381.

IC 36-1-18-4

Terms and conditions

Sec. 4. The legislative body making a donation under this chapter may make all proper agreements with a state educational institution

with reference to the purpose for which the donation must be used. The terms and conditions under which the money is donated, when made and accepted, are binding on the state educational institution accepting the donation.

As added by P.L.2-2007, SEC.381.

IC 36-1-19

Chapter 19. Knox County Tax Levy for Vincennes University

IC 36-1-19-1

Levy by county council

Sec. 1. The county council of Knox County may fix and establish annually the rate of a special tax levy to be imposed on the taxable property of Knox County, for the support of Vincennes University. This levy may not exceed in any year, three cents ($0.03) on each one hundred dollars ($100) of the taxable property in Knox County. All revenue accruing from any tax levy imposed under this section shall be paid:

(1) into the county treasury as a separate and distinct fund; and

(2) to the proper fiduciary officer of Vincennes University on warrant of the county auditor.

As added by P.L.2-2007, SEC.382.

IC 36-1-19-2

Payment by county; payment by state

Sec. 2. At the time the county auditor of Knox County makes the county auditor's regular semiannual settlement with the proper fiduciary officer of Vincennes University for the proceeds of the special tax levy that may be then due Vincennes University under this chapter, the county auditor shall also forward to the auditor of state a certificate showing:

(1) the total valuation of the taxable property of Knox County;

(2) the special tax rate established by the county council for the support of Vincennes University for the current year; and

(3) the total amount paid on behalf of Knox County as public aid to Vincennes University at the semiannual settlement.

Semiannually upon receipt of the certificate, the auditor of state shall promptly draw and forward to Vincennes University a warrant on the treasurer of state in double the amount shown by the certificate of the Knox County auditor to have been paid as public aid to Vincennes University at the semiannual settlement. The warrant must be charged to and paid out of the state general fund.

As added by P.L.2-2007, SEC.382.

IC 36-1-20

Chapter 20. Regulation of Residential Leases

IC 36-1-20-1

Applicable definitions

Sec. 1. The definitions in IC 32-31-3 apply throughout this chapter.

As added by P.L.212-2011, SEC.1.

IC 36-1-20-2

Assessment of tenants for inspection, registration, or other fees; exceptions

Sec. 2. (a) Except as provided in subsection (b), the owner of a rental unit assessed any inspection, registration, or other fee by a political subdivision pertaining to the rental unit may:

(1) notify the tenants of the rental unit of the assessment of the fee; and

(2) require the tenants of the rental unit to reimburse the owner for the payment of the fee.

(b) Tenants of a rental unit may not be required to reimburse the owner of a rental unit for fees assessed by a political subdivision relating to the construction of the rental unit, such as building permit fees.

As added by P.L.212-2011, SEC.1.

IC 36-1-20-3

Deposit of fees in dedicated fund; budgeting of money in fund; nonreversion

Sec. 3. Any inspection, registration, or other fee assessed under section 2 of this chapter and collected by a political subdivision must be maintained in a special fund dedicated solely to reimbursing the costs reasonably related to services actually performed by the political subdivision that justified the imposition and amount of the fee. Each fund shall be maintained as a separate line item in the political subdivision's budget. Money in the fund may not at any time revert to the general fund or any other fund of the political subdivision.

As added by P.L.212-2011, SEC.1.

IC 36-1-20.2
Chapter 20.2. Nepotism

IC 36-1-20.2-1
Applicability
Sec. 1. This chapter applies to all units.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-2
Individuals employed on July 1, 2012
Sec. 2. An individual who is employed by a unit on July 1, 2012, is not subject to this chapter unless the individual has a break in employment with the unit. The following are not considered a break in employment with the unit:
(1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.
(2) The individual's employment with the unit is terminated followed by immediate reemployment by the unit, without loss of payroll time.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-3
Precinct election officers and volunteer firefighters not subject to chapter
Sec. 3. For purposes of this chapter, the performance of the duties of:
(1) a precinct election officer (as defined in IC 3-5-2-40.1) that are imposed by IC 3; or
(2) a volunteer firefighter;
is not considered employment by a unit.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-4
"Direct line of supervision"
Sec. 4. As used in this chapter, "direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does not include the responsibilities of the executive, legislative body, or fiscal body of a unit, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the unit.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-5
"Employed"
Sec. 5. As used in this chapter, "employed" means an individual who is employed by a unit on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual

who holds only an elected office. The term includes an individual who is a party to an employment contract with the unit.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-6
"Member of the fire department"
Sec. 6. As used in this chapter, "member of the fire department" means the fire chief or a firefighter appointed to the department.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-7
"Member of the police department"
Sec. 7. As used in this chapter, "member of the police department" means the police chief or a police officer appointed to the department.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-8
"Relative"
Sec. 8. (a) As used in this chapter, "relative" means any of the following:
(1) A spouse.
(2) A parent or stepparent.
(3) A child or stepchild.
(4) A brother, sister, stepbrother, or stepsister.
(5) A niece or nephew.
(6) An aunt or uncle.
(7) A daughter-in-law or son-in-law.
(b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.
(c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-9
Adoption of more stringent or detailed requirements
Sec. 9. (a) This chapter establishes minimum requirements regarding employment of relatives. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:
(1) include requirements that are more stringent or detailed than any provision in this chapter; and
(2) apply to individuals who are exempted or excluded from the application of this chapter.
The unit may prohibit the employment of a relative that is not otherwise prohibited by this chapter.
(b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-10
Employment of relatives in direct line of supervision prohibited

Sec. 10. Individuals who are relatives may not be employed by a unit in a position that results in one (1) relative being in the direct line of supervision of the other relative.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-11
Employee not in violation if relative assumes elected office; promotions

Sec. 11. (a) This section applies to an individual who:

(1) is employed by a unit on the date the individual's relative begins serving a term of an elected office of the unit; and

(2) is not exempt from the application of this chapter under section 2 of this chapter.

(b) Unless a policy adopted under section 9 of this chapter provides otherwise, an individual may remain employed by a unit and maintain the individual's position or rank even if the individual's employment would violate section 10 of this chapter.

(c) Unless a policy adopted under section 9 of this chapter provides otherwise, an individual described in subsection (b) may not:

(1) be promoted to a position; or

(2) be promoted to a position that is not within the merit ranks, in the case of an individual who is a member of a merit police department or merit fire department;

if the new position would violate section 10 of this chapter.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-12
Employment contract not abrogated

Sec. 12. This chapter does not abrogate or affect an employment contract with a unit that:

(1) an individual is a party to; and

(2) is in effect on the date the individual's relative begins serving a term of an elected office of the unit.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-13
Sheriff's employment of spouse as prison matron allowed

Sec. 13. Unless the policy adopted under section 9 of this chapter provides otherwise, a sheriff's spouse may be employed as prison matron for the county under IC 36-8-10-5 and the spouse may be in the sheriff's direct line of supervision.
As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-14
Employment of former coroner allowed

Sec. 14. Unless the policy adopted under section 9 of this chapter provides otherwise, an individual:

(1) who served as coroner;

(2) who is currently ineligible to serve as coroner under Article 6, Section 2(b) of the Constitution of the State of Indiana;

(3) who, as coroner, received certification under IC 36-2-14-22.3; and

(4) whose successor in the office of coroner is a relative of the individual;

may be hired in the position of deputy coroner and be in the coroner's direct line of supervision.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-15

Township trustee; hiring of relative to work in office located in residence permitted; salary limit

Sec. 15. If the township trustee's office is located in the township trustee's personal residence, unless the policy adopted under section 9 of this chapter provides otherwise the township trustee may hire only one (1) employee who is a relative. The employee:

(1) may be hired to work only in the township trustee's office;

(2) may be in the township trustee's direct line of supervision; and

(3) may not receive total salary, benefits, and compensation that exceed five thousand dollars ($5,000) per year.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-16

Annual certification by elected officer

Sec. 16. Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-17

Noncompliance reported to the department of local government finance

Sec. 17. If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-18

Budget or additional appropriations may not be approved

Sec. 18. If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

(1) the unit's budget; or

(2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit is in compliance with this chapter.

As added by P.L.135-2012, SEC.7.

IC 36-1-21
Chapter 21. Contracting With a Unit

IC 36-1-21-1
Applicability
Sec. 1. This chapter applies only to a unit.
As added by P.L.135-2012, SEC.8.

IC 36-1-21-2
"Elected official"
Sec. 2. As used in this chapter, "elected official" means:
(1) the executive or a member of the executive body of the unit;
(2) a member of the legislative body of the unit; or
(3) a member of the fiscal body of the unit.
As added by P.L.135-2012, SEC.8.

IC 36-1-21-3
"Relative"
Sec. 3. (a) As used in this chapter, "relative" means any of the following:
(1) A spouse.
(2) A parent or stepparent.
(3) A child or stepchild.
(4) A brother, sister, stepbrother, or stepsister.
(5) A niece or nephew.
(6) An aunt or uncle.
(7) A daughter-in-law or son-in-law.
(b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.
(c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood.
As added by P.L.135-2012, SEC.8.

IC 36-1-21-4
Adoption of more stringent or detailed requirements
Sec. 4. (a) This chapter establishes minimum requirements regarding contracting with a unit. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:
(1) include requirements that are more stringent or detailed than any provision in this chapter; and
(2) apply to individuals who are exempted or excluded from the application of this chapter.
The unit may prohibit or restrict an individual from entering into a contract with the unit that is not otherwise prohibited or restricted by this chapter.
(b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter.

As added by P.L.135-2012, SEC.8.

IC 36-1-21-5
Contract disclosure requirements

Sec. 5. (a) A unit may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with:

(1) an individual who is a relative of an elected official; or

(2) a business entity that is wholly or partially owned by a relative of an elected official;

only if the requirements of this section are satisfied and the elected official does not violate IC 35-44-1-3.

(b) A unit may enter into a contract or renew a contract with an individual or business entity described in subsection (a) if:

(1) the elected official files with the unit a full disclosure, which must:

(A) be in writing;

(B) describe the contract or purchase to be made by the unit;

(C) describe the relationship that the elected official has to the individual or business entity that contracts or purchases;

(D) be affirmed under penalty of perjury;

(E) be submitted to the legislative body of the unit and be accepted by the legislative body in a public meeting of the unit prior to final action on the contract or purchase; and

(F) be filed, not later than fifteen (15) days after final action on the contract or purchase, with:

(i) the state board of accounts; and

(ii) the clerk of the circuit court in the county where the unit takes final action on the contract or purchase;

(2) the appropriate agency of the unit:

(A) makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered; or

(B) makes a certified statement of the reasons why the vendor or contractor was selected; and

(3) the unit satisfies any other requirements under IC 5-22 or IC 36-1-12.

(c) An elected official shall also comply with the disclosure provisions of IC 35-44-1-3, if applicable.

(d) This section does not affect the initial term of a contract in existence at the time the term of office of the elected official of the unit begins.

As added by P.L.135-2012, SEC.8.

IC 36-1-21-6
Annual certification by officer

Sec. 6. Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer is in compliance with this chapter. An officer shall submit the certification to the executive of the unit not later than December 31

of each year.
As added by P.L.135-2012, SEC.8.

IC 36-1-21-7
Noncompliance reported to the department of local government finance

Sec. 7. If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance.
As added by P.L.135-2012, SEC.8.

IC 36-1-21-8
Budget or additional appropriations may not be approved

Sec. 8. If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

(1) the unit's budget; or

(2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit has adopted a policy under this chapter.
As added by P.L.135-2012, SEC.8.

IC 36-1.5

ARTICLE 1.5. GOVERNMENT MODERNIZATION

IC 36-1.5-1

Chapter 1. General Provisions

IC 36-1.5-1-1

Purpose

Sec. 1. The purpose of this article is to do the following:

(1) Grant broad powers to enable political subdivisions to operate more efficiently by eliminating restrictions under existing law that:

(A) impede the economy of operation of;

(B) interfere with the ease of administration of;

(C) inhibit cooperation among; and

(D) thwart better government by;

political subdivisions.

(2) Encourage efficiency by and cooperation among political subdivisions to:

(A) reduce reliance on property taxes; and

(B) enhance the ability of political subdivisions to provide critical and necessary services.

(3) Strengthen the financial condition of state government.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-2

Authority for certain actions

Sec. 2. This article contains full and complete authority for the following:

(1) Reorganization of political subdivisions.

(2) Exercise of governmental functions under a cooperative agreement under this article.

(3) Transfer of responsibilities between offices and officers under this article.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-3

Other laws, procedures, and requirements

Sec. 3. Except as provided in this article, no law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by a political subdivision or any officer, department, agency, or instrumentality of the state or a political subdivision is required for political subdivisions to:

(1) reorganize;

(2) enter into or exercise governmental functions under a cooperative agreement; or

(3) transfer responsibilities between offices and officers;

under this article.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-4
Exercise of power to reorganize without complying with other laws

Sec. 4. A political subdivision may exercise the powers granted under this article to reorganize or enter into cooperative agreements without complying with the provisions of any other law, statute, or rule.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-5
Liberal construction

Sec. 5. This article shall be liberally construed to effect the purposes of this article.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-6
Provisions of this article inconsistent with other laws

Sec. 6. Except as otherwise specifically provided by law, to the extent the provisions of this article are inconsistent with the provisions of any other general, special, or local law, the provisions of this article are controlling, and compliance with this article shall be treated as compliance with the conflicting law.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-7
Actions under other laws not prohibited

Sec. 7. This article does not prohibit the:

(1) reorganization of one (1) or more political subdivisions;

(2) exercise of governmental functions under an interlocal cooperation agreement or a cooperative agreement; or

(3) transfer of responsibilities between offices and officers;

under another law that is not included in this article.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-8
Combined resolutions

Sec. 8. More than one (1) resolution permitted under this article may be consolidated into a combined resolution.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-1-9
Political subdivisions and reorganization committees subject to open door law and public records law

Sec. 9. Political subdivisions and reorganization committees acting under this article are subject to IC 5-14-1.5 (open door law) and IC 5-14-3 (public records law).

As added by P.L.186-2006, SEC.4.

IC 36-1.5-2
Chapter 2. Definitions

IC 36-1.5-2-1
Application of definitions
Sec. 1. Except as provided in section 4 of this chapter, the definitions in IC 3-5-2 and IC 36-1-2 apply throughout this article.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-2
Application of definitions
Sec. 2. The definitions in this chapter apply throughout this article.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-3
"Plan of reorganization"
Sec. 3. "Plan of reorganization" refers to a plan of reorganization approved by the legislative body of each reorganizing political subdivision under this article.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-4
"Political subdivision"
Sec. 4. "Political subdivision" has the meaning set forth in IC 36-1-2, except that the term does not include a local hospital authority or corporation.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-5
"Reorganization"
Sec. 5. "Reorganization" means a change in the structure or administration of a political subdivision described in IC 36-1.5-4-3 and IC 36-1.5-4-4.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-6
"Reorganization committee"
Sec. 6. "Reorganization committee" refers to a committee established under this article to assist reorganizing political subdivisions with developing a plan of reorganization.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-7
"Reorganized political subdivision"
Sec. 7. "Reorganized political subdivision" means the political subdivision that is the successor to the reorganizing political subdivisions participating in a reorganization.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-2-8
"Reorganizing political subdivision"

Sec. 8. "Reorganizing political subdivision" refers to a political subdivision in which:

(1) a resolution has been adopted under IC 36-1.5-4-10; or

(2) a petition has been filed under IC 36-1.5-4-11.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-3

Chapter 3. Adjustment of Maximum Permissible Levies, Tax Rates, and Budgets

IC 36-1.5-3-1

Submission of ordinance or resolution to department of local government finance

Sec. 1. A certified copy of an ordinance or a resolution, including any incorporated agreement, that is adopted under this article must be submitted to the department of local government finance.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-3-2

Actions by department of local government finance

Sec. 2. The department of local government finance may take an action under this chapter in the manner prescribed by the department of local government finance in its rules adopted under IC 4-22-2.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-3-3

Petition by political subdivision for review of final determination

Sec. 3. A political subdivision may petition for judicial review of a final determination of the department of local government finance under this chapter. The petition must be filed in the tax court not more than forty-five (45) days after the department of local government finance enters its order under this chapter.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-3-4

Adjustment of maximum property tax levies, property tax rates, and budgets

Sec. 4. Subject to this chapter, the department of local government finance shall adjust the maximum permissible property tax levies, maximum permissible property tax rates, and budgets of political subdivisions that enter into a reorganization under this article as the department of local government finance determines necessary to do the following:

(1) Eliminate double taxation by different political subdivisions for services or goods provided under this article.

(2) Eliminate any excess by which the amount of property taxes imposed by a political subdivision exceeds the amount necessary to pay for services or goods provided under this article.

(3) Restore taxing powers of a political subdivision after the termination of a reorganization under this article that are necessary to fund governmental services to the individuals and entities served by the political subdivision.

(4) Restore taxing powers of a political subdivision after the withdrawal of a party from a reorganization under this article that are necessary to fund governmental services to the

individuals and entities served by the political subdivision.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-3-5
Savings through reorganization; budgets, rates, and levies

Sec. 5. (a) The department of local government finance shall establish criteria for making an adjustment to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 if a political subdivision (or a successor political subdivision) realizes through a reorganization under this article, including a reorganization through a cooperative agreement under IC 36-1.5-5, a:

(1) savings; or

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

(b) Except as provided in subsection (d), the adjustment under this section must permit the political subdivision to continue to:

(1) include in the political subdivision's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance under section 4 of this chapter on account of the realized savings or reduction in expenses that occurs because of the reorganization; and

(2) impose part of the property tax levy that would otherwise be reduced by the department of local government finance under section 4 of this chapter on account of the realized savings or reduction in expenses that occurs because of the reorganization.

(c) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under this section may not exceed the result of:

(1) the savings or reduction realized in the first full year of operation after the reorganization is implemented, as determined by the department of local government finance; multiplied by

(2) a percentage determined as follows:

(A) Fifty percent (50%) in the first year of the adjustment.

(B) Fifty percent (50%) in the second year of the adjustment.

(C) Thirty percent (30%) in the third year of the adjustment.

(D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

The fiscal body of the political subdivision shall determine and certify to the department of local government finance the amount of the adjustment that the political subdivision wishes to accept under this section.

(d) The amount of any adjustment accepted by a political subdivision under this section must comply with the reorganization agreement under which the political subdivision is reorganized under this article.
As added by P.L.186-2006, SEC.4. Amended by P.L.58-2011, SEC.3.

IC 36-1.5-4

Chapter 4. Reorganization by Referendum

IC 36-1.5-4-1

Types of reorganizations authorized; political subdivisions not participating in reorganization

Sec. 1. (a) Any of the following may reorganize under this chapter:

(1) Two (2) or more counties. A county reorganizing under this subdivision must be adjacent to at least one (1) other county participating in the reorganization.

(2) Two (2) or more townships located entirely within the same county. A township reorganizing under this subdivision must be adjacent to at least one (1) other township participating in the reorganization.

(3) Two (2) or more municipalities. A municipality reorganizing under this subdivision must be adjacent to at least one (1) other municipality participating in the reorganization.

(4) Two (2) or more school corporations. A school corporation reorganizing under this subdivision must be adjacent to at least one (1) other school corporation participating in the reorganization.

(5) Two (2) or more municipal corporations, other than a unit or a school corporation, that have substantially equivalent powers. A municipal corporation reorganizing under this subdivision must be adjacent to at least one (1) other municipal corporation participating in the reorganization.

(6) Two (2) or more special taxing districts that are adjacent to at least one (1) other special taxing district participating in the reorganization.

(7) A township and a municipality that is located in any part of the same township.

(8) A county and one (1) or more townships that are located in the county.

(9) A municipality and a county that does not contain a consolidated city.

(10) A school corporation and a county or municipality in which a majority of the students of the school corporation have legal settlement (as defined by IC 20-18-2-11).

(11) A municipal corporation, other than a unit or a school corporation, and a county or municipality in which a majority of the population of the municipal corporation resides.

(b) If a political subdivision reorganizes under this article with one (1) or more other political subdivisions:

(1) any political subdivisions that did not participate in the public question on the reorganization are not reorganized under this article;

(2) the reorganization affects only those political subdivisions in which the reorganization is approved as specified in this article; and

(3) the reorganization does not affect the rights, powers, and duties of any political subdivisions in the county in which the reorganization is not approved as specified in this article.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-2

Adjacent political subdivisions

Sec. 2. For purposes of this chapter, two (2) political subdivisions may not be treated as adjacent if the political subdivisions are connected by a strip of land that is less than one hundred fifty (150) feet wide.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-3

Types of reorganization

Sec. 3. Political subdivisions described in section 1 of this chapter may participate under this chapter in any of the following types of reorganization:

(1) Consolidation of the participating political subdivisions into a single new political subdivision.

(2) Consolidation of the participating political subdivisions into one (1) of the participating political subdivisions.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-4

Powers of political subdivisions in an approved reorganization

Sec. 4. As part of a reorganization in a finally approved plan of reorganization, one (1) or more of the reorganizing political subdivisions or the reorganized political subdivision may do the following:

(1) Adjust any of its boundaries.

(2) Establish a joint service area with another political subdivision.

(3) Transfer the functions of an office to another office.

(4) Provide for a legislative body, an executive, or a fiscal body of the reorganized political subdivision to exercise the powers of a legislative body, an executive, or a fiscal body of a reorganizing political subdivision.

(5) Change the name of the political subdivision or select a new name.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-5

Effective date of reorganization

Sec. 5. (a) Except as provided in subsection (b), a reorganization approved under this chapter takes effect when all of the following have occurred:

(1) The later of:

(A) the date that a copy of a joint certification from the county election board in each county in which reorganizing

political subdivisions are located that indicates that:

(i) the reorganization has been approved by the voters of each reorganizing political subdivision; or

(ii) in the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization has been approved as set forth in section 32(b) of this chapter;

is recorded as required by section 31 of this chapter; or

(B) the date specified in the finally adopted plan of reorganization.

(2) The appointed or elected officers of the reorganized political subdivision are elected (as prescribed by section 36 of this chapter) or appointed and qualified, if:

(A) the reorganized political subdivision is a new political subdivision and reorganizing political subdivisions are not being consolidated into one (1) of the reorganizing political subdivisions;

(B) the reorganized political subdivision will have different boundaries than any of the reorganizing political subdivisions;

(C) the reorganized political subdivision will have different appointment or election districts than any of the reorganizing political subdivisions; or

(D) the finally adopted plan of reorganization requires new appointed or elected officers before the reorganization becomes effective.

(b) A reorganization approved under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A consolidation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(c) Notwithstanding subsection (b) as that subsection existed on December 31, 2009, a reorganization that took effect January 2, 2010, because of the application of subsection (b), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without the adoption of an amended reorganization plan.

As added by P.L.186-2006, SEC.4. Amended by P.L.113-2010, SEC.109.

IC 36-1.5-4-6

Results of reorganization

Sec. 6. When a reorganization under this chapter is effective:

(1) all of the participating political subdivisions, except the reorganized political subdivision, cease to exist;

(2) unless the plan of reorganization provides for the continuation of the term of office, the term of each of the elected offices of each of the reorganizing political subdivisions is terminated;

(3) if the plan of reorganization transfers the responsibilities of

any office to another office, the office from which the responsibilities were transferred is abolished;

(4) the executives, legislative bodies, and fiscal bodies of the reorganizing political subdivisions (other than any reorganizing political subdivision that is treated under the plan of reorganization as the successor reorganized political subdivision) are abolished, and the responsibilities of the executives, legislative bodies, and fiscal bodies are transferred to the executive, legislative body, and fiscal body of the reorganized political subdivision; and

(5) the property and liabilities of the reorganizing political subdivisions become the property and liabilities of the reorganized political subdivision, subject to section 40 of this chapter.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-7

Budgets, rates, and levies; election districts

Sec. 7. (a) In the year before the year in which the participating political subdivisions are reorganized under this chapter:

(1) subject to subsection (b), the fiscal bodies of the reorganizing political subdivisions shall, in the manner provided by IC 6-1.1-17, adopt tax levies, tax rates, and a budget for the reorganized political subdivision either through the adoption of substantially identical resolutions adopted by each of the fiscal bodies or, if authorized in the plan of reorganization, through a joint board established under an agreement of the fiscal bodies on which the members of each of the fiscal bodies are represented; and

(2) if the reorganized political subdivision will have elected offices and different election districts than any of the reorganizing political subdivisions, the legislative bodies of the reorganizing political subdivisions shall establish the election districts either through the adoption of substantially identical resolutions adopted by each of the legislative bodies or, if authorized in the plan of reorganization, through a joint board established under an agreement of the legislative bodies on which the members of each of the legislative bodies are represented.

(b) This subsection applies to two (2) or more school corporations that participate in a reorganization in which the voters approve a plan of reorganization in a general election and the plan of reorganization provides for the reorganization to become effective for property taxes first due and payable in the immediately following calendar year. The participating school corporations may publish notices, hold public hearings, and take final action for the adoption of property tax levies, property tax rates, and a budget for the reorganized school corporation after the voters approve the plan of reorganization. The alternative schedule must comply with the following:

(1) Each participating school corporation shall give notice by

publication to taxpayers of:

(A) the estimated budget;

(B) the estimated maximum permissible levy;

(C) the current and proposed tax levies of each fund; and

(D) the amounts of excessive levy appeals to be requested;

for the ensuing year. The notice must be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing and with the last publication not later than November 24 of the year the public question is approved by the voters.

(2) Each participating school corporation must conduct a public hearing on the proposed tax levies, tax rates, and budget at least ten (10) days before the date the participating school corporation adopts the proposed tax levies, tax rates, and budget.

(3) The governing body of each participating school corporation must meet to fix the tax levies, tax rates, and budget for the ensuing year before December 6 of the year the public question is approved by the voters.

(4) The county auditor shall certify the adopted property tax levies, property tax rates, and budget for the reorganized school corporation to the department of local government finance before December 8 in the year in which the public question is approved by the voters.

The department of local government finance may adjust any other applicable time limit specified in IC 6-1.1-17 to be consistent with this section. However, the department of local government finance is expressly directed to complete the duties assigned to it under IC 6-1.1-17-16 with respect to the submitted property tax levies, property tax rates, and budget not later than February 15 in the ensuing year.

(c) If a school is converted into a charter school under IC 20-24-11, the charter school must, before December 1 of each year, publish its estimated annual budget for the ensuing year in accordance with IC 5-3-1.

As added by P.L.186-2006, SEC.4. Amended by P.L.26-2012, SEC.1.

IC 36-1.5-4-8

Authority of department of local government finance to prescribe forms

Sec. 8. The department of local government finance may prescribe forms for petitions, resolutions, certifications, and other writings required under this chapter. A petition, resolution, certification, or other writing related to a reorganization must be substantially in the form prescribed by the department of local government finance.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-9

Initiation of reorganization

Sec. 9. A reorganization may be initiated by:

(1) adopting a resolution under section 10 of this chapter; or
(2) filing a petition under section 11 of this chapter.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-10
Initiation of reorganization by legislative body

Sec. 10. (a) The legislative body of a political subdivision may initiate a proposed reorganization under this chapter by adopting a resolution that:

(1) proposes a reorganization;
(2) names the political subdivisions that would be reorganized in the proposed reorganization; and
(3) only in the case of a proposed reorganization described in section 1(a)(9) of this chapter, states whether the vote on the public question regarding the reorganization shall be:
(A) conducted on a countywide basis under section 30(b) of this chapter, without a rejection threshold; or
(B) conducted on a countywide basis under section 30(b) of this chapter, with a rejection threshold.

(b) The clerk of the political subdivision adopting the resolution shall certify the resolution to the clerk of each political subdivision named in the resolution.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-11
Initiation of reorganization by voters

Sec. 11. (a) The voters of a political subdivision may initiate a proposed reorganization by filing a written petition, substantially in the form prescribed by the department, with the clerk of the political subdivision that:

(1) proposes a reorganization; and
(2) names the political subdivisions that would be reorganized in the proposed reorganization.

(b) If the written petition is signed by at least five percent (5%) of the voters of the political subdivision, as determined by the vote cast in the political subdivision for secretary of state at the most recent general election, the clerk of the political subdivision shall certify the petition to the legislative body of the political subdivision.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-12
Action by legislative body on proposed reorganization; hearing

Sec. 12. (a) If a petition is certified to the legislative body of a political subdivision under section 11 of this chapter, the legislative body shall conduct a public hearing on the proposed reorganization not sooner than five (5) days after publishing a notice of the public hearing under IC 5-3-1. Not more than thirty (30) days after the conclusion of the public hearing the legislative body shall adopt a resolution, substantially in the form prescribed by the department of local government finance, to do any of the following:

(1) Decline to participate in the proposed reorganization.

(2) Propose a reorganization with the political subdivisions named in the petition.

(3) Propose a reorganization with political subdivisions that differ in part or in whole from the political subdivisions named in the petition.

(b) In the case of a resolution adopted under this section proposing a reorganization described in section 1(a)(9) of this chapter, the resolution must also state whether the vote on the public question regarding the reorganization shall be:

(1) conducted on a countywide basis under section 30(b) of this chapter, without a rejection threshold; or

(2) conducted on a countywide basis under section 30(b) of this chapter, with a rejection threshold.

(c) The clerk of the political subdivision adopting a resolution proposing a reorganization under this section shall certify the resolution to the clerk of each political subdivision named in the resolution.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-13

Action by legislative body receiving resolution on proposed reorganization from another political subdivision; hearing

Sec. 13. (a) The legislative body of a political subdivision that receives a certified resolution under section 10 or 12 of this chapter may do any of the following:

(1) Adopt a resolution declining to participate in a proposed reorganization.

(2) Adopt a substantially identical resolution proposing to participate in a proposed reorganization with the political subdivisions named in a resolution certified to the political subdivision.

(3) Adopt a resolution proposing to participate in a proposed reorganization with political subdivisions that differ in part or in whole from the political subdivisions named in a resolution certified to the political subdivision.

(b) In the case of a resolution adopted under this section proposing to participate in a proposed reorganization described in section 1(a)(9) of this chapter, the resolution must also state whether the vote on the public question regarding the reorganization shall be:

(1) conducted on a countywide basis under section 30(b) of this chapter, without a rejection threshold; or

(2) conducted on a countywide basis under section 30(b) of this chapter, with a rejection threshold.

(c) The clerk of the political subdivision adopting a resolution proposing a reorganization under this section shall certify the resolution to the clerk of each political subdivision named in the resolution.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-14
Revision of resolutions

Sec. 14. The legislative body of a political subdivision may revise a resolution certified under section 10, 12, or 13 of this chapter by adding or deleting proposed parties to the reorganization until all of the political subdivisions named in the resolution have adopted substantially identical reorganization resolutions.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-15
Appointment of reorganization committee

Sec. 15. Not later than thirty (30) days after the clerk of the last political subdivision to adopt a reorganization resolution under this chapter has certified the substantially identical resolution to all of the political subdivisions named in the resolution, the reorganizing political subdivisions shall appoint the number of individuals specified in section 16 of this chapter to serve on a reorganization committee to develop a plan of reorganization for the reorganizing political subdivisions.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-16
Members of reorganization committee

Sec. 16. (a) Members shall be appointed to a reorganization committee as follows:

(1) In accordance with an agreement adopted by the reorganizing political subdivisions. An agreement under this subdivision must provide that not more than a simple majority of the members appointed by each political subdivision may be members of the same political party.

(2) If an agreement does not provide for the membership of a reorganization committee under this chapter, three (3) members shall be appointed by the executive of each political subdivision participating in the reorganization. Not more than two (2) of the members appointed by an executive of a political subdivision may be members of the same political party.

(b) The members of a reorganization committee serve at the pleasure of the appointing authority. The reorganization committee shall select a chairperson and any other officers that the reorganization committee determines necessary from the members of the reorganization committee.

(c) The members of a reorganization committee serve without compensation. The members, however, are entitled to reimbursement from the reorganizing political subdivisions for the necessary expenses incurred in the performance of their duties.

(d) The reorganizing political subdivisions shall provide necessary office space, supplies, and staff to the reorganization committee. The reorganizing political subdivisions may employ attorneys, accountants, consultants, and other professionals for the reorganization committee.

(e) Except as otherwise provided in an agreement adopted by the reorganizing political subdivisions, claims for expenditures for the reorganization committee shall be made to the fiscal officer for the reorganizing political subdivision with the largest population. The fiscal officer shall pay the necessary expenditures and obtain reimbursement from the reorganizing political subdivisions:

(1) in accordance with an agreement adopted by the reorganizing political subdivisions; or

(2) in the absence of an agreement, in proportion to the population of each reorganizing political subdivision.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-17

Powers of reorganization committee

Sec. 17. A reorganization committee may do the following:

(1) Adopt procedures governing the internal management of the reorganization committee.

(2) Conduct public hearings on the plan of reorganization as the reorganization committee determines necessary or appropriate.

(3) Review the books and records of any reorganizing political subdivision.

(4) Administer oaths.

(5) Issue and enforce subpoenas and discovery orders under IC 4-21.5.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-18

Preparation of reorganization plan; required elements

Sec. 18. (a) A reorganization committee shall prepare a comprehensive plan of reorganization for the reorganizing political subdivisions. The plan of reorganization governs the actions, duties, and powers of the reorganized political subdivision that are not specified by law.

(b) The plan of reorganization must include at least the following:

(1) The name and a description of the reorganized political subdivision that will succeed the reorganizing political subdivisions.

(2) A description of the boundaries of the reorganized political subdivision.

(3) Subject to section 40 of this chapter, a description of the taxing areas in which taxes to retire obligations of the reorganizing political subdivisions will be imposed.

(4) A description of the membership of the legislative body, fiscal body, and executive of the reorganized political subdivision, a description of the election districts or appointment districts from which officers will be elected or appointed, and the manner in which the membership of each elected or appointed office will be elected or appointed.

(5) A description of the services to be offered by the reorganized political subdivision and the service areas in which

the services will be offered.

(6) The disposition of the personnel, the agreements, the assets, and, subject to section 40 of this chapter, the liabilities of the reorganizing political subdivisions, including the terms and conditions upon which the transfer of property and personnel will be achieved.

(7) Any other matter that the:

(A) reorganization committee determines to be necessary or appropriate; or

(B) legislative bodies of the reorganizing political subdivisions require the reorganization committee;

to include in the plan of reorganization.

(8) In the case of a reorganization described in section 1(a)(9) of this chapter, if the legislative bodies of the reorganizing political subdivisions have specified that the vote on the public question regarding the reorganization shall be conducted on a countywide basis under section 30(b) of this chapter with a rejection threshold, the reorganization committee shall include in the reorganization plan a rejection threshold, specified as a percentage, that applies for purposes of section 32(b) of this chapter. The rejection threshold must be the same for each municipality that is a party to the proposed reorganization and to the county that is a party to the proposed reorganization.

(9) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization committee shall determine and include in the reorganization plan the percentage of voters voting on the public question regarding the proposed reorganization who must vote, on a countywide basis, in favor of the proposed reorganization for the public question to be approved. This percentage is referred to in this chapter as the "countywide vote approval percentage". The countywide vote approval percentage must be greater than fifty percent (50%).

(10) The statement required by subsection (e).

(c) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization committee may not change the decision of the legislative bodies of the reorganizing political subdivisions regarding whether the vote on the public question regarding the reorganization shall be conducted on a countywide basis without a rejection threshold or with a rejection threshold.

(d) Upon completion of the plan of reorganization, the reorganization committee shall present the plan of reorganization to the legislative body of each of the reorganizing political subdivisions for adoption. The initial plan of reorganization must be submitted to the legislative body of each of the reorganizing political subdivisions not later than one (1) year after the clerk of the last political subdivision that adopts a reorganization resolution under this chapter has certified the resolution to all of the political subdivisions named in the resolution. In the case of a plan of reorganization submitted to a political subdivision by a reorganization committee after June 30, 2010, the political subdivision shall post a copy of the plan of

reorganization on an Internet web site maintained or authorized by the political subdivision not more than thirty (30) days after receiving the plan of reorganization from the reorganization committee.

(e) A reorganization committee must include in the plan of reorganization submitted to a political subdivision after June 30, 2010, a statement of:

(1) whether a fiscal impact analysis concerning the proposed reorganization has been prepared or has not been prepared by or on behalf of the reorganization committee; and

(2) whether a fiscal impact analysis concerning the proposed reorganization has been made available or has not been made available to the public by or on behalf of the reorganization committee.

As added by P.L.186-2006, SEC.4. Amended by P.L.113-2010, SEC.110.

IC 36-1.5-4-19

Consideration of reorganization plan by legislative bodies

Sec. 19. The legislative body of each of the reorganizing political subdivisions shall provide for the following:

(1) Consideration of a plan of reorganization presented by a reorganization committee in the form of a resolution incorporating the plan of reorganization in full or by reference.

(2) Reading of the resolution incorporating the plan of reorganization in at least two (2) separate meetings of the legislative body of the political subdivision.

(3) Conducting a public hearing on the plan of reorganization:

(A) not sooner than five (5) days after notice of the public hearing is published under IC 5-3-1; and

(B) before the legislative body takes final action on the resolution to adopt the plan of reorganization.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-20

Actions by legislative bodies on reorganization plan

Sec. 20. At a public hearing on a plan of reorganization conducted under section 19 of this chapter, or in a public meeting held not more than thirty (30) days after the public hearing concludes, a legislative body of a reorganizing political subdivision shall do one (1) of the following:

(1) Adopt the plan of reorganization as presented to the legislative body.

(2) Adopt the plan of reorganization with modifications.

(3) Reject the plan of reorganization and order a reorganization committee to submit a new plan of reorganization within thirty (30) days after the legislative body rejects the plan of reorganization.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-21
Modifications to reorganization plan

Sec. 21. Any modifications in a plan of reorganization that are adopted by a legislative body of a reorganizing political subdivision must be adopted by the legislative body of each of the reorganizing political subdivisions before the modifications are effective.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-22
Action by legislative bodies on revised reorganization plan

Sec. 22. The legislative body of each reorganizing political subdivision shall take any of the actions described in section 20 of this chapter on a revised plan of reorganization submitted by a reorganization committee and each resolution modifying a plan of reorganization or revised plan of reorganization in the same manner as the legislative body may take action on the initially submitted plan of reorganization.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-23
Certification by legislative bodies of final action

Sec. 23. The legislative body of a reorganizing political subdivision shall certify the legislative body's final action on a plan of reorganization or revised plan of reorganization, as modified by the legislative body, in the manner prescribed by the department of local government finance, to the following:

(1) The chair of the reorganization committee.
(2) The clerk of each reorganizing political subdivision.
(3) The county fiscal officer of each county in which a reorganizing political subdivision is located.
(4) The county recorder of each county in which a reorganizing political subdivision is located.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-23.5
Failure to adopt reorganization plan; petition requesting a public question

Sec. 23.5. The following apply if the legislative bodies of all political subdivisions that have been presented with a plan of reorganization under section 18(d) of this chapter have not adopted a plan of reorganization, either as presented by the reorganization committee or as modified by all of the political subdivisions, within one (1) year after the initial plan of reorganization is presented:

(1) Not later than one (1) month after the end of the one (1) year period in which the legislative bodies must adopt a plan of reorganization, the reorganization committee shall submit a final plan of reorganization to the legislative bodies of the political subdivisions.
(2) Not later than one (1) month after receiving the final plan of reorganization under subdivision (1), each of the legislative

bodies must:

(A) hold a hearing on the final plan of reorganization; and

(B) adopt either a resolution approving the final plan of reorganization or a resolution rejecting the final plan of reorganization.

If a legislative body does not adopt a resolution under this subdivision within the one (1) month period, the failure to adopt a resolution is considered to be an approval of the final plan of reorganization.

(3) If a legislative body adopts a resolution approving the final plan of reorganization, the legislative body shall certify its approval under section 23 of this chapter.

(4) If any of the legislative bodies adopts a resolution rejecting the final plan of reorganization, the registered voters of a political subdivision in which the final plan of reorganization was rejected by a legislative body under subdivision (2) may submit a petition to the clerk of the circuit court approving the final plan of reorganization and requesting that a public question be held on the final plan of reorganization. The petition must be submitted not later than one hundred eighty (180) days after the legislative body voted to reject the final plan of reorganization. If the petition is signed by at least ten percent (10%) of the voters of the political subdivision, as determined by the vote cast in the political subdivision for secretary of state at the most recent general election:

(A) the political subdivision is considered to have approved the holding of the public question on the final plan of reorganization, notwithstanding the vote by the legislative body rejecting the final plan of reorganization; and

(B) the clerk of the circuit court shall certify approval of the final plan of the reorganization and the holding of the public question in the manner specified in section 23 of this chapter.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-24

Filing of reorganization plan

Sec. 24. The legislative body of the reorganizing political subdivision with the largest population shall provide for a certified copy of the plan of reorganization to be filed with each of the following at the same time certifications are made under section 23 of this chapter:

(1) The county recorder of each county in which a reorganizing political subdivision is located.

(2) The department of local government finance.

(3) If any of the reorganizing political subdivisions is a school corporation, the department of education.

(4) If the plan of reorganization changes any election district or abolishes an elected office, the clerk of the circuit court in each county affected by the election district or elected office.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-25
Recording of certifications and reorganization plan by county recorder

Sec. 25. Each county recorder receiving a certification under section 23 of this chapter, either from the legislative body of a political subdivision or from a clerk of the circuit court after a petition process under section 23.5 of this chapter in a political subdivision, shall record the certification and the plan of reorganization in the records of the county recorder without charge.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-26
Notification of county election board upon receipt of certifications from all reorganizing political subdivisions; public question

Sec. 26. When a county recorder has received certifications under this chapter from all of the reorganizing political subdivisions, either from the legislative body of a political subdivision or from a clerk of the circuit court after a petition process under section 23.5 of this chapter in a political subdivision, the county recorder shall notify the county election board of each county in which a reorganizing political subdivision is located that a public question on a plan of reorganization is eligible to be placed on the ballot for consideration of the voters of each of the reorganizing political subdivisions or (in the case of a reorganization described in section 1(a)(9) of this chapter) for consideration by the voters of the entire county.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-27
County election board placing public question on ballot

Sec. 27. After the county recorder of each county in which reorganizing political subdivisions are located has notified the county election board that a public question on a plan of reorganization is eligible to be placed on the ballot, the county election board shall place the public question on the ballot in accordance with IC 3-10-9 on the first regularly scheduled general election or municipal election (excluding any primary elections) that will occur in all of the precincts of the reorganizing political subdivisions at least sixty (60) days after the required notices are received.
As added by P.L.186-2006, SEC.4. Amended by P.L.113-2010, SEC.111.

IC 36-1.5-4-28
Form of public question

Sec. 28. A public question under this chapter shall be placed on the ballot in all of the precincts that are located in the reorganizing political subdivisions in substantially the following form:

"Shall _____ (insert name of political subdivision) and _____ (insert name of political subdivision) reorganize as

a single political subdivision?".
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-29
Application of IC 3

Sec. 29. IC 3 applies to the election at which a public question under this chapter is considered.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-30
Certification by circuit court clerk of results of public question

Sec. 30. (a) Except as provided in subsection (b), at the same time that election results are certified under IC 3, the circuit court clerk of each of the counties in which a public question under this chapter is on the ballot shall jointly issue, in the form prescribed by the state election board, a certificate declaring whether the public question is approved or rejected by a majority of the voters voting on the public question in each of the reorganizing political subdivisions. In addition to any other requirements in IC 3 concerning filing of the certification, the certification shall be sent to each of the following:

(1) The clerk of each of the reorganizing political subdivisions.
(2) The county auditor of each county in which a reorganizing political subdivision is located.
(3) The county recorder of each county in which a reorganizing political subdivision is located.
(4) The state board of accounts.
(5) The department of local government finance.
(6) The department of state revenue.
(7) The budget agency.
(8) If any of the reorganizing political subdivisions is a school corporation, the department of education.

(b) In the case of a public question on a reorganization described in section 1(a)(9) of this chapter:

(1) the public question on a plan of reorganization shall be placed on the ballot for consideration by the voters of the entire county;
(2) the vote on the public question by the voters of the entire county shall be tabulated;
(3) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the vote on the public question by the voters of:
    (A) each reorganizing municipality; and
    (B) the county (excluding the voters of the reorganizing municipalities);
shall be tabulated separately; and
(4) the circuit court clerk shall issue, in a form prescribed by the state election board, separate certificates regarding whether the public question is approved or rejected by the voters of:
    (A) the entire county;

(B) each reorganizing municipality (if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold); and

(C) the county, excluding the voters of the reorganizing municipalities (if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold);

voting on the public question.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-31

Recording of certification from circuit court clerk

Sec. 31. Each county recorder receiving a certification from a circuit court clerk under section 30 of this chapter shall file the certification without charge with the plan of reorganization recorded under section 25 of this chapter.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-32

Approval of public question

Sec. 32. (a) This subsection does not apply to a reorganization described in section 1(a)(9) of this chapter. A reorganization as specified in the plan of reorganization is approved if a majority of the voters in each reorganizing political subdivision voting on the public question approve the public question on the reorganization. The vote of voters of a reorganizing political subdivision (for example, a city) who also are voters in a second reorganizing political subdivision (for example, a township) that is geographically larger than the first political subdivision and that includes the territory of the first political subdivision shall be included only in the tally of votes for the first reorganizing political subdivision in which the voters reside.

(b) This subsection applies only to a reorganization described in section 1(a)(9) of this chapter. The reorganization is approved only if:

(1) the percentage of voters voting on the public question who vote, on a countywide basis, in favor of the proposed reorganization is at least equal to the countywide vote approval percentage specified in the final reorganization plan;

(2) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the percentage of voters of the county (excluding the voters of the reorganizing municipalities) voting on the public question who vote against the reorganization is less than the rejection threshold included in the final reorganization plan; and

(3) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the percentage of voters of each reorganizing municipality voting on the public

question who vote against the reorganization is less than the rejection threshold included in the final reorganization plan.

If the reorganization is not approved, the reorganization is terminated. If the legislative bodies of the reorganizing political subdivisions have agreed that the vote in the public question shall be conducted with a rejection threshold, then in tabulating the votes under subdivisions (2) and (3), the vote of voters of a reorganizing municipality who also are voters in the county shall be included only in the tally of votes for the municipality in which the voters reside.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-33

Termination of reorganization if public question not approved

Sec. 33. Except in the case of a reorganization described in section 1(a)(9) of this chapter, if a reorganization is not approved by the majority of the voters in each reorganizing political subdivision voting on the public question, the reorganization is terminated. A political subdivision in which voters of the political subdivision approved the reorganization may continue with a reorganization with another political subdivision in which the reorganization was approved only if a new plan of reorganization is approved by the voters of each political subdivision in the manner provided by this chapter. The reorganization committee shall adopt a plan to specify how matters related to the termination of the reorganization shall be handled.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-34

Reorganization according to reorganization plan if public question approved

Sec. 34. (a) This section applies if:

(1) in the case of a reorganization that is not described in section 1(a)(9) of this chapter, the majority of the voters of each of the reorganizing political subdivisions voting on the public question approve the public question concerning the reorganization; or

(2) in the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization is approved as set forth in section 32(b) of this chapter.

(b) The political subdivisions are reorganized in the form and under the conditions specified by the legislative bodies of the reorganizing political subdivisions in the plan of reorganization filed with the county recorder under this chapter.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-35

Appointment of town precinct boards

Sec. 35. (a) This section applies to an initial election:

(1) of the members of a governing body or officers that are elected by the voters for a reorganized political subdivision that:

(A) is a town; and

(B) has town boundaries that encompass part of another town that was part of the reorganization;

(2) that is conducted before the reorganization takes effect; and

(3) to which IC 3-10-7-1 applies.

(b) The members of each precinct board shall be jointly appointed by the town election boards of each of the reorganizing political subdivisions.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-36

Initial election of officials of reorganized political subdivision

Sec. 36. (a) This section applies if section 5 of this chapter requires an election for a reorganization to become effective.

(b) At the next:

(1) general election, if:

(A) the reorganized political subdivision is not a municipality or a school corporation; or

(B) the reorganized political subdivision results from a reorganization including a county and at least one (1) municipality;

(2) municipal election, if the reorganized political subdivision is a municipality; or

(3) primary or general election, as specified in an election plan adopted in substantially identical resolutions by the legislative body of each of the participating political subdivisions if the reorganized political subdivision is a school corporation;

after the voters approve a reorganization, one (1) set of officers for the reorganized political subdivision having the combined population of the reorganizing political subdivisions shall be elected by the voters in the territory of the reorganized political subdivision as prescribed by statute.

(c) In the election described in subsection (b):

(1) one (1) member of the legislative body of the reorganized political subdivision shall be elected from each election district established by the reorganizing political subdivisions in substantially identical resolutions adopted by the legislative body of each of the reorganizing political subdivisions; and

(2) the total number of at large members shall be elected as prescribed by statute for the reorganized political subdivision.

(d) If appointed officers are required in the reorganized political subdivision, one (1) set of appointed officers shall be appointed for the reorganized political subdivision. The appointments shall be made as required by statute for the reorganized political subdivision. Any statute requiring an appointed officer to reside in the political subdivision where the appointed officer resides shall be treated as permitting the appointed officer to reside in any part of the territory of the reorganized political subdivision.

As added by P.L.186-2006, SEC.4. Amended by P.L.113-2010, SEC.112.

IC 36-1.5-4-37
Change of boundaries

Sec. 37. The legislative bodies of the reorganizing political subdivisions and an adjacent political subdivision may change the boundaries of the reorganized political subdivision by adopting substantially identical resolutions clearly describing the boundary changes. The resolutions must be filed as required by law for a boundary change for the reorganized political subdivision and may not provide for a territory that is smaller than the territory permitted by law for any of the political subdivisions. If the law establishes additional procedures for the annexation or disannexation of the territory of a political subdivision, the political subdivisions changing boundaries must comply with the annexation or disannexation procedures required by law.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-38
Powers of reorganized political subdivision

Sec. 38. A reorganized political subdivision has the powers granted by statute to a political subdivision of the same type as the reorganized political subdivision. However, if authorized by the plan of reorganization approved by the voters in a public question under this chapter, the reorganized political subdivision will exercise a power or have the officers or number of offices that a statute would have permitted any of the reorganizing political subdivisions to have.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-39
Exercise of powers of reorganizing political subdivisions

Sec. 39. If a law does not permit the reorganized political subdivision to exercise generally throughout the territory of the reorganized political subdivision a power that any of the reorganizing political subdivisions had before the reorganization, the reorganized political subdivision may exercise the power outside the original territory of the reorganizing political subdivision only by following the laws applicable to the expansion of the service area of the reorganizing political subdivision.
As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-40
Debt; pension obligations

Sec. 40. The following apply in the case of a reorganization under this article:

(1) Indebtedness that was incurred by a political subdivision before the reorganization:

(A) may not be imposed on taxpayers that were not responsible for payment of the indebtedness before the reorganization; and

(B) must be paid by the taxpayers that were responsible for payment of the indebtedness before the reorganization.

(2) Pension obligations existing as of the effective date of the reorganization:

(A) may not be imposed on taxpayers that were not responsible for payment of the pension obligations before the reorganization; and

(B) must be paid by the taxpayers that were responsible for payment of the pension obligations before the reorganization.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-41

Pension fund membership

Sec. 41. (a) Notwithstanding any other law, an individual:

(1) who is employed as a firefighter or a police officer by a political subdivision that is reorganized under this article;

(2) who is a member of the 1977 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the fire department, police department, or county police department of the reorganized political subdivision;

remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter or police officer shall receive credit for any service as a member of the 1977 fund before the reorganization to determine the firefighter's or police officer's eligibility for benefits under IC 36-8-8.

(b) Notwithstanding any other law, an individual:

(1) who is employed as a firefighter by a political subdivision that is reorganized under this article;

(2) who is a member of the 1937 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the fire department of the reorganized political subdivision;

remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the reorganization to determine the firefighter's eligibility for benefits under IC 36-8-7.

(c) Notwithstanding any other law, an individual:

(1) who is employed as a member of a county police department by a political subdivision that is reorganized under this article;

(2) who is a member of the sheriff's pension trust before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes a law enforcement officer of the reorganized political subdivision;

remains a member of the sheriff's pension trust. The individual shall receive credit for any service as a member of the sheriff's pension trust before the reorganization to determine the individual's eligibility for benefits under IC 36-8-10.

(d) Notwithstanding any other law, an individual:

(1) who is employed as a police officer by a political subdivision that is reorganized under this article;

(2) who is a member of the 1925 fund or 1953 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the police department or county police department of the reorganized political subdivision;

remains a member of the 1925 fund or 1953 fund. The police officer shall receive credit for any service as a member of the 1925 fund or 1953 fund before the reorganization to determine the police officer's eligibility for benefits under IC 36-8-6 or IC 36-8-7.5.

(e) Notwithstanding any other law, an individual:

(1) who is employed by a political subdivision that is reorganized under this article;

(2) who is a member of the pre-1996 account (as defined in IC 5-10.4-1-12) before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the reorganized political subdivision in a position that qualifies the individual for service credit in the Indiana state teachers' retirement fund;

remains a member of the pre-1996 account.

As added by P.L.186-2006, SEC.4. Amended by P.L.2-2007, SEC.383.

IC 36-1.5-4-42

Transfer of functions of elected office

Sec. 42. If the functions of an elected office are transferred to another elected office by a reorganization under this article, any law, rule, or agreement that requires or permits an action by an elected officer shall be treated after the functions of the elected officer are transferred as referring to the elected officer to which the functions have been transferred by the reorganization.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-4-43

Termination of reorganization; restoration of reorganizing political subdivisions

Sec. 43. The legislative body or voters of a reorganized political subdivision may terminate a reorganization or restore one (1) or more of the reorganizing political subdivisions participating in a reorganization in the same manner that a reorganization may be initiated under this chapter. If the voters in the reorganized political subdivision approve a public question approving termination of the reorganization or restoration of a reorganizing political subdivision, the reorganized political subdivision shall terminate the reorganization and restore the reorganizing political subdivisions in the same manner as a reorganization is completed under this chapter.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5

Chapter 5. Cooperative Agreements and Transfers of Responsibilities

IC 36-1.5-5-1

Cooperative agreements; method to enter cooperative agreements

Sec. 1. Notwithstanding any other law, two (2) or more political subdivisions may enter into a cooperative agreement under this chapter by using the same procedures set forth in this article for the initiation and approval of a reorganization under this article. A cooperative agreement under this chapter may be initiated and approved only in the manner set forth in this article for the initiation and approval of a reorganization under this article.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-2

Required elements of cooperative agreements

Sec. 2. (a) A cooperative agreement under this chapter must provide at least for the following:

(1) Its duration.

(2) Its purpose.

(3) The manner of financing, staffing, and supplying any joint undertaking and of establishing and maintaining a budget for any joint undertaking that is the subject of the cooperative agreement.

(4) The methods that may be employed in accomplishing the partial or complete termination of the cooperative agreement and for disposing of property upon partial or complete termination of the cooperative agreement.

(5) The manner in which the cooperative agreement is to be administered.

(6) The manner of acquiring, holding, and disposing of real and personal property that is the subject of the cooperative agreement.

(b) A cooperative agreement may include any condition or term that is necessary or appropriate.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-3

Transfer of functions of employee, department, or elected office

Sec. 3. (a) The cooperative agreement may transfer the functions of an employee or a department of a political subdivision, including an elected office, to another employee or department of any political subdivision that has entered into the cooperative agreement.

(b) The functions of an elected office may be transferred only to another elected office.

(c) The cooperative agreement may provide for the abolishment of an elected office that is not required by the Constitution of the State of Indiana.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-4
Sharing of services of employees

Sec. 4. A political subdivision may enter into a cooperative agreement with an entity to share the services of an employee employed by any party to the agreement.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-5
Appropriation and pledge of revenues

Sec. 5. A cooperative agreement may provide that a political subdivision:

(1) may appropriate and pledge any legally available revenues to the payment of the bonds, leases, or other obligations of another political subdivision that is a party to the cooperative agreement; and

(2) will appropriate legally available revenues for any other payment under the cooperative agreement;

if the political subdivision's fiscal body finds that it is necessary, desirable, and in the best interests of the residents of that political subdivision.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-6
Limit on actions under cooperative agreement

Sec. 6. (a) A cooperative agreement may not permit an entity or another instrumentality established to administer the cooperative agreement to take any action that at least one (1) of the parties to the cooperative agreement could not carry out on its own.

(b) A cooperative agreement may permit the transfer of money from one (1) fund of a political subdivision for a use authorized by the cooperative agreement.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-7
Effective date of cooperative agreement transferring functions of elected office

Sec. 7. (a) A cooperative agreement transferring the functions of an elected office becomes effective only at the end of the term of the incumbent that holds the office.

(b) Any law, rule, or agreement that requires or permits an action by an employee or elected officer after the functions of the employee or elected officer are transferred shall be treated as referring to the employee or elected officer to which the functions have been transferred by the cooperative agreement.

As added by P.L.186-2006, SEC.4.

IC 36-1.5-5-8
Adjustment of property tax levies, property tax rates, and budgets

Sec. 8. The department of local government finance shall adjust as necessary tax rates, tax levies, and budgets of political

subdivisions that enter into a cooperative agreement under this chapter in the same manner as tax rates, tax levies, and budgets are adjusted under IC 36-1.5-3 for reorganizing political subdivisions.
As added by P.L.186-2006, SEC.4.

IC 36-2

ARTICLE 2. GOVERNMENT OF COUNTIES GENERALLY

IC 36-2-1

Chapter 1. Division of State Into Counties

IC 36-2-1-1

Names of counties

Sec. 1. Indiana is divided into the ninety-two (92) counties named in this section. The boundaries of these counties existing on August 31, 1981, remain in effect until changed in the manner prescribed by section 2 of this chapter. The counties are:

(1) Adams County.
(2) Allen County.
(3) Bartholomew County.
(4) Benton County.
(5) Blackford County.
(6) Boone County.
(7) Brown County.
(8) Carroll County.
(9) Cass County.
(10) Clark County.
(11) Clay County.
(12) Clinton County.
(13) Crawford County.
(14) Daviess County.
(15) Dearborn County.
(16) Decatur County.
(17) Dekalb County.
(18) Delaware County.
(19) Dubois County.
(20) Elkhart County.
(21) Fayette County.
(22) Floyd County.
(23) Fountain County.
(24) Franklin County.
(25) Fulton County.
(26) Gibson County.
(27) Grant County.
(28) Greene County.
(29) Hamilton County.
(30) Hancock County.
(31) Harrison County.
(32) Hendricks County.
(33) Henry County.
(34) Howard County.
(35) Huntington County.
(36) Jackson County.

(37) Jasper County.
(38) Jay County.
(39) Jefferson County.
(40) Jennings County.
(41) Johnson County.
(42) Knox County.
(43) Kosciusko County.
(44) LaGrange County.
(45) Lake County.
(46) LaPorte County.
(47) Lawrence County.
(48) Madison County.
(49) Marion County.
(50) Marshall County.
(51) Martin County.
(52) Miami County.
(53) Monroe County.
(54) Montgomery County.
(55) Morgan County.
(56) Newton County.
(57) Noble County.
(58) Ohio County.
(59) Orange County.
(60) Owen County.
(61) Parke County.
(62) Perry County.
(63) Pike County.
(64) Porter County.
(65) Posey County.
(66) Pulaski County.
(67) Putnam County.
(68) Randolph County.
(69) Ripley County.
(70) Rush County.
(71) St. Joseph County.
(72) Scott County.
(73) Shelby County.
(74) Spencer County.
(75) Starke County.
(76) Steuben County.
(77) Sullivan County.
(78) Switzerland County.
(79) Tippecanoe County.
(80) Tipton County.
(81) Union County.
(82) Vanderburgh County.
(83) Vermillion County.
(84) Vigo County.
(85) Wabash County.
(86) Warren County.

(87) Warrick County.
(88) Washington County.
(89) Wayne County.
(90) Wells County.
(91) White County.
(92) Whitley County.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-1-2
Changing boundaries; transfer of territory; petition; signatures; election; order

Sec. 2. (a) If the resident voters in a specified territory in two (2) or more contiguous counties desire to change the boundaries of their respective counties, they may file a petition with the executives of their respective counties requesting that the territory be transferred. The petition must:

(1) be signed by at least the number of voters resident in the territory requested to be transferred required to place a candidate on the ballot under IC 3-8-6-3;

(2) contain a clear, distinct description of the requested boundary change; and

(3) not propose to decrease the area of any county below four hundred (400) square miles in compliance with Article 15, Section 7 of the Constitution of the State of Indiana.

(b) Whenever a petition under subsection (a) is filed with a county executive, the executive shall determine, at its first meeting after the petition is filed:

(1) whether the signatures on the petition are genuine; and

(2) whether the petition complies with subsection (a).

(c) If the determinations under subsection (b) are affirmative, the executive shall certify the question to the county election board of each affected county. The county election boards shall jointly order a special election to be held, scheduling the election so that the election is held on the same date in each county interested in the change, but not later than thirty (30) days and not on the same date as a general election. The election shall be conducted under IC 3-10-8-6. All voters of each interested county are entitled to vote on the question. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the boundaries of _____ County and _____ County change?".

(d) After an election under subsection (c), the clerk of each county shall make a certified copy of the election returns and not later than five (5) days after the election file the copy with the auditor of the county. The auditor shall, not later than five (5) days after the filing of the returns in the auditor's office, make a true and complete copy of the returns, certified under the auditor's hand and seal, and deposit the copy with the auditor of every other county interested in the change.

(e) After copies have been filed under subsection (d), the auditor of each county shall call a meeting of the executive of the county,

which shall examine the returns. If a majority of the voters of each interested county voted in favor of change, the executive shall:

(1) enter an order declaring their boundaries to be changed as described in the petition; and

(2) if the county has received territory from the transfer, adopt revised descriptions of:

(A) county commissioner districts under IC 36-2-2-4; and

(B) county council districts under IC 36-2-3-4;

so that the transferred territory is assigned to at least one (1) county commissioner district and at least one (1) county council district.

(f) The executive of each county shall file a copy of the order described in subsection (e)(1) with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of the county.

Except as provided in subsection (g), the transfer of territory becomes effective when the last county order is filed under this subsection.

(g) An order declaring county boundaries to be changed may not take effect during the year preceding a year in which a federal decennial census is conducted. An order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(h) An election under this section may be held only once every three (3) years.

(i) Notwithstanding subsection (g) as that subsection existed on December 31, 2009, a boundary change that took effect January 2, 2010, because of the application of subsection (g), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without an amended order or any other additional action being required.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.5-1986, SEC.32; P.L.3-1987, SEC.541; P.L.5-1989, SEC.85; P.L.12-1995, SEC.126; P.L.3-1997, SEC.450; P.L.2-1998, SEC.82; P.L.123-2000, SEC.1; P.L.113-2010, SEC.113.

IC 36-2-1-3

Order declaring boundaries to be changed; effect

Sec. 3. An order made under section 2(e) of this chapter operates to transfer the detached territory, and all persons and property in that territory, to the jurisdiction of the county to which it is attached for all judicial purposes, either civil or criminal.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-1-4

Taxation; indebtedness existing in interested counties

Sec. 4. If any indebtedness exists in either, both, or all of the interested counties, the fiscal body of the county shall levy, from year to year, a tax upon the detached territory, by such a rate on all the taxable property in the detached district as is necessary to

liquidate and pay the indebtedness of the county from which the territory was detached until the indebtedness is fully paid. The rate may not exceed that levied on the county so indebted. The auditor of each of the affected counties shall certify the rate so levied to the auditor of the county to which the territory was attached, which auditor shall place that rate on the tax duplicate of his county, and the treasurer of that county shall collect the tax, and, on demand of the treasurer of the proper county, shall pay over the revenue as other monies are paid out.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-1-5
Tax list; detached territory

Sec. 5. The executives of the affected counties shall order the auditors of their respective counties to make out a true and complete copy of all the property listed for taxation, either real, personal, or mixed, and all the names that appear upon the tax duplicates of their respective counties embraced within the detached territory, and to transmit the copy to the auditor of the county to which the territory is attached, for the purpose of taxation.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-1-6
Deeds and mortgages of real property in detached territory; copies; filing; evidence

Sec. 6. (a) The executive of a county from which territory is detached shall procure a suitable book and order the recorder of the county to copy in it, from the records in his office, all deeds and mortgages of real property in the detached territory that have been recorded.

(b) The copies made under subsection (a) shall be filed with the recorder of the county to which the territory is attached. If a copy made under subsection (a) is certified by the recorder who copied it as a true and complete copy of the instrument recorded in his office, it shall be admitted as evidence with the same force as the original record.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-1-7
Effect of change in boundaries; officers in office; pending actions in court; taxes due; court orders

Sec. 7. (a) All officers within the detached territory continue in office until replaced by qualified successors.

(b) A change in county boundaries does not affect any action pending in any court. All taxes due the state or county at the time of a boundary change shall be collected in the same manner as if the affected territory had not been detached.

(c) All court orders and judgments entered before a change in county boundaries remain in force until finally satisfied or settled.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-1-8
Revised descriptions of changed boundaries; filing

Sec. 8. (a) Whenever the boundaries of a county are changed, the surveyor shall file a revised description of the boundaries of the county with the office of the secretary of state not later than thirty (30) days after the change takes effect.

(b) The office of the secretary of state shall maintain an accurate file of the boundary descriptions filed under this section.

As added by Acts 1980, P.L.125, SEC.12. Amended by P.L.5-1989, SEC.86; P.L.3-1997, SEC.451; P.L.123-2000, SEC.2.

IC 36-2-1-9
Territory not included in any county

Sec. 9. If any territory in Indiana is not included in one (1) of the counties established under this chapter, the territory is included in the county that:

(1) is contiguous to that territory; and

(2) contains the least population of all counties contiguous to that territory.

As added by P.L.3-1993, SEC.254.

IC 36-2-1-10
Territory included in more than one county

Sec. 10. If any territory in Indiana is included in more than one (1) of the counties established under this chapter, the territory is included in the county that:

(1) is one (1) of the counties in which the territory is described under section 1 of this chapter;

(2) is contiguous to that territory; and

(3) contains the least population of all counties contiguous to that territory.

As added by P.L.3-1993, SEC.255.

IC 36-2-2

Chapter 2. County Executive

IC 36-2-2-1

Application of chapter

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

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.135.

IC 36-2-2-2

Board of commissioners to be county executive

Sec. 2. The three (3) member board of commissioners of a county elected under this chapter is the county executive. In the name of "The Board of Commissioners of the County of _____" the executive shall transact the business of the county.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-3

Election of executive; terms

Sec. 3. (a) The executive shall be elected under IC 3-10-2-13 by the voters of the county. The number of members to be elected to the executive alternates between one (1) and two (2) at succeeding general elections.

(b) The term of office of a member of the executive is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.5-1986, SEC.33.

IC 36-2-2-4

Division of county into districts; membership, duties, and compensation of county redistricting commission; single-member district criteria

Sec. 4. (a) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

The executive shall divide the county into three (3) districts that are composed of contiguous territory and are reasonably compact. The district boundaries drawn by the executive must not cross precinct boundary lines and must divide townships only when a division is clearly necessary to accomplish redistricting under this section. If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A county redistricting commission shall

divide the county into three (3) single-member districts that comply with subsection (d). The commission is composed of:

(1) the members of the Indiana election commission;

(2) two (2) members of the senate selected by the president pro tempore, one (1) from each political party; and

(3) two (2) members of the house of representatives selected by the speaker, one (1) from each political party.

The legislative members of the commission have no vote and may act only in an advisory capacity. A majority vote of the voting members is required for the commission to take action. The commission may meet as frequently as necessary to perform its duty under this subsection. The commission's members serve without additional compensation above that provided for them as members of the Indiana election commission, the senate, or the house of representatives.

(c) This subsection applies to a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). The executive shall divide the county into three (3) single-member districts that comply with subsection (d).

(d) Single-member districts established under subsection (b) or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) contain, as nearly as is possible, equal population; and

(3) not cross precinct lines.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) during the first year after a year in which a federal decennial census is conducted; and

(2) when the county adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.13; Acts 1981, P.L.11, SEC.136; Acts 1981, P.L.17, SEC.6; P.L.10-1988, SEC.236; P.L.13-1988, SEC.13; P.L.5-1989, SEC.87; P.L.12-1992, SEC.150; P.L.2-1996, SEC.287; P.L.122-2000, SEC.20; P.L.230-2005, SEC.82; P.L.119-2012, SEC.179.

IC 36-2-2-4.5

Territory not included in any district

Sec. 4.5. (a) If any territory in a county is not included in one (1) of the districts established under section 4 of this chapter, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(b) If any territory in any county is included in more than one (1)

of the districts established under section 4 of this chapter, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under section 4 of this chapter;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

As added by P.L.3-1993, SEC.256.

IC 36-2-2-4.7

Ordinance to divide county into districts

Sec. 4.7. (a) Whenever the executive divides the county into districts under section 4 of this chapter, the executive shall adopt an ordinance.

(b) The executive shall file a copy of an ordinance adopted under subsection (a) with the circuit court clerk.

As added by P.L.3-1993, SEC.257.

IC 36-2-2-5 Version a

Eligibility; forfeiture of office; number elected

Note: This version of section effective until 4-1-2012. See also following version of this section, effective 4-1-2012.

Sec. 5. (a) To be eligible for election to the executive, a person must meet the qualifications prescribed by IC 3-8-1-21.

(b) A member of the executive must reside within:

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

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

(c) If the person does not remain a resident of the county and district after taking office, the person forfeits the office. The county fiscal body shall declare the office vacant whenever a member of the executive forfeits office under this subsection.

(d) In a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

one (1) member of the executive shall be elected by the voters of each of the three (3) single-member districts established under section 4(b) or 4(c) of this chapter. In other counties, all three (3) members of the executive shall be elected by the voters of the whole county.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.137; Acts 1981, P.L.17, SEC.7; P.L.5-1986, SEC.34; P.L.3-1987, SEC.542; P.L.12-1992, SEC.151; P.L.14-2004, SEC.192; P.L.225-2011, SEC.90; P.L.90-2012, SEC.4.

IC 36-2-2-5 Version b

Eligibility; forfeiture of office; number elected

Note: This version of section effective 4-1-2012. See also

preceding version of this section, effective until 4-1-2012.

Sec. 5. (a) To be eligible for election to the executive, a person must meet the qualifications prescribed by IC 3-8-1-21.

(b) A member of the executive must reside within:

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

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

(c) If the person does not remain a resident of the county and district after taking office, the person forfeits the office. The county fiscal body shall declare the office vacant whenever a member of the executive forfeits office under this subsection.

(d) In a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000);

one (1) member of the executive shall be elected by the voters of each of the three (3) single-member districts established under section 4(b) or 4(c) of this chapter. In other counties, all three (3) members of the executive shall be elected by the voters of the whole county.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.137; Acts 1981, P.L.17, SEC.7; P.L.5-1986, SEC.34; P.L.3-1987, SEC.542; P.L.12-1992, SEC.151; P.L.14-2004, SEC.192; P.L.225-2011, SEC.90; P.L.90-2012, SEC.4; P.L.119-2012, SEC.180.

IC 36-2-2-6

Meetings

Sec. 6. The executive shall hold a regular meeting at least once each month and at other times as needed to conduct all necessary business. Dates of regular meetings shall be established by resolution at the first meeting in January of each year.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.138; Acts 1981, P.L.17, SEC.8; P.L.341-1983, SEC.1.

IC 36-2-2-7

Disqualification of executive in quasi-judicial proceeding; appointment of special members

Sec. 7. (a) If the executive finds that two (2) or more of its members are disqualified from acting in a quasi-judicial proceeding, the disqualified members shall cease to act in that proceeding. Within ten (10) days after the finding, the county auditor shall send a certified copy of the record of the proceeding to the judge of the circuit court for the county. If the judge affirms the disqualification of the members of the executive, he shall appoint disinterested and competent persons to serve as special members of the executive in the proceeding.

(b) A person who consents to serve as a special member of the executive must have the same qualifications as an elected member of

the executive. His appointment and oath shall be filed with the county auditor and entered on the records of the executive, and he may act with the other members of the executive conducting the proceeding until a final determination is reached.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-8
Special meeting; notice

Sec. 8. (a) If the public interest requires a special meeting of the executive, such a meeting may be called by a member of the executive or by:

(1) the county auditor;
(2) the county clerk, if the office of county auditor is vacant; or
(3) the county recorder, if the offices of county auditor and county clerk are both vacant.

(b) An officer calling a special meeting of the executive shall give at least six (6) days notice of the meeting unless the meeting is called to deal with an emergency under IC 5-14-1.5-5. The notice must include a specific statement of the purpose of the meeting, and the executive may not conduct any unrelated business at the meeting.
As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.14; Acts 1981, P.L.17, SEC.9.

IC 36-2-2-9
Location of meetings

Sec. 9. The executive may select a location other than the county courthouse for its meetings only if the courthouse is not suitable, is inconvenient, or has been replaced or supplemented by other buildings to house county government offices.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-10
Business day

Sec. 10. The executive shall keep its office open on each business day.
As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.139; P.L.255-1993, SEC.1.

IC 36-2-2-11
Records of official proceedings

Sec. 11. (a) The county auditor shall attend all meetings of, and record in writing the official proceedings of, the executive.

(b) If a copy of the executive's proceedings has been signed and sealed by the auditor and introduced into evidence in court, that copy is presumed to be an accurate record of the executive's proceedings.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-12
Appointments made by executive

Sec. 12. Appointments made by the executive shall be certified by

the county auditor, under the seal of the executive.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-13
County officer; employment; requisites; violation; offense; penalty

Sec. 13. (a) The executive may employ a person:

(1) to perform a duty required of a county officer by statute; or

(2) on a commission or percentage basis;

only if the employment is expressly authorized by statute or is found by the executive to be necessary to the public interest.

(b) If a person's employment under subsection (a) is not expressly authorized by statute, the contract for his employment must be filed with the circuit court for the county, and he must file his claims for compensation with that court. Any taxpayer may contest a claim under this section.

(c) A member of the executive who recklessly violates this section commits a Class C misdemeanor and forfeits his office.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-14
County administrator; appointment; power and duties; vacancy

Sec. 14. (a) The executive may appoint a county administrator to be the administrative head of the county under the supervision of the executive and to hold office at the pleasure of the executive. The executive may assign any office, position, or duties under its control to the administrator, and may by resolution withdraw any of the powers and duties assigned.

(b) Under the supervision of the executive and with its express authorization by resolution, the administrator may:

(1) assist in the administration and enforcement of policies and resolutions of the executive;

(2) supervise activities of county government subject to the control of the executive;

(3) attend meetings of the executive;

(4) recommend measures for adoption to the executive;

(5) prepare and submit reports that he considers advisable or that the executive requires;

(6) keep the executive fully advised on the financial condition of the county;

(7) prepare and submit a budget for each fiscal year; and

(8) perform other duties that the executive requests by resolution.

(c) If the administrator is absent from his office due to illness, death, vacation, resignation, or removal, the president of the executive, if any, or a qualified person appointed by the executive shall act as administrator until the administrator returns to his duties or the executive appoints a new administrator.
As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.140.

IC 36-2-2-15
Administration of oaths; enforcement powers of executive; execution of executive orders by county sheriff

Sec. 15. (a) The county auditor or a member of the executive may administer all oaths required by this chapter.

(b) The executive may:

(1) punish contempt by a fine of not more than three dollars ($3) or by imprisonment for not more than twenty-four (24) hours; and

(2) enforce its orders by attachment or other compulsory process.

(c) Fines assessed by the executive shall be executed, collected, and paid over in the same manner as other fines.

(d) The county sheriff or a county police officer shall attend the meetings of the executive, if requested by the executive, and shall execute its orders.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.15; P.L.131-1983, SEC.11.

IC 36-2-2-16
Accounts chargeable against county; sums for expenses

Sec. 16. The executive may:

(1) approve accounts chargeable against the county; and

(2) direct the raising of sums necessary for county expenses.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-17
Audit of accounts

Sec. 17. The executive may audit the accounts of officers who deal with money belonging to or appropriated for the benefit of the county.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.16.

IC 36-2-2-18
Annual settlement by executive and county treasurer

Sec. 18. At the regular meeting of the executive in January of each year, the executive and the county treasurer shall make a settlement for the preceding calendar year. A copy of the settlement sheet shall be copied in the order book of the executive.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-19
Annual statement of county's receipts and expenditures; posting and publication

Sec. 19. At its second regular meeting each year, the executive shall make an accurate statement of the county's receipts and expenditures during the preceding calendar year. The statement must include the name of and total compensation paid to each county officer, deputy, and employee. The executive shall post this

statement at the courthouse door and two (2) other places in the county and shall publish it in the manner prescribed by IC 5-3-1.
As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.17; P.L.64-1995, SEC.11; P.L.98-2000, SEC.19.

IC 36-2-2-20
County property; sale; acquisition; orders; ordinance

Sec. 20. The county executive may make orders concerning county property, including orders for:

(1) the sale of the county's public buildings and the acquisition of land in the county seat on which to build new public buildings; and

(2) the acquisition of land for a public square and the maintenance of that square.

However, a conveyance or purchase by a county of land having a value of one thousand dollars ($1,000) or more must be authorized by an ordinance of the county fiscal body fixing the terms and conditions of the transaction.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-21
Repealed

(*Repealed by Acts 1981, P.L.57, SEC.45.)*

IC 36-2-2-22
Repealed

(*Repealed by Acts 1981, P.L.57, SEC.45.)*

IC 36-2-2-23
County property; licenses, permits, or franchises for use; utilities; state consent

Sec. 23. (a) The executive may grant licenses, permits, or franchises for the use of county property if they:

(1) are not exclusive;

(2) are of a definite duration; and

(3) are assignable only with the consent of the executive.

(b) If a public utility or municipally owned or operated utility that carries on business outside the corporate boundaries of municipalities in the county is engaged in an activity substantially similar to that for which a license, permit, or franchise for the use of county property is sought, the executive may grant the license, permit, or franchise only with the consent of the utility regulatory commission. The commission may give its consent only if it determines, after a public hearing of all interested parties, that public necessity and convenience require the substantially similar activity.

(c) The provisions of this section that concern securing the consent of the utility regulatory commission do not apply to municipally owned or operated utilities.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.23-1988, SEC.117.

IC 36-2-2-24
County courthouse, jail, and public offices

Sec. 24. (a) The executive shall establish and maintain a county courthouse, county jail, and public offices for the county clerk, the county auditor, the county recorder, the county treasurer, the county sheriff, the county surveyor, and the county superintendent of schools.

(b) Offices for the surveyor and superintendent of schools must be in the courthouse or at the county seat.

(c) Offices for the sheriff may be located:

(1) in the courthouse;

(2) inside the corporate limits of the county seat; or

(3) outside the corporate limits of the county seat but within the limits of the county.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.65-1994, SEC.2.

IC 36-2-2-25
Notice, report, or statement; cost of publication; violation; offense

Sec. 25. Whenever publication of a notice, report, or statement of any kind is required and a county is liable for the cost of that publication, the executive may not make or pay for publication in more than one (1) newspaper unless publication in two (2) newspapers is required. A person who violates this section commits a Class C infraction.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-26
Repealed

(*Repealed by Acts 1981, P.L.11, SEC.63.)*

IC 36-2-2-27
Appeal of decision of executive; aggrieved party; person not party to proceeding; time limitation

Sec. 27. (a) A party to a proceeding before the executive who is aggrieved by a decision of the executive may appeal that decision to the circuit court for the county.

(b) A person who is not a party to a proceeding before the executive may appeal a decision of the executive only if he files with the county auditor an affidavit:

(1) specifically setting forth his interest in the matter decided; and

(2) alleging that he is aggrieved by the decision of the executive.

(c) An appeal under this section must be taken within thirty (30) days after the executive makes the decision by which the appellant is aggrieved.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-28

Appeal of decision of executive; appellant's bond; transcript of proceedings

Sec. 28. (a) An appellant under section 27 of this chapter must file with the county auditor a bond conditioned on due prosecution of the appeal. The bond is subject to approval by the auditor, and it must be in an amount sufficient to provide security for court costs.

(b) Within twenty (20) days after he receives the appeal bond, the auditor shall prepare a complete transcript of the proceedings of the executive related to the decision appealed from and shall deliver the transcript, all documents filed during the proceedings, and the appeal bond to the clerk of the circuit court.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-29

Appeal of decision of executive; docket; court decision

Sec. 29. (a) An appeal under section 27 of this chapter shall be docketed among the other causes pending in the circuit court and shall be tried as an original cause.

(b) A court may decide an appeal under section 27 of this chapter by:

(1) affirming the decision of the executive; or

(2) remanding the cause to the executive with directions as to how to proceed;

and may require the executive to comply with this decision.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-2-30

Employment of attorney to represent and advise executive

Sec. 30. (a) The executive may employ and fix the compensation of an attorney to represent and advise the executive.

(b) For the purposes of Section 9, Article 2 of the Constitution of the State of Indiana, employment by a county executive as an attorney does not constitute a lucrative office.

As added by P.L.137-1989, SEC.12.

IC 36-2-3

Chapter 3. County Fiscal Body

IC 36-2-3-1

Application of chapter

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

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.141.

IC 36-2-3-2

County council to be county fiscal body

Sec. 2. (a) The seven (7) member county council elected under this chapter is the county fiscal body. The fiscal body shall act in the name of "The _____ County Council".

(b) Notwithstanding subsection (a), in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), the county council has nine (9) members.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.142; P.L.12-1992, SEC.152; P.L.119-2012, SEC.181.

IC 36-2-3-3

Election of fiscal body; terms

Sec. 3. (a) The fiscal body shall be elected under IC 3-10-2-13. Except in a county having only single-member districts, members elected from districts and at large members, respectively, are to be elected in alternate, succeeding general elections under section 4 of this chapter. In a county having only single-member districts, the terms of the members are staggered as was provided by law before September 1, 1980.

(b) The term of office of a member of the fiscal body is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.143; P.L.5-1986, SEC.35.

IC 36-2-3-4

Election of fiscal body; division of county into districts; single-member district criteria

Sec. 4. (a) This subsection does not apply to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal

body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) during the first year after a year in which a federal decennial census is conducted; and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.144; Acts 1981, P.L.17, SEC.10; Acts 1981, P.L.5, SEC.2; P.L.10-1988, SEC.237; P.L.13-1988, SEC.14; P.L.5-1989, SEC.88; P.L.12-1992, SEC.153; P.L.122-2000, SEC.21; P.L.230-2005, SEC.83; P.L.119-2012, SEC.182.

IC 36-2-3-4.5

Territory not included in any district

Sec. 4.5. (a) If any territory in any county is not included in one (1) of the districts established under section 4 of this chapter, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(b) If any territory in any county is included in more than one (1) of the districts established under section 4 of this chapter, the

territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under section 4 of this chapter;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

As added by P.L.3-1993, SEC.258.

IC 36-2-3-4.7

Ordinance for division of county into districts

Sec. 4.7. (a) Whenever the county executive or the county fiscal body divides the county into districts under section 4 of this chapter, the county executive or the county fiscal body shall adopt an ordinance.

(b) The county executive or the county fiscal body shall file a copy of an ordinance adopted under subsection (a) with the circuit court clerk.

As added by P.L.3-1993, SEC.259.

IC 36-2-3-5

Election of fiscal body; prerequisites; forfeiture of office

Sec. 5. (a) To be eligible to serve as a member of the fiscal body, a person must meet the qualifications prescribed by IC 3-8-1-22.

(b) A member of the fiscal body must reside within:

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

(2) the district from which the member was elected, if applicable.

(c) A member who fails to comply with subsection (b) forfeits the office.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.145; Acts 1981, P.L.17, SEC.11; P.L.5-1986, SEC.36; P.L.3-1987, SEC.543; P.L.225-2011, SEC.91; P.L.90-2012, SEC.5.

IC 36-2-3-6

Election of president and president pro tempore; county auditor to serve as clerk; execution of orders by sheriff; employment of legal and administrative personnel

Sec. 6. (a) At its regular meeting required by section 7(b)(1) of this chapter, the fiscal body shall elect a president and president pro tempore from its members.

(b) The county auditor is the clerk of the fiscal body and shall:

(1) preserve the fiscal body's records in his office;

(2) keep an accurate record of the fiscal body's proceedings;

(3) record the ayes and nays on each vote appropriating money or fixing the rate of a tax levy; and

(4) record the ayes and nays on other votes when requested to do so by two (2) or more members.

(c) The county sheriff or a county police officer shall attend the meetings of the fiscal body, if requested by the fiscal body, and shall

execute its orders.

(d) The fiscal body may employ legal and administrative personnel necessary to assist and advise it in the performance of its functions and duties.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.18; Acts 1981, P.L.17, SEC.12; P.L.131-1983, SEC.12.

IC 36-2-3-7

Meetings; location; duties; special meetings; notice; emergency meetings

Sec. 7. (a) The fiscal body shall hold its meetings in the county seat, in the county auditor's office, or in another location provided by the county executive and approved by the fiscal body.

(b) The fiscal body:

(1) shall hold a regular meeting in January after its election, for the purpose of organization and other business;

(2) shall hold a regular meeting annually, as prescribed by IC 6-1.1-17, to adopt the county's annual budget and tax rate;

(3) may hold a special meeting under subsection (c) or (d); and

(4) in the case of a county subject to IC 36-2-3.5, shall hold meetings at a regularly scheduled time each month that does not conflict with the meetings of the county executive.

(c) A special meeting of the fiscal body may be called:

(1) by the county auditor or the president of the fiscal body; or

(2) by a majority of the members of the fiscal body.

At least forty-eight (48) hours before the meeting, the auditor, president, or members calling the meeting shall give written notice of the meeting to each member of the fiscal body and publish, at least one (1) day before the meeting, the notice in accordance with IC 5-3-1-4. This subsection does not apply to a meeting called to deal with an emergency under IC 5-14-1.5-5.

(d) If a court orders the county auditor to make an expenditure of county money for a purpose for which an appropriation has not been made, the auditor shall immediately call an emergency meeting of the fiscal body to discuss the matter. Notwithstanding subsection (c), the meeting must be held within three (3) working days of the receipt of the order by the auditor, and notice of the meeting day, time, and places is sufficient if:

(1) given by telephone to the members of the fiscal body; and

(2) given according to IC 5-14-1.5.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.19; Acts 1981, P.L.11, SEC.146; Acts 1981, P.L.17, SEC.13; Acts 1982, P.L.33, SEC.17.

IC 36-2-3-8

Adverse interest; forfeiture

Sec. 8. A member of the fiscal body who purchases a bond, order, claim, or demand against the county for less than its face value shall forfeit it to the county and may not enforce it by legal action.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-3-9

Expulsion of member of fiscal body; declaring seat of member vacant; procedure

Sec. 9. The fiscal body may:

(1) expel any member for violation of an official duty;

(2) declare the seat of any member vacant if he is unable or fails to perform the duties of his office; and

(3) adopt its own rules to govern proceedings under this section, but a two-thirds (2/3) vote is required to expel a member or vacate his seat.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-3-10

Employment of attorney to represent and advise fiscal body

Sec. 10. (a) The fiscal body may employ and fix the compensation of an attorney to represent and advise the fiscal body.

(b) For the purposes of Section 9, Article 2 of the Constitution of the State of Indiana, employment by a county fiscal body as an attorney does not constitute a lucrative office.

As added by P.L.137-1989, SEC.13.

IC 36-2-3.5

Chapter 3.5. Division of Powers of Certain Counties

IC 36-2-3.5-1

Application of chapter

Sec. 1. This chapter applies to:

(1) a county having a population of:

(A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); and

(2) any other county not having a consolidated city, if both the county executive and the county fiscal body adopt identical ordinances providing for the county to be governed by this chapter beginning on a specified effective date.

As added by Acts 1981, P.L.11, SEC.147. Amended by Acts 1981, P.L.307, SEC.1; P.L.12-1992, SEC.154; P.L.119-2012, SEC.183.

IC 36-2-3.5-2

Executive and legislative branches; separation of powers

Sec. 2. The powers of the county are divided between the executive and legislative branches of its government. A power belonging to one (1) branch of the county's government may not be exercised by the other branch.

As added by Acts 1981, P.L.11, SEC.147.

IC 36-2-3.5-3

Board of commissioners as executive; county council as legislative and fiscal body

Sec. 3. The board of commissioners elected under IC 36-2-2 is the county executive. The county council elected under IC 36-2-3 is the county legislative body as well as the county fiscal body.

As added by Acts 1981, P.L.11, SEC.147.

IC 36-2-3.5-4

Executive powers and duties

Sec. 4. (a) All powers and duties of the county that are executive or administrative in nature shall be exercised or performed by its executive, except to the extent that these powers and duties are expressly assigned to other elected officers.

(b) The executive shall:

(1) report the state of the county annually before March 1 to the county legislative body and to the people of the county;

(2) recommend annually before March 1 to the legislative body whatever action or program it considers necessary for the improvement of the county and the welfare of its residents;

(3) submit to the legislative body an annual budget in accordance with IC 36-2-5;

(4) establish the procedures to be followed by all county departments, offices, and agencies under its jurisdiction to the

extent these procedures are not expressly assigned to other elected officers;

(5) administer all statutes applicable to the county, and its ordinances and regulations, to the extent these matters are not expressly assigned to other elected officers;

(6) supervise the care and custody of all county property;

(7) supervise the collection of revenues and control all disbursements and expenditures, and prepare a complete account of all expenditures, to the extent these matters are not expressly assigned to other elected officers;

(8) review, analyze, and forecast trends for county services and finances, and programs of all county governmental entities, and report and recommend on these to the legislative body by March 15 each year;

(9) negotiate contracts for the county;

(10) make recommendations concerning the nature and location of county improvements, and provide for the execution of those improvements;

(11) supervise county administrative offices except for the offices of elected officers; and

(12) perform other duties and functions that are imposed on it by statute or ordinance.

(c) The executive may:

(1) order any agency under its jurisdiction to undertake any task for any other agency under its jurisdiction on a temporary basis, if necessary for the proper and efficient administration of county government;

(2) approve or veto ordinances passed by the legislative body, in the manner prescribed by IC 36-2-4-8; and

(3) establish and administer centralized budgeting, centralized personnel selection, and centralized purchasing.

As added by Acts 1981, P.L.11, SEC.147.

IC 36-2-3.5-5

Legislative powers and duties

Sec. 5. (a) All powers and duties of the county that are legislative in nature shall be exercised or performed by its legislative body.

(b) The legislative body may:

(1) establish the committees that are necessary to carry out its functions;

(2) employ legal and administrative personnel necessary to carry out its functions;

(3) pass all ordinances, orders, resolutions, and motions for the government of the county, in the manner prescribed by IC 36-2-4;

(4) receive gifts, bequests, and grants from public or private sources;

(5) conduct investigations into the conduct of county business for the purpose of correcting deficiencies and insuring adherence to law and county policies and regulations; and

(6) establish, by ordinance, new county departments, divisions, or agencies whenever necessary to promote efficient county government.

As added by Acts 1981, P.L.11, SEC.147.

IC 36-2-3.5-6

Elections; stay upon failure to divide county into districts; court orders

Sec. 6. (a) A court may issue an order, before final hearing, to stay an election if there is sufficient evidence to withstand a motion for summary judgment that the county has not been divided into districts that comply with IC 36-2-2-4 or IC 36-2-3-4. A preliminary hearing on the question may be held upon the court's own motion.

(b) Final judgment on the merits in such a case shall be made within thirty (30) days of the stay of election order. If the redistricting is found not to be in compliance with law, the court shall retain jurisdiction and shall order the proper officials to submit within thirty (30) days a redistricting plan complying with law. If the proper officials fail to comply with the order, the court shall order the Indiana election commission to divide the county into districts in compliance with law.

As added by Acts 1981, P.L.11, SEC.147. Amended by P.L.2-1996, SEC.288.

IC 36-2-4

Chapter 4. Legislative Procedures

IC 36-2-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 7 and 8 of this chapter by P.L.335-1985 do not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.335-1985 had not been enacted.

As added by P.L.220-2011, SEC.642.

IC 36-2-4-1

Application of chapter

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

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-4-2

Adoption of ordinance, order, resolution, or motion

Sec. 2. A county executive or county fiscal body adopting an ordinance, order, resolution, or motion for the government of the county or the transaction of county business must comply with this chapter.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.148.

IC 36-2-4-3

Quorum

Sec. 3. (a) A majority of all the elected members constitutes a quorum, except as provided by subsection (b).

(b) A county fiscal body may, by a two-thirds (2/3) vote, adopt a rule specifying that a certain number of members greater than a majority constitutes a quorum.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.149; Acts 1981, P.L.17, SEC.14.

IC 36-2-4-4

Majority vote; two-thirds vote

Sec. 4. (a) A requirement that an ordinance, resolution, or other action be passed by a majority vote means at least a majority vote of all the elected members.

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

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-4-5

Majority vote required to pass ordinance

Sec. 5. A majority vote is required to pass an ordinance, unless a greater vote is required by statute.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-4-6
Disagreements on question; continuance

Sec. 6. If only two (2) members of a county executive are present at a meeting of the executive, and they disagree on a question that is before the executive, the question shall be continued until the next meeting.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-4-7
Consent to pass ordinance; inapplicability to additional appropriations and zoning ordinances

Sec. 7. (a) This section does not apply to:

(1) an ordinance of a county fiscal body for additional appropriations; or

(2) a zoning ordinance or amendment to a zoning ordinance that is adopted under IC 36-7.

(b) Unanimous consent of the members present is required to pass an ordinance on the same day or at the same meeting at which it is introduced.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.335-1985, SEC.31.

IC 36-2-4-8
Adoption and effective date of ordinance, order, or resolution; requirements

Sec. 8. (a) An ordinance, order, or resolution is considered adopted when it is signed by the presiding officer. If required, an adopted ordinance, order, or resolution must be promulgated or published according to statute before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1. However, if such an ordinance is adopted by the legislative body of a county subject to IC 36-2-3.5 and there is an urgent necessity requiring its immediate effectiveness, it need not be published if:

(1) the county executive proclaims the urgent necessity; and

(2) copies of the ordinance are posted in three (3) public places in each of the districts of the county before it takes effect.

(c) The following apply in addition to the other requirements of this section:

(1) An ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 is considered adopted only if it is:

(A) approved by signature of a majority of the county executive;

(B) neither approved nor vetoed by a majority of the

executive, within ten (10) days after passage by the legislative body; or

(C) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(2) Subject to subsection (g), the legislative body of a county shall:

(A) subject to subdivision (3), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

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

(3) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subdivision (2)(A).

(4) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subdivision (2).

(5) The failure of an environmental restrictive ordinance to comply with subdivision (4) does not void the ordinance.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

(1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or

(2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section (other than subsection (c)(2)) does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(f) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

(g) The notice requirements of subsection (c)(2) apply only if the municipal corporation received under IC 13-25-5-8.5(f) written

notice that the department is relying on the environmental restrictive ordinance referred to in subsection (c)(2) as part of a risk based remediation proposal:

(1) approved by the department; and

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

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.150; P.L.192-1984, SEC.1; P.L.335-1985, SEC.32; P.L.100-2003, SEC.1; P.L.78-2009, SEC.23; P.L.159-2011, SEC.44.

IC 36-2-4-9
Recording of ordinance; effect

Sec. 9. Within a reasonable time after an ordinance is adopted, the county auditor shall record it in a book kept for that purpose. The record must include the signature of the presiding officer and the attestation of the auditor. The record, or a certified copy of the record, is presumptive evidence that the ordinance was adopted and took effect.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-4-10
Meetings; rules

Sec. 10. A county executive or county fiscal body may adopt rules for the transaction of business at its meetings.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-4-11
Seal

Sec. 11. A county executive shall use a common seal.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-5
Chapter 5. Budget Procedures

IC 36-2-5-1
Application of chapter

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

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-5-2
Taxation; appropriations

Sec. 2. (a) The county fiscal body shall fix:

(1) the rate of taxation for county purposes; and

(2) the rate of taxation for other purposes whenever the rate is not fixed by statute and is required to be uniform throughout the county.

(b) The county fiscal body shall appropriate money to be paid out of the county treasury, and money may be paid out of the treasury only under an appropriation made by the fiscal body, except as otherwise provided by law.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.151.

IC 36-2-5-3
Compensation of officers and employees; other payments; local health department; not applicable to community corrections programs

Sec. 3. (a) The county fiscal body shall fix the compensation of officers, deputies, and other employees whose compensation is payable from the county general fund, county highway fund, county health fund, county park and recreation fund, aviation fund, or any other fund from which the county auditor issues warrants for compensation. This includes the power to:

(1) fix the number of officers, deputies, and other employees;

(2) describe and classify positions and services;

(3) adopt schedules of compensation; and

(4) hire or contract with persons to assist in the development of schedules of compensation.

(b) Subject to subsection (e), the county fiscal body shall provide for a county assessor or elected township assessor who has attained a level two or level three certification under IC 6-1.1-35.5 to receive annually one thousand dollars ($1,000), which is in addition to and not part of the annual compensation of the assessor. Subject to subsection (e), the county fiscal body shall provide for a county or township deputy assessor who has attained a level two or level three certification under IC 6-1.1-35.5 to receive annually five hundred dollars ($500), which is in addition to and not part of the annual compensation of the county or township deputy assessor.

(c) Notwithstanding subsection (a), the board of each local health department shall prescribe the duties of all its officers and

employees, recommend the number of positions, describe and classify positions and services, adopt schedules of compensation, and hire and contract with persons to assist in the development of schedules of compensation.

(d) This section does not apply to community corrections programs (as defined in IC 11-12-1-1 and IC 35-38-2.6-2).

(e) Subsection (b) applies regardless of whether the assessor or deputy assessor attained the level two certification:

(1) while in office; or

(2) before assuming office.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.152; P.L.16-1986, SEC.77; P.L.2-1993, SEC.200; P.L.135-1993, SEC.10; P.L.198-2001, SEC.104; P.L.178-2002, SEC.113; P.L.219-2007, SEC.106.

IC 36-2-5-4

Statements and recommendations on positions and compensation; budget requests

Sec. 4. (a) Before July 2 of each year, each officer, board, commission, and agency subject to this chapter shall file with the county auditor a statement that shows in detail the positions for which compensation will be requested in the annual budget for the next year and the amount or rate of compensation proposed for each full-time or part-time position. The statement must be on a form prescribed by the state board of accounts.

(b) The county auditor shall present the statements submitted under subsection (a) to the county executive at its July meeting. The county executive shall review the statements and make its recommendations on them. Before August 20 the county executive shall present the statements and recommendations to the county fiscal body.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-5-5

Itemized estimate of money required by county officer and township assessor

Sec. 5. (a) Before the Thursday after the first Monday in August of each year, each county officer and township assessor (if any) shall prepare an itemized estimate of the amount of money required for the officer's or assessor's office for the next calendar year. Each budget estimate under this section must include:

(1) the compensation of the officer;

(2) the expense of employing deputies;

(3) the expense of office supplies, itemized by the quantity and probable cost of each kind of supplies;

(4) the expense of litigation for the office; and

(5) other expenses of the office, specifically itemized;

that are payable out of the county treasury.

(b) If all or part of the expenses of a county office may be paid out of the county treasury, but only under an order of the county

executive to that effect, the expenses of the office shall be included in the officer's budget estimate and may not be included in the county executive's budget estimate.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.222-1997, SEC.1; P.L.146-2008, SEC.687.

IC 36-2-5-6
Itemized estimate of money required by clerks of court

Sec. 6. (a) Before the Thursday after the first Monday in August of each year, each clerk of a court in the county shall prepare a separate estimate of the amount of money required for each court of which he is clerk for the next calendar year. If a court has two (2) or more judges who preside in separate rooms or over separate divisions, the clerk shall prepare a separate itemized estimate for court expenses in each room or division. Each clerk's budget estimate must include:

(1) the part of the judge's compensation that is, by statute, payable out of the county treasury;
(2) the compensation of the probate commissioner;
(3) the expense of employing bailiffs;
(4) the amount of jury fees;
(5) the amount of witness fees that are, by law, payable out of the county treasury;
(6) the expense of employing special judges; and
(7) other expenses of the court, specifically itemized.

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

(c) The estimate of the amount of money required for a court or division of a court is subject to modification and approval by the judge of the court or division and shall be submitted to him for that purpose before being presented to the county auditor.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-5-7
County executive's budget estimate

Sec. 7. Before the Thursday after the first Monday in August of each year, the county executive shall prepare an itemized estimate of all money to be drawn by the members of the executive and all expenditures to be made by the executive or under its orders during the next calendar year. Each executive's budget estimate must include:

(1) the expense of construction, repairs, supplies, employees, and agents, and other expenses at each building or institution maintained in whole or in part by money paid out of the county treasury;
(2) the expense of constructing and repairing bridges, itemized by the location of and amount for each bridge;
(3) the compensation of the attorney representing the county;

(4) the compensation of attorneys for indigents;
(5) the expenses of the county board of health;
(6) the expense of repairing county roads, itemized by the location of and amount for each repair project;
(7) the estimated number of precincts in the county and the amount required for election expenses, including compensation of election commissioners, inspectors, judges, clerks, and sheriffs, rent, meals, hauling and repair of voting booths and machines, advertising, printing, stationery, furniture, and supplies;
(8) the amount of principal and interest due on bonds and loans, itemized for each loan and bond issue;
(9) the amount required to pay judgments, settlements, and court costs;
(10) the expense of supporting inmates of benevolent or penal institutions;
(11) the expense of publishing delinquent tax lists;
(12) the amount of compensation of county employees that is payable out of the county treasury;
(13) the expenses of the county property tax assessment board of appeals; and
(14) other expenditures to be made by the executive or under its orders, specifically itemized.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.137-1989, SEC.14; P.L.6-1997, SEC.204.

IC 36-2-5-8
Verified certificate and opinion of requirements

Sec. 8. A certificate, verified by the officer preparing it and stating that in his opinion the amount fixed in each item will be required for the purpose indicated, must be attached to each budget estimate prepared under this chapter.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-5-9
Presentation of budget estimates; public inspection; notice

Sec. 9. Before the Thursday after the first Monday in August of each year, persons preparing budget estimates under this chapter shall present them to the county auditor, who shall file them in his office and make them available for inspection by county taxpayers. The auditor shall also comply with the notice requirements of IC 6-1.1-17-3.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.45, SEC.9.

IC 36-2-5-10
Preparation of ordinances fixing rate of taxation and making appropriations by items

Sec. 10. Before the county fiscal body's annual meeting under IC 36-2-3-7(b)(2), the county auditor shall prepare:

(1) an ordinance fixing the rate of taxation for taxes to be collected in the next calendar year; and

(2) an ordinance making appropriations by items for the next calendar year for the various purposes for which budget estimates are required.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-5-11

Annual county fiscal body meeting; presentation of budget estimates and recommendations by county auditor; tax rate and appropriations; consideration of statements and recommendations

Sec. 11. (a) At the county fiscal body's annual meeting under IC 36-2-3-7(b)(2), the county auditor shall present the budget estimates filed with him under section 9 of this chapter and the ordinances prepared by him under section 10 of this chapter. He may also present his recommendations concerning the estimates.

(b) At its annual meeting under IC 36-2-3-7(b)(2), the county fiscal body shall fix the county tax rate and make appropriations for the next calendar year by:

(1) adopting the ordinances presented by the county auditor;

(2) amending the ordinances presented by the county auditor; or

(3) substituting other ordinances for those presented by the county auditor.

Each ordinance must be read on at least two (2) separate days before its final adoption. The fiscal body may require the preparer of an estimate that is not sufficiently itemized to itemize it in more detail. At least a three-fourths (3/4) vote (as described in IC 36-1-8-14) of the fiscal body is required to make an appropriation for an item not contained in an estimate or for a greater amount than that named in an item of an estimate.

(c) At its annual meeting under IC 36-2-3-7(b)(2), the county fiscal body shall consider the statements and recommendations submitted by the county executive under section 4(b) of this chapter and shall then adopt an ordinance, separate from those adopted under subsection (b), fixing:

(1) the compensation of all officers, deputies and other employees subject to this chapter; and

(2) the number of deputies and other employees for each office, department, commission, or agency, except part-time and hourly rated employees, whose employment shall be limited only by the amount of funds appropriated to pay their compensation.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.125-2001, SEC.2.

IC 36-2-5-12

Additional appropriations

Sec. 12. (a) If, after the adjournment of its annual meeting under IC 36-2-3-7(b)(2), the county fiscal body finds that an emergency requiring additional appropriations exists, it may make additional appropriations at a special meeting. Estimates of the necessary

amount of additional appropriations must be prepared and presented in an ordinance as prescribed by this chapter.

(b) Except as provided in subsection (c), an additional appropriation under this section must be passed by at least a majority vote of all elected members of the county fiscal body.

(c) Notwithstanding IC 36-2-4-5, a county fiscal body may adopt an ordinance that requires an additional appropriation under this section to be passed by an affirmative vote of a certain number of members greater than a majority of all elected members of the county fiscal body.

(d) An ordinance adopted under subsection (c) requiring an affirmative vote of a certain number of members greater than a majority of all elected members of the fiscal body to pass an additional appropriation must be adopted or repealed by a majority vote of all elected members of the county fiscal body.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.20; P.L.125-2001, SEC.3.

IC 36-2-5-13

Change of compensation of county officers and employees

Sec. 13. (a) Except as provided in subsection (b), the compensation of an elected county officer may not be changed in the year for which it is fixed. The compensation of other county officers, deputies, and employees or the number of each may be changed at any time on:

(1) the application of the county fiscal body or the affected officer, department, commission, or agency; and

(2) a majority vote of the county fiscal body.

(b) In the year in which a newly elected county officer takes office, the county fiscal body may at any time change the compensation for holding the county office for that year if:

(1) the county officer requests the compensation change or, in the case of the county executive body, a majority of the county executive body requests the change; and

(2) the county fiscal body votes to approve the change.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.178-2002, SEC.114; P.L.240-2005, SEC.2.

IC 36-2-5-14

Nonapplicability of chapter to certain salaries; limitations on appropriations

Sec. 14. (a) This chapter does not affect the salaries of judges, officers of courts, prosecuting attorneys, and deputy prosecuting attorneys whose minimum salaries are fixed by statute, but the county fiscal body may make appropriations to pay them more than the minimums fixed by statute subject to subsection (b).

(b) Beginning July 1, 1995, an appropriation made under this section may not exceed five thousand dollars ($5,000) for each judge or full-time prosecuting attorney in any calendar year.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.279-1995,

SEC.21; P.L.280-1995, SEC.23; P.L.2-1996, SEC.289.

IC 36-2-6
Chapter 6. Fiscal Administration

IC 36-2-6-1
Application of chapter
Sec. 1. This chapter applies to all counties.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-6-2
Claims against county; procedure
Sec. 2. A person who has a claim against a county shall file an invoice or a bill with the county auditor. The auditor shall present the invoice or bill to the executive, which shall examine the merits of the claim. The executive may allow any part of the claim that it finds to be valid.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.39-1996, SEC.9.

IC 36-2-6-3
Inapplicability of section to certain claims; publication of court allowances; payments in violation; offense
Sec. 3. (a) This section does not apply to claims for salaries fixed in a definite amount by ordinance or statute, per diem of jurors, and salaries of officers of a court.
(b) The county auditor shall publish all allowances made by courts of the county. Court allowances shall be published at least three (3) days before the issuance of warrants in payment of those allowances. Allowances subject to this section shall be published as prescribed by IC 5-3-1 except that only one (1) publication in two (2) newspapers is required.
(c) A county auditor who issues warrants in payment of allowances made by a court of the county, before compliance with subsection (b), commits a Class C infraction.
(d) A county auditor shall publish one (1) time in accordance with IC 5-3-1 a notice of all allowances made by a circuit or superior court. The notice must be published within sixty (60) days after the allowances are made and must state their amount, to whom they are made, and for what purpose they are made.
As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.127, SEC.2; P.L.52-1987, SEC.2; P.L.64-1995, SEC.12; P.L.141-2009, SEC.7.

IC 36-2-6-4
Allowance and payment of claims; requirements; violation; offense; action to recover illegal allowance
Sec. 4. (a) This section does not apply to a county having a consolidated city.
(b) Except as provided in section 4.5 of this chapter, the county executive may allow a claim or order the issuance of a county warrant for payment of a claim only at a regular or special meeting

of the executive. The county auditor may issue a county warrant for payment of a claim against the county only if the executive or a court orders him to do so. However, this subsection does not apply to the issuance of warrants related to management of the common or congressional school fund.

(c) The county executive may allow a claim if the claim:

(1) complies with IC 5-11-10-1.6; and

(2) is placed on the claim docket by the auditor at least five (5) days before the meeting at which the executive is to consider the claim.

(d) A county auditor or member of a county executive who violates this section commits a Class C infraction.

(e) A county auditor who violates this section is liable on his official bond for twice the amount of the illegally drawn warrant, which may be recovered for the benefit of the county by a taxpayer of the county. A person who brings an action under this subsection shall give security for costs, and the court shall allow him a reasonable sum, including attorney's fees, out of the money recovered as compensation for his trouble and expense in bringing the action. This compensation shall be specified in the court's order.

(f) If, within sixty (60) days after the county executive allows a claim, a taxpayer of the county demands that the executive refund that allowance to the county, and the executive refuses to do so, the taxpayer may bring an action to recover an illegal, unwarranted, or unauthorized allowance for the benefit of the county. A person who brings an action under this subsection shall give security for costs, and the court shall allow him a reasonable sum, including attorney's fees, out of the money recovered as compensation for his trouble and expense in bringing the action. This compensation shall be specified in the court's order.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.39-1996, SEC.10; P.L.89-2001, SEC.5.

IC 36-2-6-4.5

Claim payments in advance of board allowance

Sec. 4.5. (a) A county executive may adopt an ordinance allowing money to be disbursed for lawful county purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the county auditor may make claim payments in advance of board allowance for the following kinds of expenses if the county executive has adopted an ordinance under subsection (a):

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.
(7) Maintenance or service agreements.
(8) Leases or rental agreements.
(9) Bond or coupon payments.
(10) Payroll.
(11) State or federal taxes.
(12) Expenses that must be paid because of emergency circumstances.
(13) Expenses described in an ordinance.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the county auditor.

(d) The county executive or the county board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

As added by P.L.89-2001, SEC.6. Amended by P.L.234-2005, SEC.191; P.L.145-2006, SEC.373; P.L.146-2008, SEC.688; P.L.141-2009, SEC.8.

IC 36-2-6-5

Supplies; review of invoice and certification; approval of claim on contract; allowance

Sec. 5. (a) A county officer or employee authorized to receive supplies contracted for by the county shall review the invoice or bill for the supplies item by item and certify in writing on the invoice or bill:

(1) the fact that the supplies listed on the invoice or bill have been delivered to him in compliance with the contract; or
(2) the facts showing a breach of contract.

If the officer or employee discovers a breach of contract on receipt of the supplies, he shall deduct a just amount from the invoice or bill. The officer or employee shall immediately file his certificate and the bill or invoice with the county auditor.

(b) The county executive may approve a claim on a contract for supplies only if:

(1) it finds that the claimant has complied with the contract; and
(2) the county auditor certifies in writing that the invoice or bill for the supplies corresponds with the contract as to quality and prices.

The executive may not use a county auditor's certificate as the sole basis for this finding.

(c) The county executive may make an allowance for printed blanks or stationery for a county officer only if they are to be used for the benefit of the county.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-6-6

Claim for work on contract; certification of supervisor; allowance

Sec. 6. (a) The county executive may allow a contract claim for

work that was to be conducted under the supervision of the county surveyor, or an architect, engineer, superintendent, or inspector appointed by the executive, only if that supervisor certifies in writing on the claim that the work listed in the claim has been performed according to the contract and that the claim is due and owing under the contract. The supervisor's certificate must be filed with the claim.

(b) A county executive may not allow a claim on a contract covered by this section solely on the basis of the supervisor's certificate.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-6-7

Payment of claims; warrants; requirements

Sec. 7. (a) The county auditor may issue a warrant for money to be paid out of the county treasury in payment of a claim only if the claim:

(1) complies with IC 5-11-10-1.6; and

(2) is filed with the auditor more than five (5) days before the first day of the meeting of the county executive at which it is allowed.

(b) The county auditor may issue a warrant for money to be paid out of the county treasury in payment of a claim:

(1) for supplies; or

(2) on a contract with the county executive for the execution of a public work;

only if the supplies were purchased or the contract was made in compliance with this article.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.39-1996, SEC.11.

IC 36-2-6-8

Prohibited allowances; allowances to certain officers; violation; offense

Sec. 8. (a) The county executive or a court may not make an allowance to a county officer for:

(1) services rendered in a criminal action;

(2) services rendered in a civil action; or

(3) extra services rendered in the county officer's capacity as a county officer.

(b) The county executive may make an allowance to the clerk of the circuit court, county auditor, county treasurer, county sheriff, township assessor (if any), or county assessor, or to any of those officers' employees, only if:

(1) the allowance is specifically required by law; or

(2) the county executive finds, on the record, that the allowance is necessary in the public interest.

(c) A member of the county executive who recklessly violates subsection (b) commits a Class C misdemeanor and forfeits the member's office.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.222-1997,

SEC.2; P.L.146-2008, SEC.689.

IC 36-2-6-9
Appeal of decision by county executive by aggrieved person; procedure

Sec. 9. A person aggrieved by a decision of the county executive made under section 2 of this chapter may appeal that decision to the circuit or superior court of the county or bring an action against the county. An appeal must be taken within thirty (30) days of the executive's action and must be accompanied by a bond covering court costs and payable to the executive. If the appeal does not result in an increase of the executive's original allowance, the appellant shall pay the costs of the appeal.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-6-10
Judgments obligating county to exceed its appropriation

Sec. 10. A court may obligate the county to exceed its appropriation for that court only by judgment rendered in a cause in which the court has jurisdiction of the parties and subject matter of the action. An obligation imposed on a county in violation of this section is void.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-6-11
Charge of claim against appropriation; apportionment

Sec. 11. Whenever the county auditor draws a warrant for a claim under this chapter he shall charge the claim against the appropriation made for that purpose. If the claim is for materials, supplies, or labor for more than one (1) officer or institution, the auditor shall apportion the claim and charge the proper amount against the appropriation for each officer or institution. Similar apportionments shall be made in other cases in which a claim should be charged to more than one (1) appropriation.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-6-12
Drawing of warrant on county treasury; notification of depletion of treasury; liability of county treasurer or county officer; void agreements

Sec. 12. (a) A warrant for the payment of money may be drawn on the county treasury only if there is money in the county treasury.

(b) The county treasurer shall notify county officers authorized to draw warrants on the county treasury when there is no money in the county treasury. A county treasurer is liable on his official bond to persons holding county warrants if those warrants were issued:

(1) when there was no money in the county treasury; and
(2) before the county treasurer gave the notice required by this subsection.

The treasurer is liable for the amount of those warrants, plus interest.

(c) A county officer or member of the county executive who:

(1) recklessly issues a bond, certificate, or warrant for the payment of money that would require the county to exceed its appropriation for the bond, certificate, or warrant; or

(2) enters into an agreement of any type that would require the county to exceed its appropriation for a particular purpose;

commits a Class B misdemeanor and is liable on his official bond to any person injured by his offense.

(d) An agreement of any type that:

(1) is entered into by the county executive or a county officer, agent, or employee; and

(2) would require the county to exceed its appropriation for a particular purpose;

is void.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-6-13

Recovery of payments in violation of article

Sec. 13. (a) Money paid out of the county treasury in violation of this article may be recovered by the county executive in an action in the name of the state against the officer who paid the money or assisted in the payment, the person who received the money, or both. If the county executive fails to bring the action within thirty (30) days after the illegal payment, a citizen or taxpayer may make a written demand on the county executive to bring the action and may then bring the action in the name of the state for the benefit of the county if the executive fails to comply with his demand.

(b) If an action brought under this section is successful, the court shall award the amount of money paid out of the treasury illegally, plus interest at the rate of six percent (6%) per year, to the county and shall award reasonable attorney's fees and expenses to the plaintiff.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-6-14

Money received for taxes; record; certification of gross amount received

Sec. 14. The county treasurer shall keep a record of all money he receives for taxes imposed by the county fiscal body, and, on the first day of each month, shall certify the gross amount of taxes received during the preceding month to the county auditor. The part of that amount that belongs to the county may be used by the county to pay any item of appropriation for that year.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-6-14.5

Special assessment required to be certified to county auditor

Sec. 14.5. Notwithstanding any other provision of law, a special assessment required to be certified to the county auditor and added to the tax duplicate by law shall be certified within each county on

or before a uniform date or dates established by the legislative body of that county. If the legislative body of a county does not establish a date for the certification required by this section, a special assessment required to be certified to the county auditor and added to the tax duplicate by law shall be certified on or before March 1.
As added by P.L.154-1999, SEC.3.

IC 36-2-6-15
Settlement made by county executive with county, township, or school officer; overpayment

Sec. 15. (a) A settlement made by the county executive with a county, township, or school officer is binding on the state or county only if the officer has accounted for all money he has collected by virtue of his office and has performed every duty required of him by law. If the settlement is not binding, the officer and his sureties are liable as if no settlement had been made.

(b) If the county executive finds that through mistake or any other cause a county, township, or school officer has paid over to the county, or reported, settled, or accounted to the county executive for more money than he owed, the executive may:

(1) order that the officer be repaid out of the proper fund and be given the proper credit by the county auditor; or

(2) if the money has not yet been paid by the officer, release so much of his debt as it finds to be mistaken.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-6-16
Repealed

(*Repealed by P.L.252-1993, SEC.6.)*

IC 36-2-6-17
Purchase of supplies for county institutions

Sec. 17. (a) This section applies to purchases of supplies used for the maintenance and subsistence of persons confined to, living in, or treated at county institutions.

(b) Supplies shall be contracted for and shall be purchased by the business manager or purchasing agent of each county institution.

(c) The executive shall make contracts for:

(1) meats;

(2) groceries;

(3) dry goods;

(4) fuel; and

(5) furniture and equipment;

at stated prices, leaving the quantity to vary with the needs of the county.
As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.21; P.L.252-1993, SEC.4.

IC 36-2-6-18
Loans; bonds; tax anticipation warrants; deficits

Sec. 18. (a) The county fiscal body may, by ordinance:

(1) make loans for the purpose of procuring money to be used in the exercise of county powers and for the payment of county debts other than current running expenses, and issue bonds or other county obligations to refund those loans;

(2) make temporary loans to meet current running expenses, in anticipation of and not in excess of county revenues for the current fiscal year, which shall be evidenced by tax anticipation warrants of the county; and

(3) make loans and issue notes under subsection (d).

(b) An ordinance authorizing the issuance of bonds under this section must state the purpose for which the bonds are issued and may provide that the bonds:

(1) are or are not negotiable;

(2) bear interest at any rate;

(3) run not longer than twenty (20) years; and

(4) mature by installments payable annually or otherwise.

(c) An ordinance authorizing the issuance of tax anticipation warrants under this section must:

(1) state the total amount of the issue;

(2) state the denomination of the warrants;

(3) state the time and place payable;

(4) state the rate of interest;

(5) state the funds and revenues in anticipation of which the warrants are issued and out of which they are payable; and

(6) appropriate and pledge a sufficient amount of those revenues to the punctual payment of the warrants.

The warrants are exempt from taxation for all purposes.

(d) The county fiscal body may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the county, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the county's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made in the same manner as loans made under subsection (a)(1), except that:

(1) the ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing five (5) years to provide for refunding the loans;

(2) the loans must be evidenced by notes of the county in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable; and

(3) the interest accruing on the notes to the date of maturity may be added to and included in their face value or be made payable periodically, as provided in the ordinance.

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

(e) If a deficit is incurred for the current running expenses of the county because the total of county revenues for the fiscal year is less than the anticipated total, the county fiscal body shall provide for the deficit in the next county tax levy.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.37-1988, SEC.21.

IC 36-2-6-19

Bonds or tax anticipation warrants; sale; bidding; notice; disclosures

Sec. 19. (a) Whenever bonds authorized under section 18 of this chapter are to be sold, the county auditor shall prepare and place on file copies of:

(1) the ordinance authorizing the sale;

(2) specifications describing the bonds to be sold;

(3) a list of the outstanding debts of the county;

(4) a statement of the assessed valuation of property in the county, according to the most recent assessment for property tax purposes; and

(5) any other information that may help bidders and other interested persons to understand the financial condition of the county and to determine the market value of the bonds.

The auditor shall present these items to persons requesting them and to financial institutions that are in the market for the purchase of county bonds.

(b) After filing the items required by subsection (a), the county auditor must, in the manner prescribed by IC 5-3-1 and IC 5-1-11-2, publish a notice calling for sealed bids on the bonds and stating:

(1) the amount and type of bonds to be sold;

(2) the rate of interest the bonds are to bear;

(3) the time the bonds are to run; and

(4) that specifications and information concerning the bonds are on file in the office of the county auditor and available on request.

(c) Whenever tax anticipation warrants issued under section 18 of this chapter are to be sold, the county auditor must publish a notice of sale in accordance with IC 5-3-1. No other publication or statement is necessary.

(d) The county auditor shall sell bonds or tax anticipation warrants to the highest responsible bidder, if a satisfactory bid is received. However, they may not be sold for less than their par value plus the interest:

(1) accrued at the date of sale, in the case of bonds; or

(2) accrued at the date of delivery, in the case of tax anticipation warrants.

(e) Notwithstanding subsection (d), if on the date of a sale of tax anticipation warrants no bids at par value plus the interest accrued at the date of delivery are received, the county auditor may:

(1) sell all or part of the warrants at a private sale or sales; or

(2) issue and deliver all or part of the warrants in payment of

claims against the county that have been approved by the county executive;

at not less than par value plus the interest accrued at the date of delivery.

(f) Whenever a loan authorized by the county fiscal body is to be refunded by some manner other than the sale of bonds or tax anticipation warrants, the county auditor must give notice, receive bids, and let the loans in the manner prescribed by this section.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.45, SEC.10.

IC 36-2-6-20

Issuance of bonds, notes, or warrants; requirements; disposition of proceeds and delivery of instruments

Sec. 20. (a) Whenever any county bonds, notes, or warrants are to be issued, the county auditor must:

(1) supervise the preparation and engraving or printing of the bonds, with the advice of an attorney representing the county; and

(2) deliver the bonds to the county treasurer, who shall be charged with them.

(b) Each county bond, note, or warrant must contain a reference to the ordinance authorizing it, including the date of adoption of that ordinance.

(c) All bonds, notes, or warrants of the county must be executed by the board of commissioners of the county and attested by the county auditor. Money received for the bonds, notes, or warrants shall be paid to the county treasurer, who shall then deliver the bonds, notes, or warrants to the persons entitled to receive them.

(d) Tax anticipation warrants are payable at the office of the county treasurer or at one (1) of the authorized depositories of the county, as checks or other warrants of the county are payable, upon presentation on or after their maturity date. All interest on tax anticipation warrants ceases upon their maturity.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.137-1989, SEC.15.

IC 36-2-6-21

Repealed

(*Repealed by Acts 1981, P.L.57, SEC.45.)*

IC 36-2-6-22

Payments in lieu of taxes

Sec. 22. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Property taxation.

(6) Real property.

(7) Township assessor.

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

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is not located in a county containing a consolidated city.

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

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

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

(g) PILOTS collected under this section shall be distributed in the same manner as if they were property taxes being distributed to taxing units in the county.

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

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

As added by P.L.185-2001, SEC.5 and P.L.291-2001, SEC.196. Amended by P.L.1-2002, SEC.155; P.L.219-2007, SEC.107; P.L.146-2008, SEC.690.

IC 36-2-7

Chapter 7. Mileage and Fees of County Officers

IC 36-2-7-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-7-2

Compensation of county officers and employees

Sec. 2. Except as otherwise provided by sections 6, 9, and 13 of this chapter, the compensation fixed for county officers and employees under this title is in full for all governmental services and in lieu of all:

(1) fees;
(2) per diems;
(3) penalties;
(4) costs;
(5) interest;
(6) forfeitures;
(7) percentages;
(8) commissions;
(9) allowances;
(10) mileage; and
(11) other remuneration;

which shall be paid into the county general fund.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-7-3

County officers; mileage allowance

Sec. 3. County officers, except for officers subject to sections 4 and 5 of this chapter, are entitled to a sum for mileage in the performance of their official duties in an amount determined by the county fiscal body.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.10-1997, SEC.26.

IC 36-2-7-4

County sheriff; mileage allowance

Sec. 4. (a) This chapter does not apply to travel required of a county sheriff under the Uniform Criminal Extradition Act (IC 35-33-10).

(b) If the county sheriff uses a personal automobile for travel within Indiana for use in an emergency, the county sheriff is entitled to a sum for mileage at a rate determined by the county fiscal body.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1989, SEC.226; P.L.10-1997, SEC.27.

IC 36-2-7-5

Persons entitled to mileage allowance; itemized claims

Sec. 5. (a) The following persons may use their own conveyances when necessary for the performance of their official duties, and are entitled to a sum for mileage at a rate determined by the county fiscal body:

(1) The county surveyor, if authorized by the county executive to use his own conveyance.

(2) The county coroner, if authorized by the county executive to use his own conveyance.

(3) A deputy or other employee of the county surveyor or county coroner, if authorized by the county executive to use his own conveyance.

(4) A deputy or other employee of the county assessor, if engaged in field work and authorized by the assessor to use his own conveyance.

An assessing team is entitled to only one (1) sum for mileage under subdivision (4).

(b) The county executive may not make a mileage allowance under subsection (a)(1), (a)(2), or (a)(3) if the executive furnishes and maintains a vehicle for the officer or deputy in question.

(c) A person seeking compensation under this section must file an itemized claim with the county executive each month under IC 36-2-6.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.10-1997, SEC.28.

IC 36-2-7-6

Mileage allowance in addition to other compensation

Sec. 6. Sums for mileage prescribed by this chapter are in addition to other compensation prescribed by statute, and the persons receiving such sums are not required to pay them into the county general fund.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-7-7

Changes in sum allowed per mile

Sec. 7. Any changes in the sum per mile that the state establishes by July 1 of any year shall be included in the compensation that the county fiscal body fixes in that same year to take effect January 1 of the next year. However, the fiscal body may, by ordinance, provide for the change in the sum per mile to take effect before January 1 of the next year.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.22.

IC 36-2-7-8

Effect of chapter

Sec. 8. This chapter does not affect statutes permitting counties to furnish motor vehicles for use of a county officer.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-7-9
Sums county sheriff not required to pay into county general fund

Sec. 9. This chapter does not require the county sheriff to pay the following into the county general fund:

(1) Any damages set forth in a warrant that is issued by the department of state revenue and on which collection is made by the sheriff, including damages prescribed by IC 6-8.1-8.

(2) Sums, other than court fees, retained by the circuit court clerk for the sheriff from the collections obtained by warrants of the department of workforce development.

(3) Sums allowed by IC 36-8 to sheriffs for the feeding of prisoners.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1982, P.L.33, SEC.18; P.L.18-1987, SEC.109; P.L.21-1995, SEC.148; P.L.173-2003, SEC.21.

IC 36-2-7-10
County recorder's fee

Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) One dollar ($1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records and two dollars ($2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(6) Five dollars ($5) for acknowledging or certifying to a document.

(7) Five dollars ($5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner

perpetuation fund for use as provided in IC 21-47-3-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars ($3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(11) Three dollars ($3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:

(A) Fifty cents ($0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents ($2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

(12) This subdivision applies in a county only if at least one (1) unit in the county has established an affordable housing fund under IC 5-20-5-15.5 and the county fiscal body adopts an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of:

(A) two dollars and fifty cents ($2.50) for the first page; and

(B) one dollar ($1) for each additional page;

of each document the recorder records.

(13) This subdivision applies in a county containing a consolidated city that has established a housing trust fund under IC 36-7-15.1-35.5(e). The county fiscal body may adopt an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of:

(A) two dollars and fifty cents ($2.50) for the first page; and

(B) one dollar ($1) for each additional page;

of each document the recorder records.

(c) The county recorder shall charge a two dollar ($2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6.

(d) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under section 10.1 of this chapter, subsection (b)(5), (b)(8), (b)(9), and (b)(10), and IC 36-2-7.5-6(c)(1) (after June 30, 2011), and fifty cents ($0.50) from revenue received under subsection (b)(11), shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment. Money from

the fund may not be deposited or transferred into the county general fund and does not revert to the county general fund at the end of a fiscal year.

(e) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(f) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(g) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) IC 10-17-2-3.

(E) IC 10-17-3-2.

(F) IC 12-14-13.

(G) IC 12-14-16.

(h) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

(i) This subsection applies to a county other than a county containing a consolidated city. The county treasurer shall distribute money collected by the county recorder under subsection (b)(12) as follows:

(1) Sixty percent (60%) of the money collected by the county recorder under subsection (b)(12) shall be distributed to the units in the county that have established an affordable housing fund under IC 5-20-5-15.5 for deposit in the fund. The amount to be distributed to a unit is the amount available for distribution multiplied by a fraction. The numerator of the fraction is the population of the unit. The denominator of the fraction is the population of all units in the county that have established an affordable housing fund. The population to be used for a county that establishes an affordable housing fund is the population of the county outside any city or town that has established an affordable housing fund.

(2) Forty percent (40%) of the money collected by the county recorder under subsection (b)(12) shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

(j) This subsection applies to a county described in subsection (b)(13). The county treasurer shall distribute money collected by the county recorder under subsection (b)(13) as follows:

(1) Sixty percent (60%) of the money collected by the county recorder under subsection (b)(13) shall be deposited in the

housing trust fund established under IC 36-7-15.1-35.5(e) for the purposes of the fund.

(2) Forty percent (40%) of the money collected by the county recorder under subsection (b)(13) shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.269, SEC.2; P.L.342-1983, SEC.1; P.L.290-1985, SEC.8; P.L.98-1986, SEC.10; P.L.167-1987, SEC.11; P.L.5-1988, SEC.211; P.L.231-1989, SEC.11; P.L.18-1990, SEC.290; P.L.45-1990, SEC.6; P.L.190-1991, SEC.6; P.L.2-1992, SEC.887; P.L.58-1993, SEC.19; P.L.31-1994, SEC.10; P.L.314-1995, SEC.1; P.L.273-1995, SEC.2; P.L.211-1996, SEC.4; P.L.151-1999, SEC.2; P.L.241-1999, SEC.2; P.L.2-2002, SEC.107; P.L.2-2003, SEC.101; P.L.73-2004, SEC.47; P.L.171-2006, SEC.9; P.L.169-2006, SEC.50; P.L.2-2007, SEC.384; P.L.211-2007, SEC.47; P.L.215-2007, SEC.4; P.L.3-2008, SEC.256; P.L.45-2010, SEC.2.

IC 36-2-7-10.1

Sale of documents in bulk form to bulk users

Sec. 10.1. (a) As used in this section, "bulk form" means:

(1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

(2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or

(3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However, "bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

(1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or

(2) reproducing on microfilm.

(d) As used in this section, "indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to

bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

(1) Seven cents ($0.07) per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.

(2) Seven cents ($0.07) per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent ($0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

(1) in the ordinary course of the business of the bulk user; and

(2) by customers of the bulk user.

(k) The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

(l) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with section 10(d) of this chapter.

(m) This section does not apply to enhanced access under IC 5-14-3-3.

As added by P.L.151-1999, SEC.3. Amended by P.L.171-2006, SEC.10; P.L.160-2007, SEC.3; P.L.215-2007, SEC.5.

IC 36-2-7-11

Repealed

(*Repealed by P.L.58-1993, SEC.20.)*

IC 36-2-7-12

Repealed

(*Repealed by P.L.58-1993, SEC.20.)*

IC 36-2-7-13 Version a

County assessor reassessment activities; per diem

Note: This version of section effective until 1-1-2013. See also following version of this section, effective 1-1-2013.

Sec. 13. The county fiscal body may grant to the county assessor, in addition to the compensation fixed under IC 36-2-5, a per diem for each day that the assessor is engaged in general reassessment activities. This section applies regardless of whether professional assessing services are provided under a contract to one (1) or more townships in the county.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.74-1987, SEC.22; P.L.6-1997, SEC.205; P.L.223-1997, SEC.1; P.L.253-1997(ss), SEC.30; P.L.198-2001, SEC.105; P.L.146-2008, SEC.691.

IC 36-2-7-13 Version b

County assessor reassessment activities; per diem

Note: This version of section effective 1-1-2013. See also preceding version of this section, effective until 1-1-2013.

Sec. 13. The county fiscal body may grant to the county assessor, in addition to the compensation fixed under IC 36-2-5, a per diem for each day that the assessor is engaged in reassessment activities under IC 6-1.1-4-4 or under a reassessment plan prepared under IC 6-1.1-4-4.2. This section applies regardless of whether professional assessing services are provided under a contract to one (1) or more townships in the county.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.74-1987, SEC.22; P.L.6-1997, SEC.205; P.L.223-1997, SEC.1; P.L.253-1997(ss), SEC.30; P.L.198-2001, SEC.105; P.L.146-2008, SEC.691; P.L.112-2012, SEC.52.

IC 36-2-7-14

Repealed

(*Repealed by P.L.58-1993, SEC.20.)*

IC 36-2-7-15

Fee books and cash books

Sec. 15. The clerk of the circuit court, county auditor, county treasurer, county recorder, and county sheriff shall keep, in proper fee books, an accurate account of all fees and charges required by this statute for services performed by them or their employees. Each of these officers shall also keep a cashbook, in which he shall enter:

(1) each sum of money received, in the order received;

(2) the date of receipt;
(3) the name of the person from whom the sum was received; and
(4) the reason the sum was received.

He shall keep his fee books and cashbooks open for inspection and deliver them to his successor in office as a part of the records of his office.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-7-16
Fee books; inspection; failure to deliver; penalty

Sec. 16. (a) At each of its meetings, the county executive and its attorney shall inspect the records of county officers who collect fees and compare them with the accounts submitted by those officers.

(b) A county officer who fails to deliver a fee book for inspection under this section shall forfeit one hundred dollars ($100), to be collected by the prosecuting attorney of the county and paid into the common school fund of the county.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-7-17
Failure to pay over fees collected; forfeiture

Sec. 17. An officer who fails to pay the amount due from him into the county treasury shall forfeit to the state a sum equal to the amount of fees actually collected during that quarter, to be collected by the prosecuting attorney of the county and paid into the common school fund of the county.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-7-18
Prohibited acts; violation; offense; liability

Sec. 18. An officer named in this chapter who knowingly:
(1) taxes any fees or makes any charges for services he does not actually perform;
(2) charges for any services any rate or fee other than that allowed by statute; or
(3) fails to enter, tax, or charge at the proper time the proper fees for services;

commits a Class A misdemeanor and is liable personally upon his bond for any damage or loss sustained by the county.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-7-19
County elected officials training fund

Sec. 19. (a) As used in this section, "fund" refers to a county elected officials training fund established under subsection (b).

(b) Each county legislative body shall before July 1, 2011, establish a county elected officials training fund. The county fiscal body shall appropriate money from the fund.

(c) The fund consists of money deposited under

IC 36-2-7.5-6(c)(3) and any other sources required or permitted by law. Money in the fund does not revert to the county general fund.

(d) Money in the fund shall be used solely to provide training of county elected officials required by IC 36-2-9-2.5, IC 36-2-9.5-2.5, IC 36-2-10-2.5, IC 36-2-11-2.5, IC 36-2-12-2.5, and other similar laws.

As added by P.L.45-2010, SEC.3. Amended by P.L.120-2012, SEC.6.

IC 36-2-7.5

Chapter 7.5. Recording Documents Containing Social Security Numbers

IC 36-2-7.5-1

Applicability

Sec. 1. This chapter applies after December 31, 2005.

As added by P.L.91-2005, SEC.3.

IC 36-2-7.5-1.5

Federal liens on real property and federal tax liens on personal property exempted

Sec. 1.5. This chapter does not apply to a federal lien on real property or federal tax lien on personal property as described in IC 36-2-11-25.

As added by P.L.171-2006, SEC.11.

IC 36-2-7.5-2

"Redacting technology"

Sec. 2. As used in this chapter, "redacting technology" refers to technology that has the ability to:

(1) search recorded and filed documents; and

(2) redact Social Security numbers from recorded and filed documents.

As added by P.L.91-2005, SEC.3. Amended by P.L.171-2006, SEC.12.

IC 36-2-7.5-3

Disclosure of last four digits of Social Security number

Sec. 3. For purposes of this chapter, disclosure of the last four (4) digits of an individual's Social Security number is not a disclosure of the individual's Social Security number.

As added by P.L.91-2005, SEC.3.

IC 36-2-7.5-4

Document containing Social Security number may not be submitted to county recorder; exception

Sec. 4. A document may not be submitted to the county recorder for recording or filing if the document contains the Social Security number of an individual, unless required by law.

As added by P.L.91-2005, SEC.3. Amended by P.L.171-2006, SEC.13.

IC 36-2-7.5-5

Affirmation of individual preparing document for recording or filing

Sec. 5. (a) An individual preparing a document for recording or filing shall make the affirmation and statement required by IC 36-2-11-15(c) and IC 36-2-11-15(d).

As added by P.L.91-2005, SEC.3. Amended by P.L.171-2006,

SEC.14.

IC 36-2-7.5-6
County identification security protection fee

Sec. 6. (a) The county recorder shall charge a two dollar ($2) county identification security protection fee for recording or filing a document in addition to the fees required by IC 36-2-7-10(b)(1) through IC 36-2-7-10(b)(11).

(b) The county recorder shall deposit two dollars ($2) of the fee charged under subsection (a) in the county identification security protection fund established by section 11 of this chapter. This subsection expires July 1, 2011.

(c) Beginning July 1, 2011, the county recorder shall deposit the fee charged under subsection (a) in the following manner:

(1) One dollar ($1) shall be deposited in the county recorder's records perpetuation fund established under IC 36-2-7-10(d).

(2) Fifty cents ($0.50) shall be deposited in the county identification security protection fund established under section 11 of this chapter.

(3) Fifty cents ($0.50) shall be deposited in the county elected officials training fund established under IC 36-2-7-19.

As added by P.L.91-2005, SEC.3. Amended by P.L.171-2006, SEC.15; P.L.45-2010, SEC.4.

IC 36-2-7.5-7
State board of accounts to establish procedures

Sec. 7. The state board of accounts shall establish reasonable procedures for a county recorder to follow:

(1) when receiving and reviewing a document submitted for recording or filing; and

(2) in order to comply with this chapter.

As added by P.L.91-2005, SEC.3. Amended by P.L.171-2006, SEC.16.

IC 36-2-7.5-8
Recorder to search documents for Social Security number; redaction; applicability

Sec. 8. (a) This section applies after December 31, 2007.

(b) To the extent practicable and as permitted by law, a county recorder may not disclose a recorded or filed document for public inspection under IC 5-14-3 until the county recorder has:

(1) searched the document for a Social Security number; and

(2) to the extent practicable, redacted any Social Security numbers contained in the document;

using redacting technology.

As added by P.L.91-2005, SEC.3. Amended by P.L.171-2006, SEC.17.

IC 36-2-7.5-9
Notice posted by county recorder

Sec. 9. A county recorder shall post a notice in the county recorder's office that states the:

(1) duties of:

(A) an individual preparing or reviewing a document for recording or filing; and

(B) the county recorder;

under this chapter; and

(2) penalties under section 12 of this chapter.

As added by P.L.91-2005, SEC.3. Amended by P.L.171-2006, SEC.18.

IC 36-2-7.5-10

Training county recorder employees

Sec. 10. A county recorder shall conduct training sessions at least two (2) times each year for the county recorder's employees on the:

(1) requirements of this chapter; and

(2) procedures to follow in order to comply with this chapter.

As added by P.L.91-2005, SEC.3.

IC 36-2-7.5-11

County identification security protection fund

Sec. 11. (a) As used in this section, "fund" refers to a county identification security protection fund established under subsection (b).

(b) Each county legislative body shall establish an identification security protection fund to be administered by the county recorder. The county fiscal body shall appropriate money from the fund.

(c) A fund consists of money deposited in the fund under section 6(b) of this chapter (before July 1, 2011) and section 6(c) of this chapter (after June 30, 2011). Money in a fund does not revert to the county general fund.

(d) A county recorder may use money in the fund only to purchase, upgrade, implement, or maintain redacting technology used in the office of the county recorder.

As added by P.L.91-2005, SEC.3. Amended by P.L.171-2006, SEC.19; P.L.45-2010, SEC.5.

IC 36-2-7.5-12

Disclosure of Social Security number by county recorder employee; Class A infraction

Sec. 12. (a) This section applies after June 30, 2008.

(b) A county recorder or an employee of a county recorder who knowingly, intentionally, or recklessly discloses a recorded or filed document that contains a Social Security number without having the document searched, to the extent technologically practicable and as permitted by law, using redacting technology commits a Class A infraction.

As added by P.L.91-2005, SEC.3. Amended by P.L.171-2006, SEC.20.

IC 36-2-8

Chapter 8. Administration of Compensation of Officers and Employees

IC 36-2-8-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-8-2

Salary and wage periods; manner of payment

Sec. 2. (a) The county auditor and county treasurer may pay salaries and wages to county officers and employees monthly, twice each month, every two (2) weeks, or weekly.

(b) The manner of payment of salaries and wages under this section must be authorized by the legislative body of a county having a consolidated city or by the executive of any other county.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.23-1985, SEC.5.

IC 36-2-8-3

Report of fees collected and payment into county treasury

Sec. 3. A county officer and his deputies and other employees are entitled to payment only after the officer has reported all fees collected by his office and paid them into the county treasury.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-8-4

Services rendered

Sec. 4. A county officer or a deputy or employee of a county officer is entitled to payment for services only after he has rendered those services.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-8-5

Itemized, verified, and allowed claims

Sec. 5. Compensation of deputies and employees of county officers shall be paid by warrants that are payable to the respective deputies and employees and issued after:

(1) filing of itemized and verified claims, as prescribed by IC 36-2-6; and

(2) allowance of the claims by the county executive.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-8-6

Division of compensation prohibited; offense

Sec. 6. A:

(1) deputy or employee of a county officer who knowingly divides his compensation with the officer or another person in consideration of employment; or

(2) county officer or other person who knowingly accepts such a division of compensation;

commits a Class B misdemeanor.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-8.5

Chapter 8.5. Election and Terms of Office of Certain County Officers

IC 36-2-8.5-1

"County office"; general assembly findings

Sec. 1. (a) As used in this section, "county office" has the meaning set forth in IC 36-1-8-15.

(b) The general assembly finds the following:

(1) That due to events that occurred at different times in Indiana's history, the beginning of the terms of certain elected county offices varies from a uniform date due to changes in the dates of general elections, vacancies in offices, and other events described by the Indiana supreme court in the following cases:

(A) Howard v. State, 10 Ind. 74 (Ind. 1857).

(B) Greible v. State, 12 N.E. 700 (Ind. 1887).

(C) State v. Menaugh, 51 N.E. 117 (Ind. 1898).

(D) Scott v. State, 52 N.E. 163 (Ind. 1898).

(2) That on many occasions at the beginning of the twentieth century, the general assembly attempted to standardize the beginning of the terms of county offices.

(3) That the voters of Indiana approved an amendment to Article 6, Section 2 of the Constitution of the State of Indiana at the November 2004 general election authorizing the general assembly to provide by law for uniform dates for beginning the terms of county offices.

(4) That the variation in the beginning dates of the terms of county offices is not a general condition but affects only a known and fixed set of county offices.

(5) That a statement of a rule applicable to each county office whose term varies from a uniform date would be clearer in application than a general statement of a rule to make the beginning of the terms of those county offices uniform.

(c) The general assembly enacts this chapter to:

(1) provide a rule applicable to each county office whose term of office deviates from a uniform date as of June 30, 2005; and

(2) implement Article 6, Section 2(b) of the Constitution of the State of Indiana to provide for a uniform date for beginning the terms of county offices described in Article 6, Section 2(a) of the Constitution of the State of Indiana.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-2

Adams County circuit court clerk

Sec. 2. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Adams County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until

January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office on January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office on January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-3

Adams County treasurer

Sec. 3. (a) As used in this section, "treasurer" refers to the treasurer of Adams County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office on January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office on January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-4

Bartholomew County circuit court clerk

Sec. 4. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Bartholomew County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office on January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office on January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-5

Blackford County circuit court clerk

Sec. 5. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Blackford County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of clerk at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-6

Blackford County recorder

Sec. 6. (a) As used in this section, "recorder" refers to the recorder of Blackford County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-7

Brown County circuit court clerk

Sec. 7. (a) As used in this section, "clerk" refers to the clerk of the

circuit court of Brown County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-8

Cass County recorder

Sec. 8. (a) As used in this section, "recorder" refers to the recorder of Cass County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-9

Clark County auditor

Sec. 9. (a) As used in this section, "auditor" refers to the auditor of Clark County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-10

Clark County circuit court clerk

Sec. 10. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Clark County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-11

Clay County treasurer

Sec. 11. (a) As used in this section, "treasurer" refers to the treasurer of Clay County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of treasurer at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of treasurer at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-12
Clinton County circuit court clerk

Sec. 12. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Clinton County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-13
Clinton County recorder

Sec. 13. (a) As used in this section, "recorder" refers to the recorder of Clinton County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-14
Daviess County circuit court clerk

Sec. 14. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Daviess County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until March 13, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office March 13, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-15
Daviess County coroner

Sec. 15. (a) As used in this section, "coroner" refers to the coroner of Daviess County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of coroner at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of coroner at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of coroner at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-16
Dearborn County recorder

Sec. 16. (a) As used in this section, "recorder" refers to the recorder of Dearborn County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-17

Decatur County circuit court clerk

Sec. 17. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Decatur County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-18

Decatur County recorder

Sec. 18. (a) As used in this section, "recorder" refers to the recorder of Decatur County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-19

Delaware County circuit court clerk

Sec. 19. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Delaware County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-20

Dubois County auditor

Sec. 20. (a) As used in this section, "auditor" refers to the auditor of Dubois County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-21

Elkhart County auditor

Sec. 21. (a) As used in this section, "auditor" refers to the auditor of Elkhart County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-22
Elkhart County recorder

Sec. 22. (a) As used in this section, "recorder" refers to the recorder of Elkhart County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-23
Fayette County auditor

Sec. 23. (a) As used in this section, "auditor" refers to the auditor of Fayette County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies;

and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-24

Franklin County auditor

Sec. 24. (a) As used in this section, "auditor" refers to the auditor of Franklin County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-25

Franklin County circuit court clerk

Sec. 25. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Franklin County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until February 14, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office February 14, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-26

Grant County recorder

Sec. 26. (a) As used in this section, "recorder" refers to the recorder of Grant County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-27
Hamilton County circuit court clerk

Sec. 27. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Hamilton County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-28
Hancock County auditor

Sec. 28. (a) As used in this section, "auditor" refers to the auditor of Hancock County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies;

and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-29

Howard County circuit court clerk

Sec. 29. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Howard County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-30

Huntington County auditor

Sec. 30. (a) As used in this section, "auditor" refers to the auditor of Huntington County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-31
Huntington County circuit court clerk

Sec. 31. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Huntington County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-32
Jackson County circuit court clerk

Sec. 32. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Jackson County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until February 25, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office February 25, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-33
Jackson County treasurer

Sec. 33. (a) As used in this section, "treasurer" refers to the treasurer of Jackson County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office

until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-34

Jay County auditor

Sec. 34. (a) As used in this section, "auditor" refers to the auditor of Jay County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-35

Jay County recorder

Sec. 35. (a) As used in this section, "recorder" refers to the recorder of Jay County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-36

Johnson County auditor

Sec. 36. (a) As used in this section, "auditor" refers to the auditor of Johnson County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-37

Johnson County circuit court clerk

Sec. 37. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Johnson County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-38

Knox County circuit court clerk

Sec. 38. (a) As used in this section, "clerk" refers to the clerk of

the circuit court of Knox County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until March 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office March 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-39
Knox County recorder

Sec. 39. (a) As used in this section, "recorder" refers to the recorder of Knox County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-40
Kosciusko County auditor

Sec. 40. (a) As used in this section, "auditor" refers to the auditor of Kosciusko County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-41

Lake County circuit court clerk

Sec. 41. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Lake County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-42

LaPorte County circuit court clerk

Sec. 42. (a) As used in this section, "clerk" refers to the clerk of the circuit court of LaPorte County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of clerk at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-43
Marshall County auditor

Sec. 43. (a) As used in this section, "auditor" refers to the auditor of Marshall County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-44
Marshall County circuit court clerk

Sec. 44. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Marshall County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-45
Martin County circuit court clerk

Sec. 45. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Martin County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-46

Miami County circuit court clerk

Sec. 46. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Miami County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-47

Montgomery County auditor

Sec. 47. (a) As used in this section, "auditor" refers to the auditor of Montgomery County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-48

Porter County circuit court clerk

Sec. 48. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Porter County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-49

Porter County recorder

Sec. 49. (a) As used in this section, "recorder" refers to the recorder of Porter County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-50

Porter County treasurer

Sec. 50. (a) As used in this section, "treasurer" refers to the treasurer of Porter County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-51

Posey County auditor

Sec. 51. (a) As used in this section, "auditor" refers to the auditor of Posey County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-52

Posey County recorder

Sec. 52. (a) As used in this section, "recorder" refers to the recorder of Posey County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-53
Pulaski County recorder

Sec. 53. (a) As used in this section, "recorder" refers to the recorder of Pulaski County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-54
Putnam County treasurer

Sec. 54. (a) As used in this section, "treasurer" refers to the treasurer of Putnam County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies;

and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-55

Randolph County circuit court clerk

Sec. 55. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Randolph County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of clerk at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-56

Ripley County circuit court clerk

Sec. 56. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Ripley County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of clerk at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-57

Ripley County recorder

Sec. 57. (a) As used in this section, "recorder" refers to the recorder of Ripley County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of recorder at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of recorder at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-58

St. Joseph County auditor

Sec. 58. (a) As used in this section, "auditor" refers to the auditor of St. Joseph County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-59

Shelby County recorder

Sec. 59. (a) As used in this section, "recorder" refers to the recorder of Shelby County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies;

and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-60

Spencer County auditor

Sec. 60. (a) As used in this section, "auditor" refers to the auditor of Spencer County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-61

Spencer County circuit court clerk

Sec. 61. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Spencer County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2004 general election is entitled to serve in the office until March 1, 2010.

(2) The individual elected to the office of clerk at the November 2008 general election is entitled to:

(A) take office March 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of clerk at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-62
Starke County recorder

Sec. 62. (a) As used in this section, "recorder" refers to the recorder of Starke County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-63
Steuben County circuit court clerk

Sec. 63. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Steuben County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-64
Sullivan County auditor

Sec. 64. (a) As used in this section, "auditor" refers to the auditor of Sullivan County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office

until March 15, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office March 15, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-65

Sullivan County circuit court clerk

Sec. 65. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Sullivan County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until March 15, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office March 15, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-66

Sullivan County treasurer

Sec. 66. (a) As used in this section, "treasurer" refers to the treasurer of Sullivan County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-67

Switzerland County circuit court clerk

Sec. 67. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Switzerland County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-68

Switzerland County treasurer

Sec. 68. (a) As used in this section, "treasurer" refers to the treasurer of Switzerland County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-69

Union County auditor

Sec. 69. (a) As used in this section, "auditor" refers to the auditor

of Union County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of auditor at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of auditor at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of auditor at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-70
Union County recorder

Sec. 70. (a) As used in this section, "recorder" refers to the recorder of Union County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-71
Vigo County treasurer

Sec. 71. (a) As used in this section, "treasurer" refers to the treasurer of Vigo County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of treasurer at the November 2004 general election is entitled to serve in the office until January 1, 2010.

(2) The individual elected to the office of treasurer at the November 2008 general election is entitled to:

(A) take office January 1, 2010, if the individual qualifies; and

(B) serve in the office until January 1, 2013.

(3) The individual elected to the office of treasurer at the November 2012 general election is entitled to:

(A) take office January 1, 2013, if the individual qualifies; and

(B) serve in the office until January 1, 2017.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-72

Wabash County circuit court clerk

Sec. 72. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Wabash County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-73

Warren County circuit court clerk

Sec. 73. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Warren County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-74
Whitley County circuit court clerk

Sec. 74. (a) As used in this section, "clerk" refers to the clerk of the circuit court of Whitley County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of clerk at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of clerk at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of clerk at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-75
Whitley County recorder

Sec. 75. (a) As used in this section, "recorder" refers to the recorder of Whitley County.

(b) Notwithstanding any other law concerning terms of office, the following apply:

(1) The individual elected to the office of recorder at the November 2002 general election is entitled to serve in the office until January 1, 2008.

(2) The individual elected to the office of recorder at the November 2006 general election is entitled to:

(A) take office January 1, 2008, if the individual qualifies; and

(B) serve in the office until January 1, 2011.

(3) The individual elected to the office of recorder at the November 2010 general election is entitled to:

(A) take office January 1, 2011, if the individual qualifies; and

(B) serve in the office until January 1, 2015.

As added by P.L.16-2009, SEC.33.

IC 36-2-8.5-76
Expiration of chapter

Sec. 76. This chapter expires January 1, 2018.

As added by P.L.16-2009, SEC.33.

IC 36-2-9
Chapter 9. County Auditor

IC 36-2-9-1
Application of chapter
Sec. 1. This chapter applies to all counties except a county having a consolidated city.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.227-2005, SEC.13.

IC 36-2-9-2
Residence; term of office
Sec. 2. (a) The county auditor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The auditor forfeits office if the auditor ceases to be a resident of the county.
(b) The term of office of the county auditor under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.
(c) The county auditor is the fiscal officer of the county.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1987, SEC.544.

IC 36-2-9-2.5
County auditor training courses
Sec. 2.5. (a) As used in this section, "training courses" refers to training courses related to the office of county auditor that are developed by the Association of Indiana Counties and approved by the state board of accounts.
(b) An individual elected to the office of county auditor after November 6, 2012, shall complete at least:
(1) fifteen (15) hours of training courses within one (1) year; and
(2) forty (40) hours of training courses within three (3) years;
after beginning the county auditor's term.
As added by P.L.120-2012, SEC.7.

IC 36-2-9-3
Location of office; business hours and days
Sec. 3. The auditor shall keep his office in a building provided at the county seat by the county executive. He shall keep his office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, he may close his office on days specified by the county executive according to the custom and practice of the county.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-4
Legal action on days office is closed
Sec. 4. A legal action required to be taken in the auditor's office

on a day when his office is closed under section 3 of this chapter may be taken on the next day his office is open.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-5
Replacement of worn maps and plats

Sec. 5. The auditor shall replace worn maps and plats as required in IC 36-2-17-5(c).
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-6
Standard forms for use in transaction of business

Sec. 6. The auditor shall furnish standard forms for use in the transaction of business under this article and for use in the performance of services for which he receives a specific fee.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-7
Duties of clerk at county executive meetings

Sec. 7. (a) The auditor shall perform the duties of clerk of the county executive under IC 36-2-2-11.

(b) If the auditor cannot perform the duties of clerk during a meeting of the county executive, and the auditor does not have a deputy or the auditor's deputy cannot attend the meeting, the executive may deputize a person to perform those duties during the meeting.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.227-2005, SEC.14.

IC 36-2-9-8
Duties of clerk of fiscal body

Sec. 8. The auditor shall perform the duties of clerk of the county fiscal body under IC 36-2-3-6(b).
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.227-2005, SEC.15.

IC 36-2-9-9
Administration of oath; acknowledgments of deeds and mortgages securing trust funds

Sec. 9. (a) The auditor may administer the following:

(1) Oaths necessary in the performance of the auditor's duties.

(2) The oath of office to an officer who receives the officer's certificate of appointment from the auditor.

(3) Oaths relating to the duty of an officer who receives the officer's certificate of appointment from the auditor.

(4) The oath of office to a member of the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(b) The auditor may take acknowledgments of deeds and mortgages executed for the security of trust funds the auditor is

required to lend.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.33-1992, SEC.21; P.L.1-1996, SEC.85; P.L.225-2011, SEC.92.

IC 36-2-9-10
Suits against principals or sureties on obligations

Sec. 10. The auditor, in the name of the state and on behalf of a county fund, may sue principals or sureties on any obligation, whether the obligation is in the name of the state or another person.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-11
Treasurer's report; filing

Sec. 11. The auditor shall file the original of the county treasurer's monthly report under IC 36-2-10-16 with the records of the county board of finance, present one (1) copy to the county executive at its next regular meeting, and immediately transmit one (1) copy to the state board of accounts.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-12
Money paid into treasury; account; receipts

Sec. 12. The auditor shall keep an accurate account current with the county treasurer. Whenever a receipt given by the treasurer for money paid into the county treasury is deposited with the auditor, the auditor shall:

(1) file the treasurer's receipt;
(2) charge the treasurer with the amount of the treasurer's receipt; and
(3) issue his own receipt to the person presenting the treasurer's receipt.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-13
Appropriations by county fiscal body; accounting; warrants; violation; offense

Sec. 13. (a) The auditor shall keep a separate account for each item of appropriation made by the county fiscal body, and in each warrant he draws on the county treasury he shall specifically indicate which item of appropriation the warrant is drawn against.

(b) The auditor may not permit an item of appropriation to be overdrawn or to be drawn on for a purpose other than the specific purpose for which it was made.

(c) An auditor who knowingly violates this section commits a Class A misdemeanor.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-14
Drawing of warrants; necessity of appropriation; violation; offense

Sec. 14. (a) This section does not apply to funds received from the

state or the federal government for township assistance, unemployment relief, or old age pensions or other funds that are available under the federal Social Security Act or a federal statute providing for civil and public works projects.

(b) Except for monies that by statute are due and payable from a county treasury to the state or to a township or municipality of the county, money may be paid from a county treasury only upon a warrant drawn by the auditor.

(c) A warrant may be drawn on a county treasury only if the county fiscal body has made an appropriation for the money for the calendar year in which the warrant is drawn and that appropriation has not been exhausted.

(d) Notwithstanding subsection (c), appropriations by a county fiscal body are not necessary to authorize the drawing of a warrant on and payment from a county treasury for:

(1) money that belongs to the state and is required by statute to be paid into the state treasury;

(2) money that belongs to a school fund, whether principal or interest;

(3) money that belongs to a township or municipality of the county and is required by statute to be paid to the township or municipality;

(4) money that:

(A) is due a person;

(B) has been paid into the county treasury under an assessment on persons or property of the county in territory less than that of the whole county; and

(C) has been paid for construction, maintenance, or purchase of a public improvement;

(5) money that is due a person and has been paid into the county treasury to redeem property from a tax sale or other forced sale;

(6) money that is due a person and has been paid to the county under law as a tender or payment to the person;

(7) taxes erroneously paid;

(8) money paid to a cemetery board under IC 23-14-65-22;

(9) money distributed under IC 23-14-70-3; or

(10) payments under a statute that expressly provides for payments from the county treasury without appropriations by the county fiscal body.

(e) An auditor who knowingly violates this section commits a Class A misdemeanor.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.52-1997, SEC.57; P.L.73-2005, SEC.172.

IC 36-2-9-15

Settlement of accounts and demands

Sec. 15. (a) The auditor shall examine and settle all accounts and demands that are chargeable against the county and are not otherwise provided for by statute.

(b) The auditor shall issue warrants on the county treasury for:

(1) sums of money settled and allowed by the auditor;
(2) sums of money settled and allowed by another official; or
(3) settlements and allowances fixed by statute;

and shall make them payable to the person entitled to payment. The warrants shall be numbered progressively, and the auditor shall record the number, date, amount, payee, and purpose of issue of each warrant at the time it is issued.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-16

Claim; judgment or order issued by a court; warrant

Sec. 16. Whenever:

(1) a judgment or order is issued by a court in a case in which the county was a party and was served with process for the payment of a claim;
(2) a certified copy of the judgment or order is filed with the auditor; and
(3) the claim is allowed by the county executive;

the auditor shall issue his warrant for the claim.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-17

Calls for redemption of outstanding warrants at semiannual settlement; interest; violation

Sec. 17. (a) At the semiannual settlement under IC 6-1.1-27, the auditor shall issue calls for the redemption of outstanding county warrants if there is any money available in the county treasury for redemption of those warrants.

(b) A warrant included in a call under this section ceases to bear interest upon the date of the call. The county treasurer shall redeem warrants included in the call when they are presented to him.

(c) An auditor who violates this section is liable for the interest on all money used for redemption.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-9-18

Endorsement on deed; tax identification number

Sec. 18. (a) Before the auditor makes the endorsement required by IC 36-2-11-14, the auditor may require that a tax identification number identifying the affected real property be placed on an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or a lien on real property. The tax identification number may be established by the auditor with the approval of the state board of accounts. If the tax identification number is affixed to the instrument or if a tax identification number is not required, the auditor shall make the proper endorsement on demand.

(b) On request, a county auditor shall provide assistance in obtaining the proper tax identification number for instruments subject to this section.

(c) The tax administration number established by this section is for use in administering statutes concerning taxation of real property and is not competent evidence of the location or size of the real property affected by the instrument.

(d) The legislative body of a county may adopt an ordinance authorizing the auditor to collect a fee in an amount that does not exceed five dollars ($5) for each:

(1) deed; or

(2) legal description of each parcel contained in the deed;

for which the auditor makes a real property endorsement. This fee is in addition to any other fee provided by law. The auditor shall place revenue received under this subsection in a dedicated fund for use in maintaining plat books.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.274-1989, SEC.2; P.L.37-1992, SEC.8; P.L.65-2001, SEC.1; P.L.207-2003, SEC.1.

IC 36-2-9-19

Personal liability for penalties and interest assessed by Internal Revenue Service; reimbursement by county treasurer

Sec. 19. If a county auditor is held personally liable for penalties and interest assessed by the Internal Revenue Service, the county treasurer shall reimburse the county auditor in an amount equal to the penalties and interest. However, the county treasurer may not reimburse the county auditor if the county auditor willfully or intentionally failed or refused to file a return or make a required deposit on the date the return or deposit was due.

As added by P.L.56-1997, SEC.3.

IC 36-2-9-20

County auditor maintenance of electronic data file on tax duplicate information; form of file; data transmission

Sec. 20. The county auditor shall:

(1) maintain an electronic data file of the information contained on the tax duplicate for all:

(A) parcels; and

(B) personal property returns;

for each township in the county as of each assessment date;

(2) maintain the electronic data file in a form that formats the information in the file with the standard data, field, and record coding required and approved by:

(A) the legislative services agency; and

(B) the department of local government finance;

(3) transmit the data in the file with respect to the assessment date of each year before March 16 of the next year to:

(A) the legislative services agency in an electronic format under IC 5-14-6; and

(B) the department of local government finance;

in a manner that meets the data export and transmission requirements in a standard format, as prescribed by the office

of technology established by IC 4-13.1-2-1 and approved by the legislative services agency; and

(4) resubmit the data in the form and manner required under this subsection, upon request of the legislative services agency or the department of local government finance, if data previously submitted under this subsection does not comply with the requirements of this subsection, as determined by the legislative services agency or the department of local government finance.

An electronic data file maintained for a particular assessment date may not be overwritten with data for a subsequent assessment date until a copy of an electronic data file that preserves the data for the particular assessment date is archived in the manner prescribed by the office of technology established by IC 4-13.1-2-1 and approved by the legislative services agency.

As added by P.L.178-2002, SEC.115. Amended by P.L.245-2003, SEC.34; P.L.28-2004, SEC.179; P.L.177-2005, SEC.46; P.L.137-2012, SEC.117.

IC 36-2-9-21

Establishment of fund for disposal fees; use of money; administration of fund

Sec. 21. (a) If a disposal fee is charged under IC 13-20-21-6(c), the county treasurer shall:

(1) establish a dedicated fund for the purposes described in subsection (b); and

(2) deposit in the fund all revenue remitted to the county treasurer under IC 13-20-21-14(b).

(b) Money in the fund established under subsection (a) may be used only to pay the costs of constructing, improving, or maintaining infrastructure that supports or is otherwise related to the landfill at which the disposal fees are charged.

(c) The county treasurer shall, in accordance with IC 5-13-9, invest any money accumulated in the fund established under subsection (a). Any interest received from investment of the money shall be paid into the fund.

As added by P.L.131-2006, SEC.12.

IC 36-2-9.5

Chapter 9.5. County Auditor of Marion County

IC 36-2-9.5-1

Applicability

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

As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-2

Residence; term of office

Sec. 2. (a) The county auditor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The auditor forfeits office if the auditor ceases to be a resident of the county.

(b) The term of office of the county auditor under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.

As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-2.5

Marion County auditor training courses

Sec. 2.5. (a) As used in this section, "training courses" refers to training courses related to the office of county auditor that are developed by the Association of Indiana Counties and approved by the state board of accounts.

(b) An individual elected to the office of county auditor after November 6, 2012, shall complete at least:

(1) fifteen (15) hours of training courses within one (1) year; and

(2) forty (40) hours of training courses within three (3) years;

after beginning the county auditor's term.

As added by P.L.120-2012, SEC.8.

IC 36-2-9.5-3

Office location; business hours and days

Sec. 3. The county auditor shall keep an office in a building provided at the county seat by the county executive. The auditor shall keep the office open for business during regular business hours on every day of the year except:

(1) Sundays;

(2) legal holidays; and

(3) days specified by the county executive according to the custom and practice of the county.

As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-4

Legal action on days office is closed

Sec. 4. A legal action required to be taken in the county auditor's office on a day when the auditor's office is closed under section 3 of

this chapter may be taken on the next day the office is open.
As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-5
Standard forms for use in transaction of business

Sec. 5. The county auditor shall furnish standard forms for use in the transaction of business under this article and for use in the performance of services for which the auditor receives a specific fee.
As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-6
Administration of oaths

Sec. 6. The county auditor may administer the following:

(1) An oath necessary in the performance of the auditor's duties.

(2) The oath of office to an officer who receives the officer's certificate of appointment or election from the auditor.

(3) An oath relating to the duty of an officer who receives the officer's certificate of appointment or election from the auditor.

(4) The oath of office to a member of the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-7
Appropriation by county legislative body; accounting; warrants; offense

Sec. 7. (a) The county auditor shall:

(1) keep a separate account for each item of appropriation made by the legislative body of the consolidated city; and

(2) in each warrant the county auditor draws on the county or city treasury, specifically indicate the item of appropriation the warrant is drawn against.

(b) The county auditor may not permit an item of appropriation to be:

(1) overdrawn; or

(2) drawn on for a purpose other than the specific purpose for which the appropriation was made.

(c) A county auditor who knowingly violates this section commits a Class A misdemeanor.
As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-8
Money paid into treasury; account; receipt

Sec. 8. The county auditor shall keep an accurate account current with the county treasurer. When a receipt given by the treasurer for money paid into the county or city treasury is deposited with the county auditor, the county auditor shall:

(1) file the treasurer's receipt;

(2) charge the treasurer with the amount of the treasurer's receipt; and

(3) issue the county auditor's receipt to the person presenting the treasurer's receipt.

As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-9

Drawing of warrants; necessity of appropriations; violation; offense

Sec. 9. (a) This section does not apply to:

(1) funds received from the state or the federal government for:

(A) township assistance;

(B) unemployment relief; or

(C) old age pensions; or

(2) other funds available under:

(A) the federal Social Security Act; or

(B) another federal statute providing for civil and public works projects.

(b) Except for money that by statute is due and payable from the county or city treasury to:

(1) the state; or

(2) a township or municipality in the county;

money may be paid from the county or city treasury only upon a warrant drawn by the county auditor.

(c) A warrant may be drawn on the county or city treasury only if:

(1) the legislative body of the consolidated city made an appropriation of the money for the calendar year in which the warrant is drawn; and

(2) the appropriation is not exhausted.

(d) Notwithstanding subsection (c), an appropriation by the legislative body is not necessary to authorize the drawing of a warrant on and payment from the county or city treasury for:

(1) money that:

(A) belongs to the state; and

(B) is required by statute to be paid into the state treasury;

(2) money that belongs to a school fund, whether principal or interest;

(3) money that:

(A) belongs to a township or municipality in the county; and

(B) is required by statute to be paid to the township or municipality;

(4) money that:

(A) is due a person;

(B) is paid into the county or city treasury under an assessment on persons or property of the county in territory less than that of the whole county; and

(C) is paid for construction, maintenance, or purchase of a public improvement;

(5) money that is due a person and is paid into the county treasury to redeem property from a tax sale or other forced sale;

(6) money that is due a person and is paid to the county or city under law as a tender or payment to the person;

(7) taxes erroneously paid;
(8) money paid to a cemetery board under IC 23-14-65-22;
(9) money distributed under IC 23-14-70-3; or
(10) payments under a statute that expressly provides for payments from the county or city treasury without appropriation by the legislative body.

(e) A county auditor who knowingly violates this section commits a Class A misdemeanor.

As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-10
Settlement of accounts and demands

Sec. 10. (a) The county auditor shall examine and settle all accounts and demands that are:
(1) chargeable against the county or city; and
(2) not otherwise provided for by statute.

(b) The county auditor shall issue warrants on the county or city treasury for:
(1) sums of money settled and allowed by the county auditor;
(2) sums of money settled and allowed by another official; or
(3) settlements and allowances fixed by statute;

and shall make the warrants payable to the person entitled to payment. The warrants shall be numbered progressively, and the controller shall record the number, date, amount, payee, and purpose of issue of each warrant at the time of issuance.

As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-11
Claim; judgment or order issued by court; warrant

Sec. 11. Whenever:
(1) a judgment or an order is issued by a court in a case in which the county was a party and was served with process for the payment of a claim;
(2) a certified copy of the judgment or order is filed with the auditor; and
(3) the claim is allowed by the county executive;
the auditor shall issue his warrant for the claim.

As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-12
Calls for redemption of outstanding warrants at semiannual settlement; interest; violation

Sec. 12. (a) At the semiannual settlement under IC 6-1.1-27, the auditor shall issue calls for the redemption of outstanding county warrants if there is any money available in the county treasury for redemption of those warrants.

(b) A warrant included in a call under this section ceases to bear interest upon the date of the call. The county treasurer shall redeem warrants included in the call when they are presented to the county treasurer.

(c) An auditor who violates this section is liable for the interest on all money used for redemption.
As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-13
Responsibility for warrants, accounting, payroll, revenue and tax distribution, and property records

Sec. 13. (a) The county auditor is responsible for the issuance of warrants for payments from county and city funds.

(b) The county auditor is responsible for:

(1) accounting;
(2) payroll, accounts payable, and accounts receivable;
(3) revenue and tax distributions; and
(4) maintenance of property records;

for all city and county departments, offices, and agencies.
As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-14
Powers and duties under property tax laws; exceptions

Sec. 14. The county auditor has all the powers and duties assigned to county auditors under IC 6-1.1, except for the powers and duties related to the fixing and reviewing of budgets, tax rates, and tax levies.
As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-15
Fixing and reviewing budgets, tax rates, and tax levies

Sec. 15. The county auditor does not have powers and duties concerning the fixing and reviewing of budgets, tax rates, and tax levies.
As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-16
Additional powers and duties

Sec. 16. The county auditor has the powers and duties set forth in IC 36-2-9-18 and IC 36-2-9-20.
As added by P.L.227-2005, SEC.16.

IC 36-2-9.5-17
Personal liability for penalties and interest assessed by Internal Revenue Service; reimbursement

Sec. 17. If a county auditor is held personally liable for penalties and interest assessed by the Internal Revenue Service, the county treasurer shall reimburse the county auditor in an amount equal to the penalties and interest. However, the county treasurer may not reimburse the county auditor if the county auditor willfully or intentionally failed or refused to file a return or make a required deposit on the date the return or deposit was due.
As added by P.L.227-2005, SEC.16.

IC 36-2-10
Chapter 10. County Treasurer

IC 36-2-10-1
Application of chapter
Sec. 1. This chapter applies to all counties.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-2
Residence; term of office
Sec. 2. (a) The county treasurer must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The treasurer forfeits office if the treasurer ceases to be a resident of the county.
(b) The term of office of the county treasurer under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1987, SEC.545.

IC 36-2-10-2.5
County treasurer training courses
Sec. 2.5. (a) As used in this section, "training courses" refers to training courses related to the office of county treasurer that are developed by the Association of Indiana Counties and approved by the state board of accounts.
(b) An individual elected to the office of county treasurer after November 6, 2012, shall complete at least:
(1) fifteen (15) hours of training courses within one (1) year; and
(2) forty (40) hours of training courses within three (3) years;
after beginning the county treasurer's term.
As added by P.L.120-2012, SEC.9.

IC 36-2-10-3
Removal
Sec. 3. The county executive may remove the treasurer from office if he is delinquent and has been sued on his official bond.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-4
Location of office; business hours and days
Sec. 4. The treasurer shall keep his office in a building provided at the county seat by the county executive. He shall keep his office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, he may close his office on days specified by the county executive according to the custom and practice of the county.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-5
Legal action on days office is closed

Sec. 5. A legal action required to be taken in the treasurer's office on a day when his office is closed under section 4 of this chapter may be taken on the next day his office is open.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-6
Administration of oaths

Sec. 6. The treasurer may administer all oaths necessary in the discharge of the duties of his office.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-7
Inspection of records and office

Sec. 7. The records and office of the treasurer may be inspected by the county executive at any time.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-8
Delivery of all public money on expiration of term

Sec. 8. At the expiration of his term, the treasurer shall deliver to his successor all public money in his possession.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-9
Receipt and disbursement of money

Sec. 9. The treasurer shall receive money to which the county is entitled and shall disburse it on warrants issued and attested by the county auditor.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-10
Issuance of receipts

Sec. 10. The treasurer shall issue a receipt to each person from whom he receives money.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-11
Payment of warrants; want of funds; legal interest; redemption notice

Sec. 11. (a) If there is sufficient money in the county treasury for the payment of warrants of the county auditor, the treasurer shall pay each warrant of the auditor when it is presented.

(b) If there is no money to pay a county warrant when presented, the treasurer shall write "not paid for want of funds" and the date of presentment on the face of the warrant, over his signature. The warrant then bears legal interest beginning on the date of presentment and continuing until:

(1) the treasurer gives notice, by publication under IC 5-3-1,

that there is money to redeem outstanding orders; or

(2) the warrant is included in a call under IC 36-2-9-17.

(c) When money for the redemption of outstanding county warrants becomes available, the treasurer shall give the notice prescribed by subsection (b).

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-12

Redemption of warrant; notation of interest

Sec. 12. Whenever the treasurer redeems a warrant on which interest is due, he shall note on the warrant the amount of interest he pays on it and shall enter that amount, distinct from the principal, on his account.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-13

Redemption of warrant; order of presentation; warrants in payment of county taxes

Sec. 13. (a) The treasurer shall redeem county warrants in the order in which they are presented.

(b) The treasurer may receive county warrants in payment of county taxes without regard to their order of presentment or number, but he may not pay any balance left owing on the warrants after payment of the taxes if there are outstanding unpaid warrants.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-14

Deposit of redeemed warrants; receipt

Sec. 14. On the first Monday in March, June, September, and December, the treasurer shall deposit all the county warrants he has redeemed with the county auditor, who shall give the treasurer a receipt for them.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-15

Separate accounts of receipts and expenditures; general account; tax receipts

Sec. 15. (a) The treasurer shall maintain:

(1) separate accounts of receipts for and expenditures from each specific county fund or appropriation; and

(2) a general account of all county receipts and expenditures.

(b) The treasurer may not enter in his accounts money received for taxes charged on the duplicate of the current year until after his settlement for that money under IC 6-1.1-27.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-16

Monthly financial report

Sec. 16. (a) Before the sixteenth day of each month, the treasurer shall prepare a report showing, as of the close of business on the last

day of the preceding month, the following items:

(1) The total amount of taxes collected and not included in the last semiannual settlement of taxes, and the amount of taxes omitted from any preceding semiannual settlements, except for taxes advanced to the state or a municipal corporation in the county and for which an advance settlement has been made.

(2) The total amount of distributions under IC 6-5.5 that are not included in the last semiannual settlement of taxes, and the amount of those taxes omitted from any preceding semiannual settlements.

(3) The totals of money received from all other sources and not receipted into the ledger fund accounts of the county at the end of the month.

(4) The total of the balances in all ledger fund accounts.

(5) The total amount of cash in each depository at the close of business on the last day of the month.

(6) The total of county warrants issued against each depository that are outstanding and unpaid at the end of the month.

(7) The record balance of money in each depository at the end of the month.

(8) The cash in the office at the close of the last day of the month.

(9) Other items for which the treasurer is entitled to credit.

The treasurer shall prepare the report in quadruplicate and verify each copy. The treasurer shall retain one (1) copy as a public record and file three (3) copies with the county auditor. The state board of accounts shall prescribe forms for the report in the detail it considers necessary under this section and IC 5-13-6-1.

(b) The treasurer shall make the monthly report required by IC 36-2-6-14.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.88-1983, SEC.13; P.L.19-1987, SEC.47; P.L.347-1989(ss), SEC.23; P.L.10-1997, SEC.29; P.L.1-2010, SEC.147.

IC 36-2-10-17

Annual settlement with county executive

Sec. 17. The treasurer shall make an annual settlement with the county executive under IC 36-2-2-18.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-18

Semiannual settlement with county auditor

Sec. 18. The treasurer shall make a semiannual settlement with the county auditor under IC 6-1.1-27.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-19

"Financial institution" defined; duties and responsibilities as tax collecting agents

Sec. 19. (a) As used in this section, "financial institution" means

any of the following:

(1) A bank, trust company, or mutual savings bank incorporated under Indiana law.

(2) A national banking association with its principal office in Indiana.

(3) A savings association operating under Indiana law.

(4) A federally chartered savings association with its principal office or a branch in Indiana.

(5) A federally chartered savings bank with its principal office or a branch in Indiana.

(6) A credit union chartered under Indiana law or United States law having its principal office in Indiana.

(b) The treasurer may designate one (1) or more financial institutions in the county as the treasurer's agent for collecting payments of taxes that are not delinquent.

(c) A designated financial institution may issue an official receipt of the treasurer for taxes the financial institution collects.

(d) A designated financial institution shall make a daily settlement with the treasurer for all taxes the financial institution collects.

(e) A designated financial institution is responsible for all taxes the financial institution collects.

(f) This section does not affect IC 5-13.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.19-1987, SEC.48; P.L.140-1992, SEC.1; P.L.79-1998, SEC.106.

IC 36-2-10-20

Burglary of treasury; reimbursement by appropriation

Sec. 20. Whenever the county treasury is burglarized the county fiscal body may appropriate from the county general fund an amount sufficient to reimburse the treasurer for any loss sustained if:

(1) the treasurer establishes that before the burglary he made detailed deposits of county funds as required by statute;

(2) the county executive has not procured safe or burglary insurance to protect county funds; and

(3) the proper law enforcement agency, after investigation, has filed with the county executive a statement concluding that the burglary did not result from the negligence or participation of the treasurer.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-10-21

Money found on dead bodies

Sec. 21. (a) Within one (1) year after the county treasurer receives money from the county coroner under IC 36-2-14-11, the treasurer shall deliver it to any person legally entitled to receive it, but the treasurer may retain as much as is needed to pay the expenses of the coroner's investigation and the funeral of the deceased. The treasurer shall report amounts retained and paid by the county treasurer under this subsection to the county executive for its approval.

(b) If money held by the treasurer under subsection (a) is not

claimed within one (1) year after the county treasurer receives it, the county treasurer shall credit the sum of money to the county general fund.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.56-1996, SEC.14.

IC 36-2-10-22

Civil action to collect money

Sec. 22. If the county coroner finds money and does not deliver it to the treasurer, as required by IC 36-2-14-11, the treasurer shall, in the county treasurer's own name, bring a civil action against the coroner to collect it.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.56-1996, SEC.15.

IC 36-2-10-23

Payments to treasurer; financial instruments; charges or fees; bureau of motor vehicles

Sec. 23. (a) Notwithstanding any other law, payments to the treasurer for any purpose, including property tax payments, may be made by any of the following financial instruments that the treasurer authorizes for use:

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

(b) If there is a charge to the treasurer for the use of a financial instrument other than a bank card or credit card, the treasurer shall collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(c) A treasurer may contract with a bank card or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the treasurer or charged directly to the treasurer's account, the treasurer shall collect from the person using the card an official fee that may not exceed the highest transaction charge or discount fee charged to the treasurer by bank or credit card vendors during the most recent collection period. This fee may be collected regardless of retail merchant agreements between the bank and credit card vendors that may prohibit such a fee. The fee is a permitted additional charge under IC 24-4.5-3-202.

(d) Notwithstanding subsection (a), the authorization of the treasurer is not required for the bureau of motor vehicles or the bureau of motor vehicles commission to use electronic funds transfer or other financial instruments to transfer funds to the county treasurer.

As added by P.L.45-1990, SEC.7. Amended by P.L.44-1992, SEC.7.

IC 36-2-10-24
Personal liability

Sec. 24. A county treasurer is not personally liable for any act or omission occurring in connection with the performance of the county treasurer's official duties, unless the act or omission constitutes gross negligence or an intentional disregard of the responsibilities of the office of county treasurer.

As added by P.L.98-2000, SEC.20.

IC 36-2-11
Chapter 11. County Recorder

IC 36-2-11-1
Application of chapter
Sec. 1. This chapter applies to all counties.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-2
Residence; term of office
Sec. 2. (a) The county recorder must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The recorder forfeits office if the recorder ceases to be a resident of the county.
(b) The term of office of the county recorder under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1987, SEC.546.

IC 36-2-11-2.5
Training
Sec. 2.5. (a) As used in this section, "training courses" refers to training courses related to the office of county recorder that are developed by the Association of Indiana Counties and approved by the state board of accounts.
(b) An individual elected to the office of county recorder after November 4, 2008, shall complete at least:
(1) fifteen (15) hours of training courses within one (1) year; and
(2) forty (40) hours of training courses within three (3) years;
after beginning the county recorder's term.
As added by P.L.171-2009, SEC.1.

IC 36-2-11-3
Location of office; business hours and days
Sec. 3. The recorder shall keep his office in a building provided at the county seat by the county executive. He shall keep his office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, he may close his office on days specified by the county executive according to the custom and practice of the county.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-4
Legal action on days office is closed
Sec. 4. A legal action required to be taken in the recorder's office on a day when his office is closed under section 3 of this chapter may be taken on the next day his office is open.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-5
Delivery of instruments left for record on expiration of term

Sec. 5. At the expiration of his term of office, the recorder shall deliver all instruments left for record with him to his successor in office, whether the fees for recording them have been paid or not.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-6
Demand of fees; overpayment of fees; refund

Sec. 6. (a) The recorder may demand the recorder's fees before entering and recording an instrument.

(b) If:

(1) a person, in payment of a recording fee required under IC 36-2-7-10, submits an amount that exceeds the amount of the fee set forth in IC 36-2-7-10; and

(2) the instrument submitted meets the statutory requirements for filing;

the recorder shall accept and record the instrument. If the amount submitted is at least three dollars ($3) more than the fee required by IC 36-2-7-10, the amount that exceeds three dollars ($3) shall be refunded upon the request of the person filing the document. The recorder may retain as an administrative fee up to three dollars ($3) of the excess of the amount submitted.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.171-2002, SEC.1.

IC 36-2-11-7
Return of instrument to presenter

Sec. 7. When the recorder has received an instrument for record, he may return it to the person who presented it only after the fee for recording the instrument has been paid.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-7.5
Personal liability for dishonored checks

Sec. 7.5. A county recorder is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if:

(1) the check was tendered to the county recorder for the payment of a fee; and

(2) the acceptance of the check was not an act or omission constituting gross negligence or an intentional disregard of the responsibilities of the office of county recorder.

As added by P.L.98-2000, SEC.21.

IC 36-2-11-8
Record of instruments in order received; public access; copies

Sec. 8. (a) The recorder shall record all instruments that are proper for recording, in the order in which they are received in the

recorder's office for record. The recorder shall record deeds and mortgages in separate records.

(b) The recorder shall establish a written procedure for the public to obtain access to the original instrument in order to protect the instrument from loss, alteration, mutilation, or destruction. The recorder shall post the written procedure in the recorder's office.

(c) Providing an exact copy of an original instrument in the possession of the recorder is sufficient to comply with the inspection of public records provided under IC 5-14-3-3 if the original document has not been archived.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.87-2001, SEC.1.

IC 36-2-11-9

Entry book; contents

Sec. 9. The recorder shall keep an entry book in which he shall enter the date on which he received each instrument for recording, the names of the parties to the instrument, a description of the premises affected by the instrument, and the fees for recording the instrument.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-10

Recording requirements

Sec. 10. The recorder may record sheets conforming in size, color, weight, and texture to the pages of the appropriate official record book in which similar instruments are recorded, if:

(1) the complete text of a printed instrument comprising ten (10) or more printed pages has been accurately and legibly printed on the sheets;

(2) the original instrument is filed for record in his office at the same time; and

(3) he is satisfied that the complete text of the original instrument has been accurately and legibly printed on the sheets.

After the recorder has numbered the sheets and securely fastened them into the official record book at the proper place according to the date and time of the filing of the instrument for record, the instruments are considered to have been properly recorded.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-11

Printed forms for record books; requisite

Sec. 11. A county recorder may use printed forms for record books only for the recording of instruments presented by persons who presented fifty (50) or more instruments for recording during the preceding year.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-12

Grantor and grantee index; separate indexes for deeds and mortgages; requisites

Sec. 12. (a) The recorder shall index each volume of instruments the recorder records by:

(1) the name of each grantor, promisor, or covenantor, in alphabetical order and cross-referenced to the proper grantee, promisee, or covenantee; and

(2) the name of each grantee, promisee, or covenantee, in alphabetical order and cross-referenced to the proper grantor, promisor, or covenantor.

(b) The recorder shall accurately maintain separate indexes of all the records of:

(1) deeds for real estate; and

(2) mortgages on real estate;

in the recorder's office. The recorder shall index each deed or mortgage alphabetically, by the name of each grantor and grantee or mortgagor and mortgagee, and shall include in each index entry a concise description of the real property, the date of the deed or mortgage, and the number or letter of the book and the page at which each deed or mortgage is recorded.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.16-2001, SEC.1.

IC 36-2-11-13

Plat or instrument of title to real property recorded in county where plat or property not located

Sec. 13. If a plat or an instrument of title to real property is recorded in a county other than the one in which the plat or property is located, the county executive of the county in which the plat or property is located may order the recorder of its county to record a copy of the plat or instrument that has been certified by the recorder of the county in which it was first recorded. A copy of a record made under this section that is certified by the recorder of the county in which the plat or property is located has the same force in evidence as the original instrument would have.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-14

Auditor's endorsement required for recording of deed of partition, conveyance of land, or affidavits of transfer to real estate; violation

Sec. 14. (a) The recorder may record:

(1) a deed of partition;

(2) a conveyance of land; or

(3) an affidavit of transfer to real estate;

only if it has been endorsed by the auditor of the proper county as "duly entered for taxation subject to final acceptance for transfer", "not taxable", or "duly entered for taxation" as provided by IC 36-2-9-18.

(b) A recorder who violates this section shall forfeit the sum of five dollars ($5), to be recovered by an action in the name of the

county, for the benefit of the common school fund.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.54-1988, SEC.4; P.L.106-2003, SEC.7; P.L.106-2007, SEC.6.

IC 36-2-11-15
Instruments that may be received for record or filing; name of person or governmental agency that prepared instrument

Sec. 15. (a) This section does not apply to:

(1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;
(2) a judgment, order, or writ of a court;
(3) a will or death certificate;
(4) an instrument executed or acknowledged outside Indiana; or
(5) a federal lien on real property or a federal tax lien on personal property, as described in section 25 of this chapter.

(b) The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if:

(1) the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument; and
(2) all Social Security numbers in the document are redacted, unless required by law.

(c) An instrument complies with subsection (b)(1) if it contains a statement in the following form:

"This instrument was prepared by (name).".

(d) An instrument complies with subsection (b)(2) if it contains a statement in the following form at the conclusion of the instrument and immediately preceding or following the statement required by subsection (b)(1):

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law (name).".

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.171-2006, SEC.21; P.L.160-2007, SEC.4.

IC 36-2-11-16
Requirements for instruments to be received and recorded

Sec. 16. (a) This section does not apply to:

(1) an instrument executed before November 4, 1943;
(2) a judgment, order, or writ of a court;
(3) a will or death certificate; or
(4) an instrument executed or acknowledged outside Indiana.

(b) Whenever this section prescribes that the name of a person be printed, typewritten, or stamped immediately beneath the person's signature, the signature must be written on the instrument, directly preceding the printed, typewritten, or stamped name, and may not be superimposed on that name so as to render either illegible. However, the instrument may be received for record if the name and signature

are, in the discretion of the county recorder, placed on the instrument so as to render the connection between the two apparent.

(c) Except as provided in subsection (d), the recorder may receive for record an instrument only if all of the following requirements are met:

(1) The name of each person who executed the instrument is legibly printed, typewritten, or stamped immediately beneath the person's signature or the signature itself is printed, typewritten, or stamped.

(2) The name of each witness to the instrument is legibly printed, typewritten, or stamped immediately beneath the signature of the witness or the signature itself is printed, typewritten, or stamped.

(3) The name of each notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped immediately beneath the signature of the notary public or the signature itself is printed, typewritten, or stamped.

(4) The name of each person who executed the instrument appears identically in the body of the instrument, in the acknowledgment or jurat, in the person's signature, and beneath the person's signature.

(5) If the instrument is a copy, the instrument is marked "Copy".

(d) The recorder may receive for record an instrument that does not comply with subsection (c) if all of the following requirements are met:

(1) A printed or typewritten affidavit of a person with personal knowledge of the facts is recorded with the instrument.

(2) The affidavit complies with this section.

(3) The affidavit states the correct name of a person, if any, whose signature cannot be identified or whose name is not printed, typewritten, or stamped on the instrument as prescribed by this section.

(4) When the instrument does not comply with subsection (c)(4), the affidavit states the correct name of the person and states that each of the names used in the instrument refers to the person.

(5) If the instrument is a copy, the instrument is marked "Copy".

(e) The recorder shall record a document presented for recording or a copy produced by a photographic process of the document presented for recording if:

(1) the document complies with other statutory recording requirements; and

(2) the document or copy will produce a clear and unobstructed copy.

(f) An instrument, document, or copy received and recorded by a county recorder is conclusively presumed to comply with this section. A recorded copy shall have the same effect as if the original document had been recorded.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.98-1986, SEC.11; P.L.87-2001, SEC.2; P.L.129-2008, SEC.2.

IC 36-2-11-16.5

Requirements for instrument or document presented for recording

Sec. 16.5. (a) This section does not apply to the following:

(1) A judgment, an order, or a writ of a court.

(2) A will or death certificate.

(3) A plat.

(4) A survey.

(b) The county recorder may receive for record an instrument or a document without collecting the additional fee described in subsection (c) if:

(1) the instrument or document consists of at least one (1) individual page measuring not more than eight and one-half (8 1/2) inches by fourteen (14) inches that is not permanently bound and is not a continuous form;

(2) the instrument or document is on white paper of at least twenty (20) pound weight and has clean margins:

(A) on the first and last pages of at least two (2) inches on the top and bottom and one-half (1/2) inch on each side; and

(B) on each additional page of at least one-half (1/2) inch on the top, bottom, and each side; and

(3) the instrument or document is typewritten or computer generated in black ink in at least 10 point type.

(c) For each instrument or document presented for recording that does not conform to the requirements of subsection (b), the recorder may attach additional pages, as needed, and collect one dollar ($1) for each nonconforming page.

As added by P.L.211-1996, SEC.5.

IC 36-2-11-17

Recording of name of farm; description; conveyance; cancellation

Sec. 17. (a) An owner of a farm may have the name of his farm and a description of the land to which the name applies recorded in a register kept for that purpose by the recorder of the county in which the farm is located. The recorder, under the seal of his office, shall present to the owner a proper certificate setting forth the name and description of the farm.

(b) If a name is recorded as the name of a farm, the name may not be recorded as the name of another farm in the same county.

(c) If the name of a farm is recorded under this section and the owner conveys all of the farm, the recorded name of the farm also is conveyed. If the owner conveys only a part of the farm, the recorded name of the farm is conveyed only if so stated in the deed of conveyance.

(d) An owner of a farm may cancel the recorded name of the farm by making the following statement on the margin of the record of the name: "This name is cancelled and I hereby release all rights thereunder." This statement must be signed by the owner and attested by the recorder.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-18
Marginal entries; satisfaction, cancellation, or assignment; entry in entry book

Sec. 18. (a) The recorder may allow marginal entries.

(b) If a satisfaction, cancellation, or assignment of any kind is made on the margin of a record in the recorder's office, the recorder shall immediately enter it on the entry book. The entry must show the date of entry, the name of the person who executed the instrument satisfied, cancelled, or assigned, and the name, number, and page of the record where the instrument is recorded.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.231-1989, SEC.12.

IC 36-2-11-19
Affidavit; recording in miscellaneous records; record as prima facie evidence

Sec. 19. (a) An affidavit that:

(1) concerns the birth, marriage, death, name, residence, identity, or relationship of any of the parties named in an instrument affecting real property;

(2) is made by a land surveyor registered under IC 25-21.5 and concerns the existence or location of a monument or physical boundary;

(3) is made by a land surveyor registered under IC 25-21.5 and reconciles ambiguous descriptions in conveyances with descriptions in a regular chain of title;

(4) concerns facts incident to the adverse possession of real property and the payment of taxes on that property; or

(5) is made by a purchaser of real property sold on foreclosure or conveyed in lieu of foreclosure of:

(A) a deed of trust securing an issue of bonds or other evidences of indebtedness;

(B) a mortgage;

(C) a contract for the sale of real property; or

(D) any other security instrument;

held by a fiduciary or other representative, and concerns the authority of the purchaser to purchase the property and the terms and conditions on which the property is to be held and disposed of;

may be recorded in the office of the recorder of the county in which the property is located. If an affidavit is presented to the recorder for record under this section, the recorder shall record it in the miscellaneous records in the recorder's office.

(b) An affidavit recorded under this section may be received in evidence in any proceeding affecting the real property and constitutes prima facie evidence of the facts and circumstances contained in the affidavit.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.23-1991, SEC.33.

IC 36-2-11-20
Memorandum of lease; recording; effect

Sec. 20. (a) A memorandum of a lease may be recorded in lieu of the lease itself if the memorandum is executed and acknowledged by the lessor and the lessee and contains:

(1) the names of the lessor and the lessee;
(2) the term of the lease;
(3) any option of the lessee to renew or extend the term of the lease; and
(4) the specific legal description of the leased premises, or a survey or plot plan authorized under subsection (c) showing the location of the leased premises.

(b) A memorandum recorded under this section may also contain any other agreement made between the lessor and the lessee in the lease.

(c) A survey or plot plan may be used in lieu of a specific legal description to describe:

(1) any part of a building on the leased premises, if the specific legal description of the real property on which the building is located is set forth in the memorandum, survey, or plot plan;
(2) any part of the leased premises that is part of a larger tract of land, if the specific legal description of the larger tract is set forth in the memorandum, survey, or plot plan; or
(3) real property of the lessor, if:
(A) its use is restricted by the terms of the lease;
(B) it is located wholly within real property of the lessor; and
(C) the specific legal description of the real property within which it is located is set forth in the memorandum, survey, or plot plan.

(d) As to the provisions contained in a memorandum recorded under this section, recording the memorandum has the same effect as recording the lease itself.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-21
Repealed

(*Repealed by P.L.338-1987, SEC.2.)*

IC 36-2-11-22
Certified copy of matter relating to bankruptcy; recording in miscellaneous records

Sec. 22. The recorder shall record a certified copy of a matter relating to bankruptcy if federal law requires that the copy be filed in the county in which lands of the bankrupt are located in order to give notice of the bankruptcy. The recorder shall record the copy in the miscellaneous records and shall index it in the same manner as deeds, in the name of the bankrupt as grantor and the trustee in bankruptcy or receiver as grantee.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-23
Official seal

Sec. 23. (a) The recorder shall use an official seal in attesting an instrument when appropriate to seal the instrument. Before the recorder uses his official seal, he shall file the impression of the seal and a verified description of that impression in the office of the clerk of the circuit court, for recording in the order book of that court.

(b) If the recorder has complied with this section, full faith and credit shall be given to his seal without further attestation.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-11-24
List of recorded mortgage releases

Sec. 24. The county recorder shall, on or before the 20th day of each month, furnish the county auditor a list of the mortgage releases recorded during the prior month. The list shall set forth the full name of the mortgagor, the book and page numbers of the original mortgage, the amount being released, and the date of the release.

As added by Acts 1982, P.L.44, SEC.10.

IC 36-2-11-25
Federal liens; notice; filing; certificate of discharge; recording; exemption from redaction requirements

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

(1) a lien arising under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (commonly known as the Superfund Law); and

(2) any other federal lien on real property or any federal tax lien on personal property provided for in the statutes or regulations of the United States.

In order for a lien covered by this section to be perfected, notice of the lien must be filed in the office of the recorder of the county in which the real or personal property subject to the lien is located.

(b) When a notice of a lien covered by this section is presented to the recorder for filing, the recorder shall enter it appropriately in the entry book and in the miscellaneous record. The entries made under this subsection must show the date of filing, the book and page number or instrument number, the name of the person named in the notice, a legal description of the property, if appropriate, and any serial number or other identifying number given in the notice.

(c) When a certificate of discharge of a federal lien covered by this section is issued by the proper officer and presented for filing in the office of the recorder of the county where the notice of lien was filed, the recorder shall record the certificate of discharge as a release of the lien. However, to be recorded under this subsection, the certificate must refer to the recorder's book and page number or instrument number under which the lien was recorded.

(d) When recording a release of a lien under subsection (c), the recorder shall inscribe, in the margin of each entry made to record

the lien under subsection (a), a reference to the place where the release is recorded.

(e) Upon the recording of the certificate of discharge as a release under subsection (c) and the inscribing of the references to the release under subsection (d), a certificate of discharge of a lien covered by this section operates as a full discharge and satisfaction of the lien, unless the references to the release inscribed under subsection (d) specifically note the release as a partial lien release.

(f) A federal lien on real property and a federal tax lien on personal property are not subject to the:

(1) requirement to redact Social Security numbers as described in IC 36-2-7.5-1.5; or

(2) requirements to include statements in a recorded or filed instrument as described in section 15(c) and 15(d) of this chapter.

As added by P.L.338-1987, SEC.1. Amended by P.L.256-1993, SEC.1; P.L.171-2006, SEC.22.

IC 36-2-11-26

Social Security number on instruments presented for recording

Sec. 26. (a) This section does not apply to an instrument executed before July 1, 2002.

(b) A person may not present for recording by the county recorder a mortgage instrument that discloses a Social Security number.

As added by P.L.16-2001, SEC.2.

IC 36-2-11-27

Payments to county recorder; transaction fees; contracting with payment processing companies authorized

Sec. 27. (a) A payment to the county recorder for any purpose may be made by any of the following financial instruments that the county recorder authorizes to use:

(1) Cash.

(2) Check.

(3) Bank draft.

(4) Money order.

(5) Bank card or credit card.

(6) Electronic funds transfer.

(7) Any other financial instrument authorized by the county recorder.

(b) If there is a charge to the county recorder for the use of a financial instrument other than a bank card or credit card, the county recorder shall collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(c) The county recorder may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards. A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the county recorder receives payment or credit from the institution responsible for making the payment or credit. Subject to subsection (e), if there

is a vendor transaction card or discount fee, whether billed to the county recorder or charged directly to the county recorder's account, the county recorder shall collect a fee from the person using the bank card or credit card. The fee is a permitted charge under IC 24-4.5-3-202.

(d) Subject to subsection (e), the county recorder may contract with a payment processing company, which may collect a transaction fee from the person using the bank card or credit card.

(e) The county recorder shall collect and deposit in the appropriate fund an amount not less than the amount the county recorder would collect and deposit if the county recorder received payment by a means other than a bank card or credit card.

(f) Funds described in subsection (c) may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

As added by P.L.171-2006, SEC.23.

IC 36-2-12
Chapter 12. County Surveyor

IC 36-2-12-1
Application of chapter
Sec. 1. This chapter applies to all counties.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-12-2
Residence; term of office
Sec. 2. (a) The county surveyor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The surveyor forfeits office if the surveyor ceases to be a resident of the county.
(b) The term of office of the county surveyor under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1987, SEC.547.

IC 36-2-12-2.5
Training
Sec. 2.5. (a) This section does not apply to an individual who is:
(1) an actively registered land surveyor;
(2) a graduate of an accredited land surveying curriculum; or
(3) a land-surveyor-in-training (as defined in IC 25-21.5-1-5).
(b) An individual elected to the office of county surveyor after June 30, 2009, shall, within two (2) years after beginning the county surveyor's term, complete at least twenty-four (24) hours of training courses related to land surveying that are developed by the Association of Indiana Counties and approved by the state board of accounts.
(c) An individual shall fulfill the training requirement established by subsection (b) for each term the individual serves.
As added by P.L.171-2009, SEC.2.

IC 36-2-12-3
Location of office; business hours; supplies and equipment
Sec. 3. (a) The surveyor shall keep his office in a building provided at the county seat by the county executive. He shall keep his office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, he may close his office on days specified by the county executive according to the custom and practice of the county.
(b) The county executive shall provide the surveyor with all necessary supplies and equipment, including:
(1) ordinary office supplies, equipment, and accessories of the type furnished to other county offices; and
(2) surveying instruments and materials necessary for the discharge of his duties.

Supplies and equipment furnished under this subsection are property of the county.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-12-4
Legal action on days office is closed

Sec. 4. A legal action required to be taken in the surveyor's office on a day when his office is closed under section 3 of this chapter may be taken on the next day his office is open.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-12-5
Official seal

Sec. 5. The surveyor may procure and use an official seal.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-12-6
Administration of oaths; appointment to offices of commissioner for partition or viewer; acknowledgments of mortgages and deeds

Sec. 6. (a) The surveyor may:
(1) administer oaths necessary in the discharge of the surveyor's duties; and
(2) administer and certify any oath required to be taken by:
(A) a commissioner for the partition of real property; or
(B) a commissioner to view, mark, locate, or relocate a public highway.

(b) If the surveyor is appointed to one (1) of the offices covered by subsection (a)(2), the surveyor is not required to take an oath under that provision. The surveyor's duties as a commissioner comprise part of the surveyor's official duties, and the surveyor's signature on any proceedings required of a commissioner is sufficient.

(c) The surveyor may take, and certify with the surveyor's seal and signature, acknowledgments of mortgages and deeds for the conveyance of real property.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1989, SEC.227.

IC 36-2-12-7
Expiration of surveyor's term

Sec. 7. (a) At the expiration of his term of office, the surveyor shall turn over to his successor all engineering and survey work in which he is engaged.

(b) At the expiration of the surveyor's term of office, his duties as surveyor, including his duties as county engineer or as the engineer on public improvement work of any kind, cease, and those duties shall be performed by his successor, unless by mutual agreement the surveyor whose term is expiring is permitted to continue performing his duties on public improvements.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-12-8
Supervision of surveying and civil engineering work; appointment of civil engineer

Sec. 8. (a) If he is a competent civil engineer, the surveyor shall plan and supervise all surveying and civil engineering work of the county under the direction of the county executive.

(b) If the surveyor is not a competent civil engineer, the county executive shall appoint a competent civil engineer for each surveying or civil engineering project that the executive orders or receives a petition for. If the executive refuses to appoint such an engineer for a project, the surveyor is entitled to a hearing in the circuit or superior court of the county to determine his competence to perform the project. The order of the court under this section is final and conclusive.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-12-9
Survey to constitute prima facie evidence

Sec. 9. A survey by the surveyor constitutes prima facie evidence in favor of the corners and lines it establishes.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-12-10
Maintenance of legal survey record book; procedure for establishing location of line; effect of location and establishment of lines; appeal

Sec. 10. (a) The surveyor shall maintain a legal survey record book, which must contain a record of all the legal surveys made in the county showing outline maps of each section, grant, tract, subdivision, or group of sections, grants, tracts, and subdivisions in sufficient detail so that the approximate location of each legal survey can be shown. Legal surveys shall be indexed by location.

(b) A landowner desiring to establish the location of the line between the landowner's land and that of an adjoining landowner by means of a legal survey may do so as follows:

(1) The landowner shall procure a land surveyor registered under IC 25-21.5 to locate the line in question and shall compensate that surveyor.

(2) The land surveyor shall notify the owners of adjoining lands that the land surveyor is going to make the survey. The notice must be given by registered or certified mail at least twenty (20) days before the survey is started.

(3) If all the owners of the adjoining lands consent in writing, the notice is not necessary.

(4) The lines and corners shall be properly marked, monumented by durable material with letters and figures establishing such lines and corners, referenced, and tied to corners shown in the corner record book in the office of the county surveyor or to corners shown on a plat recorded in the plat books in the office of the county recorder.

(5) The land surveyor shall present to the county surveyor for entry in the legal survey record book a plat of the legal survey and proof of notice to or waiver of notice by the adjoining landowners. The land surveyor shall give notice to adjoining landowners by registered or certified mail within ten (10) days after filing of the survey.

(c) The lines located and established under subsection (b) are binding on all landowners affected and their heirs and assigns, unless an appeal is taken under section 14 of this chapter. The right to appeal commences when the plat of the legal survey is recorded by the county surveyor in the legal survey record book.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.23-1991, SEC.34.

IC 36-2-12-11

Administration of section; maintenance of corner record book; contents of record; procedure for establishment and perpetuation of corners

Sec. 11. (a) The surveyor shall administer this section if the surveyor is registered as a land surveyor under IC 25-21.5. If the surveyor is not registered, the surveyor shall, with the approval of the county executive, appoint a person who is registered as a land surveyor and is a resident voter of the county to administer this section. If a resident, registered land surveyor is not available, a land surveyor who resides in another county may be employed.

(b) The surveyor shall keep and maintain a corner record book, that must contain:

(1) a record and an index by location of all the original government survey corners;

(2) outline maps of each section, grant, tract, and subdivision or group of sections, grants, tracts, and subdivisions in the county showing the location of each corner on record and stating at the location of each corner on the map where the reference for that corner may be found; and

(3) a reference index for each corner.

A separate card index system may be used in lieu of the index required by subdivision (3).

(c) The record of each corner referenced in the record book must contain:

(1) the location of the corner;

(2) an accurate description of the monument used to mark the corner such as "stone" or "iron pin";

(3) the distance and bearings from the corner to three (3) or more permanent objects or structures;

(4) the date the corner was last checked and the condition of the monument and references;

(5) the name of the surveyor making the check; and

(6) the method of establishing or relocating the corner.

(d) The records of the corners shall be established and perpetuated in the following manner:

(1) Each year the surveyor shall check and reference at least five percent (5%) of all corners shown in the corner record book.

(2) The surveyor may enter in the surveyor's corner record book the findings submitted by a private land surveyor who checks and references corners and is registered under IC 25-21.5.

(e) Any money in the county surveyor's corner perpetuation fund collected under IC 36-2-7-10 or IC 36-2-19 may be appropriated in the manner provided by law for the purposes of this section.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.342-1983, SEC.2; P.L.76-1989, SEC.2; P.L.23-1991, SEC.35.

IC 36-2-12-12

Surveyors not trespassers; actual damages

Sec. 12. While doing work under section 10 or 11 of this chapter, a land surveyor registered under IC 25-21.5, an unregistered county surveyor, or the employees of a county surveyor are not considered trespassers and are liable only for the actual damages they cause to property.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.342-1983, SEC.3; P.L.23-1991, SEC.36.

IC 36-2-12-13

Corner and Harn monuments; temporary removal; change of location; reimbursement for repair or replacement

Sec. 13. (a) A person may, for excavation, mineral extraction, or other purposes related to the person's business, temporarily remove a monument marking a corner. The person must notify in writing the county surveyor at least thirty (30) days before removing the monument. The person must replace the monument within a reasonable time at the person's expense under the supervision of the county surveyor or, if the county surveyor is not registered under IC 25-21.5 or IC 25-31, the registered person who is selected under section 11 of this chapter. The surveyor shall file a copy of the notice in the corner record book.

(b) Only a county surveyor or a designee may change the location of any monument. A person who wishes to have the location of a monument changed must make a request to the surveyor in writing and furnish written approval of all landowners whose property is affected by the proposed change. The surveyor may approve, reject, or modify the request and shall file a copy of the notice and the landowners' consents in the corner record book.

(c) When, in the construction or maintenance of a state, county, or municipal road or street, it is necessary to remove or bury a monument marking a corner, the owner of the public right-of-way shall notify the county surveyor in writing at least fifteen (15) days before commencing the work.

(d) A county legislative body may adopt an ordinance:

(1) prohibiting a person from moving, changing, or otherwise altering a monument marking a corner without complying with

this section; and

(2) prescribing a monetary penalty for a violation of the ordinance.

Any money collected shall be deposited in the county surveyor's corner perpetuation fund.

(e) A person who damages or removes a monument marking a corner or high accuracy reference network (HARN) point shall reimburse the county for the cost of repairing or replacing the monument.

(f) If a person who damages or removes a monument marking a corner violates an ordinance under subsection (d), the person is liable for:

(1) the amount of reimbursement under subsection (e); and

(2) any monetary penalty prescribed by the county legislative body for violation of the ordinance under subsection (d).

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.343-1983, SEC.1; P.L.76-1989, SEC.3; P.L.2-1997, SEC.80; P.L.276-2001, SEC.6; P.L.90-2003, SEC.1.

IC 36-2-12-14

Appeal of survey; procedure

Sec. 14. (a) The owner of property surveyed under this chapter may appeal that survey to the circuit court for the county:

(1) within ninety (90) days if he is a resident of the county and was served with notice of the survey; or

(2) within one (1) year if he is not a resident of the county and notice was by publication.

(b) When an appeal is taken under this section, the surveyor shall immediately transmit copies of the relevant field notes and other papers to the court, without requiring an appeal bond.

(c) The court may receive evidence of any other surveys of the same premises. If the court decides against the original survey, it may order a new survey to be made by a competent person other than the person who did the original survey, and it shall:

(1) determine the true boundary lines and corners of the lands included in the survey; and

(2) order the county surveyor to:

(A) locate and perpetuate the boundary lines and corners according to the court's findings by depositing durable markers in the proper places, below the freezing point;

(B) mark the boundary lines and corners; and

(C) enter the boundary lines and corners in his field notes.

(d) A new survey made under this section may be appealed under this section.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-12-15

Compensation

Sec. 15. (a) If the surveyor serves as highway supervisor or county highway engineer and is compensated for that service in an amount

greater than the compensation fixed under this title, then that compensation is in lieu of the compensation fixed under this title.

(b) When fixing the compensation of county officers under this title, the county fiscal body shall fix:

(1) compensation for the surveyor as if he is registered under IC 25-21.5 or IC 25-31; and

(2) compensation for the surveyor as if he is not registered under IC 25-21.5 or IC 25-31.

The compensation fixed under subdivision (1) must be one and one-half (1 1/2) times that fixed under subdivision (2). The county fiscal body shall then determine whether or not the surveyor is registered under IC 25-21.5 or IC 25-31 and shall fix his compensation in the proper amount.

(c) In addition to the compensation fixed under subsection (b), if the surveyor describes and certifies the number of miles of active regulated drains in the county to the county executive, he is entitled, with the approval of the county executive, to:

(1) two dollars ($2) per mile for each mile described and certified, if he is not registered under IC 25-21.5 or IC 25-31; or

(2) four dollars ($4) per mile for each mile described and certified, if he is registered under IC 25-21.5 or IC 25-31.

(d) In addition to the compensation fixed under subsections (b) and (c), the surveyor is entitled to:

(1) two dollars ($2) for each corner reference required under section 11 of this chapter, if he is not registered under IC 25-21.5 or IC 25-31; or

(2) four dollars ($4) for each corner reference required under section 11, if he is registered under IC 25-21.5 or IC 25-31.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.309, SEC.103; P.L.342-1983, SEC.4; P.L.2-1997, SEC.81.

IC 36-2-12-16

Replacement of worn maps and plats

Sec. 16. The surveyor shall replace worn maps and plats as required by IC 36-2-17-5(c).

As added by P.L.276-2001, SEC.7.

IC 36-2-13
Chapter 13. County Sheriff

IC 36-2-13-0.1
Application of certain amendments to chapter

Sec. 0.1. The addition of section 14 of this chapter by P.L.219-1991 applies to the following:

(1) An insurance policy that is issued or renewed after June 30, 1991.

(2) A contract entered into or renewed after June 30, 1991, under which a prepaid health care delivery plan is to provide services to enrollees.

As added by P.L.220-2011, SEC.643.

IC 36-2-13-1
Application of chapter

Sec. 1. Except for sections 15.3 and 16.3 of this chapter, this chapter applies to all counties.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.1-2002, SEC.156.

IC 36-2-13-2
Residence; term of office

Sec. 2. (a) The county sheriff must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The sheriff forfeits office if the sheriff ceases to be a resident of the county.

(b) The term of office of the county sheriff under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1987, SEC.548.

IC 36-2-13-2.5
Salary contracts for sheriffs; required provisions; legalization of certain contracts entered into before January 1, 1993

Sec. 2.5. (a) The sheriff, the executive, and the fiscal body may enter into a salary contract for the sheriff.

(b) A sheriff's salary contract must contain the following provisions:

(1) A fixed amount of compensation for the sheriff in place of fee compensation.

(2) Payment of the full amount of the sheriff's compensation from the county general fund in the manner that salaries of other county officials are paid.

(3) Deposit by the sheriff of the sheriff's tax warrant collection fees (as described in IC 6-8.1-8-3) in the county general fund for use for any general fund purpose.

(4) A procedure for financing prisoners' meals that uses one (1) of the following methods:

(A) The county fiscal body shall make an appropriation in the usual manner from the county general fund to the sheriff for feeding prisoners. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the appropriation. The sheriff shall deposit all meal allowances received under IC 36-8-10-7 in the county general fund for use for any general fund purpose.

(B) The sheriff shall pay for feeding prisoners from meal allowances received under IC 36-8-10-7. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the meal allowances. After the expenses of feeding prisoners are paid, the sheriff shall deposit any unspent meal allowance money in the county general fund for use for any general fund purpose.

(5) A requirement that the sheriff shall file an accounting of expenditures for feeding prisoners with the county auditor on the first Monday of January and the first Monday of July of each year.

(6) An expiration date that is not later than the date that the term of the sheriff expires.

(7) Other provisions concerning the sheriff's compensation to which the sheriff, the county executive, and the fiscal body agree.

A contract entered before January 1, 1993, by a county sheriff and a county executive or county fiscal body that substantially complies with this subsection is legalized.

(c) A salary contract is entered under this section when a written document containing the provisions of the contract is:

(1) approved by resolution of both the executive and the fiscal body; and

(2) signed by the sheriff.

(d) A salary contract entered into under this section before November 1, 2010, with a sheriff who is reelected to office in 2010 is subject to section 17 of this chapter.

As added by P.L.83-1993, SEC.2. Amended by P.L.40-2008, SEC.2; P.L.220-2011, SEC.644.

IC 36-2-13-2.8

Payment of compensation from county general fund

Sec. 2.8. (a) In place of any other form of compensation, including a salary contract entered into under section 2.5 of this chapter, a county may pay a sheriff's compensation as provided in this section from the county general fund in the manner that salaries of other county officials are paid. Subject to section 17 of this chapter, the sheriff may retain the sheriff's tax warrant collection fees (as described in IC 6-8.1-8-3).

(b) If a county pays a sheriff's compensation under this section, the county fiscal body shall make an appropriation in the usual manner from the county general fund for feeding prisoners. The sheriff or the sheriff's officers, deputies, or employees may not make

a profit from the appropriation.

(c) Subject to section 17 of this chapter, a county that pays a sheriff's compensation under this section shall pay the sheriff as follows:

(1) In a county having a population of not more than twenty thousand (20,000), the county must pay the sheriff an annual salary that is equal to at least fifty percent (50%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(2) In a county having a population of:

(A) more than twenty thousand (20,000); and

(B) not more than forty thousand (40,000);

the county must pay the sheriff an annual salary that is equal to at least sixty percent (60%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(3) In a county having a population of:

(A) more than forty thousand (40,000); and

(B) not more than sixty-five thousand five hundred (65,500);

the county must pay the sheriff an annual salary that is equal to at least seventy percent (70%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(4) In a county having a population of:

(A) more than sixty-five thousand five hundred (65,500); and

(B) not more than one hundred thousand (100,000);

the county must pay the sheriff an annual salary that is equal to at least eighty percent (80%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(5) In a county having a population of:

(A) more than one hundred thousand (100,000); and

(B) not more than two hundred thousand (200,000);

the county must pay the sheriff an annual salary that is equal to at least ninety percent (90%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(6) In a county having a population of more than two hundred thousand (200,000), the county must pay the sheriff an annual salary that is equal to at least one hundred percent (100%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

As added by P.L.230-1996, SEC.1. Amended by P.L.40-2008, SEC.3.

IC 36-2-13-3

Meetings of county executive; attendance

Sec. 3. The sheriff shall attend meetings of the county executive when required under IC 36-2-2-15(d).

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-4
Meetings of county fiscal body; attendance

Sec. 4. The sheriff shall attend meetings of the county fiscal body when required under IC 36-2-3-6(c).

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-5
Duties

Sec. 5. (a) The sheriff shall:

(1) arrest without process persons who commit an offense within the sheriff's view, take them before a court of the county having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(2) suppress breaches of the peace, calling the power of the county to the sheriff's aid if necessary;

(3) pursue and jail felons;

(4) execute all process directed to the sheriff by legal authority;

(5) serve all process directed to the sheriff from a court or the county executive;

(6) attend and preserve order in all courts of the county;

(7) take care of the county jail and the prisoners there;

(8) take photographs, fingerprints, and other identification data as the sheriff shall prescribe of persons taken into custody for felonies or misdemeanors; and

(9) on or before January 31 and June 30 of each year, provide to the department of correction the average daily cost of incarcerating a prisoner in the county jail as determined under the methodology developed by the department of correction under IC 11-10-13.

(b) A person who:

(1) refuses to be photographed;

(2) refuses to be fingerprinted;

(3) withholds information; or

(4) gives false information;

as prescribed in subsection (a)(8), commits a Class C misdemeanor.

(c) The sheriff may supervise and inspect all pawnbrokers, vendors, junkshop keepers, cartmen, expressmen, dealers in secondhand merchandise, intelligence offices, and auctions. The sheriff may authorize any deputy in writing to exercise the same powers.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.344-1983, SEC.1; P.L.85-2004, SEC.12; P.L.63-2008, SEC.5.

IC 36-2-13-5.5
Indiana sex and violent offender registry web site; requirements; funding

Sec. 5.5. (a) The sheriffs shall jointly establish and maintain an Indiana sex and violent offender registry web site, known as the Indiana sex and violent offender registry, to inform the general public about the identity, location, and appearance of every sex or

violent offender residing within Indiana. The web site must provide information regarding each sex or violent offender, organized by county of residence. The web site shall be updated at least daily.

(b) The Indiana sex and violent offender registry web site must include the following information:

(1) A recent photograph of every sex or violent offender who has registered with a sheriff after the effective date of this chapter.

(2) The home address of every sex or violent offender.

(3) The information required under IC 11-8-8-8.

(c) Every time a sex or violent offender registers, but at least once per year, the sheriff shall:

(1) photograph the sex or violent offender; and

(2) determine whether the sex or violent offender's fingerprints are on file:

(A) in Indiana; or

(B) with the Federal Bureau of Investigation.

If it appears that the sex or violent offender's fingerprints are not on file as described in subdivision (2), the sheriff shall fingerprint the sex or violent offender and transmit a copy of the fingerprints to the state police department. The sheriff shall place the photograph described in subdivision (1) on the Indiana sex and violent offender registry web site.

(d) The photograph of a sex or violent offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex and violent offender registry web site.

(e) The Indiana sex and violent offender registry web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21);

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

As added by P.L.116-2002, SEC.27. Amended by P.L.154-2003, SEC.2; P.L.140-2006, SEC.40 and P.L.173-2006, SEC.40; P.L.216-2007, SEC.52.

IC 36-2-13-5.6
Sex or violent offender registration fee; sex or violent offender address change fee; collection and distribution

Sec. 5.6. (a) The legislative body of a county may adopt an ordinance:

(1) requiring the local law enforcement authority (as defined in IC 11-8-8-2) to collect:

(A) an annual sex or violent offender registration fee; and

(B) a sex or violent offender address change fee; and

(2) establishing a county sex and violent offender administration fund to fund the administration of the sex and violent offender registration system.

(b) If an ordinance is adopted under subsection (a), the legislative body of the county shall establish the amount of the annual sex or violent offender registration fee. However, the annual sex or violent offender registration fee may not exceed fifty dollars ($50).

(c) If an ordinance is adopted under subsection (a), the legislative body of the county shall establish the amount of the sex or violent offender address change fee. However, a sex or violent offender address change fee may not exceed five dollars ($5) per address change.

(d) The legislative body of the county shall determine the manner in which the local law enforcement authority shall collect the annual sex or violent offender registration fee and the sex or violent offender address change fee. However, the annual sex or violent offender registration fee may be collected only one (1) time per year. The sex or violent offender address change fee may be collected each time a sex or violent offender registers an address change with the local law enforcement authority.

(e) The local law enforcement authority shall transfer fees collected under this section to the county auditor of the county in which the local law enforcement authority exercises jurisdiction.

(f) The county auditor shall monthly:

(1) deposit ninety percent (90%) of any fees collected under this section in the county sex and violent offender administration fund established under subsection (a); and

(2) transfer ten percent (10%) of any fees collected under this section to the treasurer of state for deposit in the state sex and violent offender administration fund under IC 11-8-8-21.

(g) A county fiscal body may appropriate money from the county sex and violent offender administration fund to an agency or organization involved in the administration of the sex and violent offender registry to defray the expense of administering or ensuring compliance with the laws concerning the Indiana sex and violent offender registry.

As added by P.L.216-2007, SEC.53.

IC 36-2-13-6
Purchase of judgment or allowance prohibited

Sec. 6. The sheriff may not purchase a judgment or allowance in a court of which he is an officer.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-7
Repealed

(*Repealed by P.L.144-1983, SEC.2.)*

IC 36-2-13-8
Repealed

(*Repealed by P.L.217-1986, SEC.1.)*

IC 36-2-13-9
Training school; attendance; expenses

Sec. 9. (a) After his election and before he assumes the duties of his office, the sheriff-elect may attend the sessions of a training school that:

(1) offers courses of instruction for sheriffs;

(2) is established by Indiana University, Purdue University, Indiana University and Purdue University, the state police department, or the Indiana sheriffs' association; and

(3) teaches methods of crime detection and offers courses from the state board of accounts on office routine and accounting.

(b) On presentation of proper charges or receipts and with the approval of the county executive, the county auditor may issue his warrant for the following expenses of the sheriff-elect in attending a school under this section:

(1) Any tuition charged by the school.

(2) A sum for mileage, lodging, and meals, equal to the sum allowed county officers under IC 5-11-14-1.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.23; P.L.144-1983, SEC.3.

IC 36-2-13-10
Motor vehicles; equipment; maintenance

Sec. 10. (a) The county shall furnish one (1) automobile and, with the approval of the county executive and the county fiscal body, may furnish additional automobiles, for use by the sheriff in the performance of his official duties. The county shall maintain each automobile in service.

(b) The county executive may purchase for and furnish to the sheriff a motor vehicle that seats a driver, two (2) guards, and at least six (6) other persons, and may be equipped for use as an ambulance or used to transport persons in the custody of the sheriff. The county shall maintain the vehicle.

(c) If the county furnishes and maintains a conveyance for the use of the sheriff, it may not grant him a mileage allowance but may reimburse him for other expenses relating to the conveyance.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-11
Repealed

(*Repealed by Acts 1981, P.L.309, SEC.115(b).)*

IC 36-2-13-12
Reports; persons confined in county jail; condition of county jail; recommendations

Sec. 12. (a) The sheriff shall file with the appropriate court and, in the case of a person awaiting trial on a criminal charge, with the county prosecuting attorney, a weekly report of each person confined in the county jail. The report must include the confined person's name, the date of commitment, the court or officer ordering the commitment, the criminal charge, conviction, or civil action underlying the commitment, the term of commitment, and whether the person is awaiting trial or serving a term of imprisonment.

(b) The sheriff shall file with the county executive an annual report of the condition of the county jail and any recommended improvements in its maintenance and operation. The report shall also be filed with the county auditor and maintained as a public record.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-13
Protection of prisoner in sheriff's custody; assistance; unlawful killing of prisoner; forfeiture of office; reinstatement

Sec. 13. (a) Whenever the sheriff has reason to believe that a prisoner in his custody is in danger of being unlawfully killed, he shall order all persons with whom he can directly communicate to assist him in protecting the prisoner. If the sheriff remains unable to protect the prisoner, he shall notify the governor and ask for the aid of the state in protecting the prisoner.

(b) A sheriff who unlawfully kills a prisoner in his custody, or unlawfully permits such a prisoner to be killed, forfeits his office. The governor shall issue a proclamation declaring the office of the sheriff vacated.

(c) The person who forfeited the office may petition the governor to be reinstated as sheriff. The petition must:

(1) show that the person did everything in his power to protect the life of the prisoner and carried out the duties of his office pertaining to the protection of prisoners; and

(2) be filed with the governor not more than fourteen (14) days after the date on which the governor declares the office of the sheriff vacated.

If, after a hearing, the governor finds that the person did carry out the duties of his office, he may reinstate him in office and issue to him a certificate of reinstatement. A person who files a petition under this subsection shall give notice to both the prosecuting attorney of the county and the attorney general.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-14

Health care services supplied persons under lawful detention; payment under insurance of detainee; failure or refusal of detainee to file claim

Sec. 14. (a) As used in this section, "accident and sickness insurance policy" means an insurance policy that provides one (1) or more of the types of insurance described as Class 1(b) or 2(a) insurance under IC 27-1-5-1 on an individual basis or a group basis.

(b) As used in this section, "enrollee" has the meaning set forth in IC 27-13-1-12.

(c) As used in this section, "lawful detention" has the meaning set forth in IC 35-31.5-2-186.

(d) As used in this section, "health maintenance organization" has the meaning set forth in IC 27-13-1-19.

(e) An individual who is:

(1) insured under an accident and sickness insurance policy; or

(2) an enrollee under a health maintenance organization;

shall submit a claim under the policy or plan for expenses resulting from health care services that are rendered to the individual while the individual is subject to lawful detention by a county sheriff.

(f) A county sheriff is not obligated to pay for health care services rendered to an individual while in the lawful detention of the sheriff to the extent that payment for the services is available under:

(1) an accident and sickness insurance policy under which the individual is insured; or

(2) a health maintenance organization under which the individual is an enrollee.

(g) If an individual to whom health care services are rendered while subject to lawful detention by a county sheriff fails or refuses to file a claim for payment of expenses resulting from the health care services, a claim for payment of the expenses may be filed by:

(1) the sheriff; or

(2) the health care provider that rendered the services;

on behalf of the individual with the accident and sickness insurance policy under which the individual is insured or the health maintenance organization under which the individual is an enrollee.

As added by P.L.219-1991, SEC.1. Amended by P.L.26-1994, SEC.27; P.L.114-2012, SEC.146.

IC 36-2-13-15

Prisoners reimbursing counties for costs of incarceration

Sec. 15. (a) As used in this section, "lawful detention" has the meaning set forth in IC 35-31.5-2-186.

(b) This section applies to a county only if the legislative body for the county elects by ordinance to implement this section.

(c) A person who is:

(1) sentenced under this article for a felony or a misdemeanor;

(2) subject to lawful detention in a county jail for a period of more than seventy-two (72) hours;

(3) not a member of a family that makes less than one hundred

fifty percent (150%) of the federal income poverty level; and

(4) not detained as a child subject to the jurisdiction of a juvenile court;

shall reimburse the county for the costs described in subsection (d).

(d) A person described in subsection (c) shall reimburse the county for the sum of the following amounts:

(1) The lesser of:

(A) the per diem amount specified under subsection (e); or

(B) thirty dollars ($30);

multiplied by each day or part of a day that the person is lawfully detained in a county jail or lawfully detained under IC 35-33-11-3 for more than six (6) hours.

(2) The direct cost of investigating whether the person is indigent.

(3) The cost of collecting the amount for which the person is liable under this section.

(e) The county fiscal body shall fix the per diem described in subsection (d)(1)(A) in an amount that is reasonably related to the average daily cost of housing a person in the county jail. If the county transfers the person to another county or the department of correction under IC 35-33-11-3, the per diem is equal to the per diem charged to the county under IC 35-33-11-5.

(f) The county sheriff shall collect the amounts due from a person under this section in conformity with the procedures specified in the ordinance adopted under subsection (b). If the county sheriff does not collect the amount due to the county, the county attorney may collect the amount due.

As added by P.L.123-1998, SEC.2. Amended by P.L.114-2012, SEC.147.

IC 36-2-13-15.3

Prisoners reimbursing counties for costs of incarceration; Ohio County

Revisor's Note: See IC 1-1-3.5-8(b) concerning the effective date of this section as amended by P.L.6-2012, SEC.59.

Sec. 15.3. (a) As used in this section, "lawful detention" has the meaning set forth in IC 35-31.5-2-186.

(b) This section applies only:

(1) to a county having a population of less than seven thousand (7,000); and

(2) if the legislative body for the county elects by ordinance to implement this section.

(c) A person who is:

(1) sentenced under this article for a felony or a misdemeanor;

(2) subject to lawful detention in a county jail for a period of more than six (6) hours;

(3) not a member of a family that makes less than one hundred fifty percent (150%) of the federal income poverty level; and

(4) not detained as a child subject to the jurisdiction of a juvenile court;

shall reimburse the county for the costs described in subsection (d).

(d) A person described in subsection (c) shall reimburse the county for the sum of the following amounts:

(1) The lesser of:

(A) the per diem amount specified under subsection (e); or

(B) fifty dollars ($50);

multiplied by each day or part of a day that the person is lawfully detained in a county jail or lawfully detained under IC 35-33-11-3 for more than six (6) hours.

(2) The direct cost of investigating whether the person is indigent.

(3) The cost of collecting the amount for which the person is liable under this section.

(e) The county fiscal body shall fix the per diem described in subsection (d)(1)(A) in an amount that is reasonably related to the average daily cost of housing a person in the county jail. If the county transfers the person to another county or the department of correction under IC 35-33-11-3, the per diem is equal to the per diem charged to the county under IC 35-33-11-5.

(f) The county sheriff shall collect the amounts due from a person under this section in conformity with the procedures specified in the ordinance adopted under subsection (b). If the county sheriff does not collect the amount due to the county, the county attorney may collect the amount due.

As added by P.L.170-2001, SEC.1. Amended by P.L.114-2012, SEC.148.

IC 36-2-13-16

Nonreverting county prisoner reimbursement funds

Sec. 16. (a) If the county legislative body adopts an ordinance electing to implement section 15 of this chapter, the county legislative body shall establish a nonreverting county prisoner reimbursement fund.

(b) All amounts collected under section 15 of this chapter must be deposited in the county prisoner reimbursement fund.

(c) Any amount earned from the investment of amounts in the fund becomes part of the fund.

(d) Notwithstanding any other law, upon appropriation by the county fiscal body, amounts in the fund may be used by the county only for the operation, construction, repair, remodeling, enlarging, and equipment of:

(1) a county jail; or

(2) a juvenile detention center to be operated under IC 31-31-8 or IC 31-31-9.

As added by P.L.123-1998, SEC.3.

IC 36-2-13-16.3

Nonreverting county prisoner reimbursement funds; Ohio County

Sec. 16.3. (a) If the county legislative body adopts an ordinance electing to implement section 15.3 of this chapter, the county

legislative body shall establish a nonreverting county prisoner reimbursement fund.

(b) All amounts collected under section 15.3 of this chapter must be deposited in the county prisoner reimbursement fund.

(c) Any amount earned from the investment of amounts in the fund becomes part of the fund.

(d) Notwithstanding any other law, upon appropriation by the county fiscal body, amounts in the fund may be used by the county only for:

(1) operating, constructing, repairing, remodeling, enlarging, and equipping:

(A) a county jail; or

(B) a juvenile detention center to be operated under IC 31-31-8 or IC 31-31-9; or

(2) the costs of care, maintenance, and housing of prisoners, including the cost of housing prisoners in the facilities of another county.

As added by P.L.170-2001, SEC.2.

IC 36-2-13-17

Maximum amount of compensation for sheriff

Sec. 17. (a) This section applies to the following:

(1) A contract entered into under section 2.5 of this chapter with a sheriff who is elected or reelected to office after November 1, 2010.

(2) Any other form of annual compensation provided to a sheriff who is elected or reelected to office after November 1, 2010.

(b) The total amount of a sheriff's annual compensation from:

(1) the county general fund;

(2) any tax warrant collection fees retained by the sheriff under IC 6-8.1-8-3; and

(3) any other public source;

may not exceed the amount determined under subsection (c). For purposes of this subsection, "any other public source" does not include retirement or disability benefits from a federal, a state, or another state's local governmental retirement or disability program, whether the retirement or disability benefit is based on prior employment by the sheriff or another individual, nor does it include worker's compensation benefits paid to the sheriff.

(c) To determine the maximum amount of a sheriff's annual compensation, a county fiscal body shall determine the sum of the following:

(1) The annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(2) The amount of any additional annual salary paid by the county from county sources to a full-time prosecuting attorney in the county.

As added by P.L.40-2008, SEC.4.

IC 36-2-13-17.4
Incarceration fees prohibited unless the payor has been convicted of a crime for which the payor was incarcerated or held in jail

Sec. 17.4. A sheriff or an employee of a jail may not charge an individual a fee for the individual to be incarcerated or held in a jail unless the individual has been convicted of a crime for which the individual was incarcerated or held in the jail.

As added by P.L.83-2008, SEC.13.

IC 36-2-13-18
Health care services provided to person subject to lawful detention

Sec. 18. (a) As used in this section, "health care services" includes health care items and procedures.

(b) As used in this section, "lawful detention" means the following:

(1) Arrest.
(2) Custody following surrender in lieu of arrest.
(3) Detention in a penal facility.
(4) Detention for extradition or deportation.
(5) Custody for purposes incident to any of the above, including transportation, medical diagnosis or treatment, court appearances, work, or recreation.

The term does not include supervision of a person on probation or parole or constraint incidental to release with or without bail.

(c) This section does not apply to a person who is subject to lawful detention and is:

(1) covered under private health coverage for health care services; or
(2) willing to pay for the person's own health care services.

(d) A sheriff of a county may not release a person subject to lawful detention solely for the purpose of preventing the county from being financially responsible under IC 11-12-5 for health care services provided to the person.

(e) If a county violates subsection (d), the county remains financially responsible under IC 11-12-5 for health care services provided to the person released from lawful detention.

(f) A county is financially responsible under IC 11-12-5 for health care services provided to a person at a hospital if the person was subject to lawful detention by the sheriff at the time the person entered onto the hospital's premises.

(g) If a person is subjected to lawful detention after entering onto the premises of a hospital, the county in which the hospital is located is financially responsible under IC 11-12-5 for the health care services provided to the person while the person is subject to lawful detention.

(h) For purposes of this section, if a sheriff brings a person subject to lawful detention onto the premises of a hospital or subjects a person to lawful detention after the person enters onto the premises of a hospital, the sheriff shall remain on the premises of the hospital and within reasonable proximity to the person while the person

receives health care services at the hospital unless:

(1) the person's medical condition renders the person incapable of leaving the hospital; and

(2) the person does not pose a threat to hospital personnel or property or to others at the hospital.

(i) This section does not prevent or limit the application of IC 11-12-5-5 concerning the making of copayments by a person confined to a county jail.

(j) A county that is responsible for paying the medical care expenses of a county jail inmate under IC 11-12-5-6 is responsible for paying the medical care expenses of the inmate under this section.

(k) This section does not supersede a written agreement:

(1) between:

(A) a physician, a hospital, or another health care provider; and

(B) a sheriff;

concerning reimbursement for health care services provided to a person subject to lawful detention; and

(2) entered into or renewed before July 1, 2009.

As added by P.L.80-2009, SEC.2. Amended by P.L.205-2011, SEC.2.

IC 36-2-14
Chapter 14. County Coroner

IC 36-2-14-1
Application of chapter
Sec. 1. This chapter applies to all counties.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-14-1.5
Child death pathologist
Sec. 1.5. As used in this chapter, "child death pathologist" means a physician described in IC 16-35-7-3(b).
As added by P.L.225-2007, SEC.10.

IC 36-2-14-2
Residence; term of office
Sec. 2. (a) A county coroner must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The coroner forfeits office if the coroner ceases to be a resident of the county.
(b) The term of office of the county coroner under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1987, SEC.549.

IC 36-2-14-3
Commission of coroner
Sec. 3. The governor shall commission each county coroner.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-14-4
Duties as county sheriff
Sec. 4. The coroner shall perform the duties of the county sheriff only in cases in which the sheriff:
(1) is interested or incapacitated from serving; and
(2) has no chief deputy who may perform his duties.
As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.24.

IC 36-2-14-5
Service of warrant for arrest of county sheriff; custody of jail and prisoners
Sec. 5. A warrant for the arrest of the county sheriff shall be served by the coroner or any other person to whom it may be legally directed. The coroner, who shall commit the sheriff to the county jail, has custody of the jail and its prisoners during the imprisonment of the sheriff.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-14-5.5
Duties of child death pathologist

Sec. 5.5. A child death pathologist shall:

(1) consult with a coroner concerning a death described in section 6.3(b) of this chapter;

(2) conduct an autopsy of a child as described in sections 6.3(c) and 6.7(b) of this chapter; and

(3) perform duties described in section 6.7(e) of this chapter.

As added by P.L.225-2007, SEC.11.

IC 36-2-14-6
Investigation of death of person; certificate of death; autopsy

Sec. 6. (a) Whenever the coroner is notified that a person in the county:

(1) has died from violence;

(2) has died by casualty;

(3) has died when apparently in good health;

(4) has died in an apparently suspicious, unusual, or unnatural manner; or

(5) has been found dead;

the coroner shall, before the scene of the death is disturbed, notify a law enforcement agency having jurisdiction in that area. The agency shall assist the coroner in conducting an investigation of how the person died and a medical investigation of the cause of death. The coroner may hold the remains of the decedent until the investigation of how the person died and the medical investigation of the cause of death are concluded.

(b) The coroner:

(1) shall file a certificate of death with the county health department, or, if applicable, a multiple county health department, of the county in which the individual died, within seventy-two (72) hours after the completion of the death investigation;

(2) shall complete the certificate of death utilizing all verifiable information establishing the time and date of death; and

(3) may file a pending investigation certificate of death before completing the certificate of death, if necessary.

(c) If this section applies, the body and the scene of death may not be disturbed until:

(1) the coroner has photographed them in the manner that most fully discloses how the person died; and

(2) law enforcement and the coroner have finished their initial assessment of the scene of death.

However, a coroner or law enforcement officer may order a body to be moved before photographs are taken if the position or location of the body unduly interferes with activities carried on where the body is found, but the body may not be moved from the immediate area and must be moved without substantially destroying or altering the evidence present.

(d) When acting under this section, if the coroner considers it

necessary to have an autopsy performed, is required to perform an autopsy under subsection (f), or is requested by the prosecuting attorney of the county to perform an autopsy, the coroner shall employ a:

(1) physician certified by the American Board of Pathology; or

(2) pathology resident acting under the direct supervision of a physician certified in anatomic pathology by the American Board of Pathology;

to perform the autopsy. The physician performing the autopsy shall be paid a fee of at least fifty dollars ($50) from the county treasury.

(e) If:

(1) at the request of:

(A) the decedent's spouse;

(B) a child of the decedent, if the decedent does not have a spouse;

(C) a parent of the decedent, if the decedent does not have a spouse or children;

(D) a brother or sister of the decedent, if the decedent does not have a spouse, children, or parents; or

(E) a grandparent of the decedent, if the decedent does not have a spouse, children, parents, brothers, or sisters;

(2) in any death, two (2) or more witnesses who corroborate the circumstances surrounding death are present; and

(3) two (2) physicians who are licensed to practice medicine in the state and who have made separate examinations of the decedent certify the same cause of death in an affidavit within twenty-four (24) hours after death;

an autopsy need not be performed. The affidavits shall be filed with the circuit court clerk.

(f) A county coroner may not certify the cause of death in the case of the sudden and unexpected death of a child who is less than three (3) years old unless an autopsy is performed at county expense. However, a coroner may certify the cause of death of a child described in this subsection without the performance of an autopsy if subsection (e) applies to the death of the child.

(g) After consultation with the law enforcement agency investigating the death of a decedent, the coroner shall do the following:

(1) Inform a crematory authority if a person is barred under IC 23-14-31-26(c) from serving as the authorizing agent with respect to the cremation of the decedent's body because the coroner made the determination under IC 23-14-31-26(c)(2) in connection with the death of the decedent.

(2) Inform a cemetery owner if a person is barred under IC 23-14-55-2(c) from authorizing the disposition of the body or cremated remains of the decedent because the coroner made the determination under IC 23-14-55-2(c)(2) in connection with the death of the decedent.

(3) Inform a seller of prepaid services or merchandise if a person's contract is unenforceable under IC 30-2-13-23(b)

because the coroner made the determination under IC 30-2-13-23(b)(4) in connection with the death of the decedent.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.39, SEC.2; P.L.106-1986, SEC.2; P.L.339-1987, SEC.1; P.L.179-2003, SEC.5; P.L.102-2007, SEC.5; P.L.157-2007, SEC.3; P.L.225-2007, SEC.12; P.L.34-2011, SEC.12.

IC 36-2-14-6.3

Coroner notification of child deaths; coroner consultation with child death pathologist; suspicious, unexpected, or unexplained child deaths; autopsy

Sec. 6.3. (a) A coroner shall immediately notify:

(1) the local office of the department of child services by using the statewide hotline for the department; and

(2) either:

(A) the local child fatality review team; or

(B) if the county does not have a local child fatality review team, the statewide child fatality review committee;

of each death of a person who is less than eighteen (18) years of age, or appears to be less than eighteen (18) years of age and who has died in an apparently suspicious, unexpected, or unexplained manner.

(b) If a child less than eighteen (18) years of age dies in an apparently suspicious, unexpected, or unexplained manner, the coroner shall consult with a child death pathologist to determine whether an autopsy is necessary. If the coroner and the child death pathologist disagree over the need for an autopsy, the county prosecutor shall determine whether an autopsy is necessary. If the autopsy is considered necessary, a child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy within twenty-four (24) hours. If the autopsy is not considered necessary, the autopsy shall not be conducted.

(c) If a child death pathologist and coroner agree under subsection (b) that an autopsy is necessary, the child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy of the child.

As added by P.L.225-2007, SEC.13. Amended by P.L.131-2009, SEC.75; P.L.128-2012, SEC.183.

IC 36-2-14-6.5

Duty to make positive identification; manner of positive identification; exception

Sec. 6.5. (a) As used in this section, "DNA analysis" means an identification process in which the unique genetic code of an individual that is carried by the individual's deoxyribonucleic acid (DNA) is compared to genetic codes carried in DNA found in bodily substance samples obtained by a law enforcement agency in the exercise of the law enforcement agency's investigative function.

(b) As used in this section, "immediate family member" means,

with respect to a particular dead person, an individual who is at least eighteen (18) years of age and who is one (1) of the following:

(1) The dead person's spouse.

(2) The dead person's child.

(3) The dead person's parent.

(4) The dead person's grandparent.

(5) The dead person's sibling.

(c) The coroner shall make a positive identification of a dead person unless extraordinary circumstances described in subsection (d) exist. In making a positive identification, the coroner shall determine the identity of a dead person by one (1) of the following methods:

(1) Fingerprint identification.

(2) DNA analysis.

(3) Dental record analysis.

(4) Positive identification by at least one (1) of the dead person's immediate family members if the dead person's body is in a physical condition that would allow for the dead person to be reasonably recognized.

(d) For the purposes of subsection (c), extraordinary circumstances exist if, after a thorough investigation, the coroner determines that identification of the dead person is not possible under any of the four (4) methods described in subsection (c).

As added by P.L.157-2007, SEC.4.

IC 36-2-14-6.7

Autopsies of children who may have died of sudden infant death syndrome; autopsy reports

Sec. 6.7. (a) This section applies to a child who:

(1) died suddenly and unexpectedly;

(2) was less than three (3) years of age at the time of death; and

(3) was in apparent good health before dying.

(b) A child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct an autopsy of a child described in subsection (a).

(c) A county coroner may not certify the cause of death of a child described in subsection (a) until an autopsy is performed at county expense.

(d) The county coroner shall contact the parent or guardian of a child described in subsection (a) and notify the parent or guardian that an autopsy will be conducted at county expense.

(e) The child death pathologist shall:

(1) ensure that a tangible summary of the autopsy results is provided;

(2) provide informational material concerning sudden infant death syndrome; and

(3) unless the release of autopsy results would jeopardize a law enforcement investigation, provide notice that a parent or guardian has the right to receive the preliminary autopsy results;

to the parents or guardian of the child within one (1) week after the

autopsy.

(f) If a parent or guardian of a child described in subsection (a) requests the autopsy report of the child, the coroner shall provide the autopsy report to the parent or guardian within thirty (30) days after the:

(1) request; or

(2) completion of the autopsy report;

whichever is later, at no cost.

(g) A coroner shall notify:

(1) a local child fatality review team; or

(2) if the county does not have a local child fatality review team, the statewide child fatality review committee;

of the death of a child described in subsection (a).

As added by P.L.225-2007, SEC.14.

IC 36-2-14-7

Examination of witnesses; service of physician; payment

Sec. 7. (a) At an investigation under this chapter, the coroner shall examine persons wanting to testify and may examine persons he has summoned by his subpoena. Witnesses shall answer under oath all questions concerning the death under investigation.

(b) If a physician is required to attend an investigation and make a post mortem examination, the coroner shall certify this service to the county executive, which shall order payment for the physician from the county treasury.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-14-8

Witness fees

Sec. 8. A witness testifying before a county coroner is entitled to the same fees as a witness testifying in the circuit court for the county.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.25.

IC 36-2-14-9

Witness testimony

Sec. 9. The testimony of each witness at a coroner's investigation shall be reduced to writing and signed by him. The coroner shall, by recognizance in a reasonable sum, bind any witness whose testimony relates to the trial of a person concerned in the death to give evidence in court and shall send the written evidence and recognizance of the witness to the court. The coroner shall commit to the county jail a witness who refuses to enter into the recognizance required by this section.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-14-10

Coroner's verdict and report; autopsy records; confidentiality

Sec. 10. (a) After viewing the body, hearing the evidence, and

making all necessary inquiries, the coroner shall draw up and sign his verdict on the death under consideration. The coroner shall also make a written report giving an accurate description of the deceased person, his name if it can be determined, and the amount of money and other property found with the body. The verdict and the written report are subject to inspection and copying under IC 5-14-3-3.

(b) Except as provided in subsections (c), (d), and (e), a photograph, video recording, or audio recording of an autopsy in the custody of a medical examiner is declared confidential for purposes of IC 5-14-3-4(a)(1).

(c) A surviving spouse may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this section. If there is no surviving spouse or parent, an adult child shall have access to the records.

(d) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of official duties, the identity of the deceased must remain confidential.

(e) The coroner or the coroner's designee having custody of a photograph, a video recording, or an audio recording of an autopsy may use or allow the use of the photograph, video recording, or audio recording of the autopsy for case consultation with a pathologist or forensic scientist. The coroner or the coroner's designee having custody of a photograph, a video recording, or an audio recording of an autopsy may also use or allow the use of the photograph, video recording, or audio recording for training or educational purposes (as defined in IC 16-39-7.1-1.5) if all information that identifies the individual on whom the autopsy was performed is masked or removed from the photograph, video recording, or audio recording. For purposes of this subsection, information that identifies an individual consists of:

(1) the name;

(2) the address;

(3) the Social Security number;

(4) a full view of the face; or

(5) identifying marks on the body that are unrelated to the medical condition or medical status;

of the deceased individual. A coroner or coroner's designee who allows the use of autopsy information under this subsection has a duty to disclose to each person to whom the coroner or coroner's designee releases it that the information is confidential and may not be used for a purpose other than the purpose for which it was originally released. Information disclosed under this subsection is

confidential. A coroner or coroner's designee who fails to disclose the confidentiality restrictions of this information commits a Class A misdemeanor.

(f) Except as provided in subsection (e), the coroner or the coroner's designee having custody of a photograph, a video, or an audio recording of an autopsy may not permit a person to:

(1) view or copy the photograph or video recording; and

(2) listen to or copy the audio recording;

of an autopsy without a court order.

(g) A court, upon a showing of good cause, may issue an order authorizing a person to:

(1) view or copy a photograph or video recording; and

(2) listen to or copy an audio recording;

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(h) In determining good cause under subsection (g), the court shall consider:

(1) whether the disclosure is necessary for the public evaluation of governmental performance;

(2) the seriousness of the intrusion into the family's right to privacy;

(3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and

(4) the availability of similar information in other public records, regardless of form.

(i) In all cases, the viewing, copying, listening to, or other handling of a photograph, video recording, or audio recording of an autopsy must be under the direct supervision of the coroner, or the coroner's designee, who is the custodian of the record.

(j) A surviving spouse shall be given:

(1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;

(2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and

(3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(k) If there is no surviving spouse, the notice under subsection (j) must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

(l) A coroner or coroner's designee who:

(1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and

(2) knowingly or intentionally violates this section;

commits a Class A misdemeanor.

(m) A person who knowingly or intentionally violates a court order issued under this section commits a Class A misdemeanor.

(n) A person who:

(1) receives autopsy information under subsection (e); and
(2) knowingly or intentionally uses the information in a manner other than the specified purpose for which it was released;
commits a Class A misdemeanor.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.4-1994, SEC.22; P.L.271-2001, SEC.4; P.L.179-2003, SEC.6.

IC 36-2-14-11
Property or money of deceased person subject to coroner's investigation; found with body or at scene of death; taking possession; publication; search for person entitled; delivery to county treasurer or sheriff

Sec. 11. (a) This section applies to money or other personal property:
(1) owned by a deceased person whose death is subject to a coroner's investigation; or
(2) found:
(A) on a body; or
(B) at the scene of death.

(b) If money or personal property is not claimed by a person entitled to them, the coroner shall do the following:
(1) Take possession of the property.
(2) Publish, in accordance with IC 5-3-1, a description of the deceased and the name of the deceased if known.
(3) Make a reasonable search to find a person who is entitled to the money or other personal property.

(c) If, after complying with subsection (b), the coroner does not know of a person entitled to the money, the coroner shall deliver the money to the county treasurer for deposit in the county general fund.

(d) If, after complying with subsection (b), the coroner does not know of a person entitled to the personal property other than money that has an intrinsic value, the coroner shall deliver the personal property to the sheriff for sale at any auction that the sheriff conducts under law. The sheriff shall deposit the receipts from the auction of the personal property in the county general fund.
As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.45, SEC.11; P.L.141-1992, SEC.1.

IC 36-2-14-12
Repealed

(*Repealed by P.L.225-2007, SEC.21.)*

IC 36-2-14-12.5
Coroner requests to hospitals for blood or tissue samples

Sec. 12.5. (a) A coroner shall make all reasonable attempts to promptly identify human remains, including taking the following steps:
(1) Photograph the human remains before an autopsy is conducted.
(2) X-ray the human remains.

(3) Photograph items found with the human remains.

(4) Fingerprint the remains, if possible.

(5) Obtain tissue, bone, or hair samples suitable for DNA typing, if possible.

(6) Collect any other information relevant to identification efforts.

(b) A coroner may not dispose of unidentified human remains or take any other action that will materially affect the condition of the remains until the coroner has taken the steps described in subsection (a).

(c) If human remains have not been identified after thirty (30) days, the coroner or other person having custody of the remains shall request the state police to do the following:

(1) Enter information that may assist in the identification of the remains into:

(A) the National Crime Information Center (NCIC) data base; and

(B) any other appropriate data base.

(2) Upload relevant DNA profiles from the remains to the missing persons data base of the State DNA Index System (SDIS) and the National DNA Index System (NDIS) after completion of the DNA analysis and other procedures required for data base entry.

(d) If unidentified human remains are identified as belonging to a missing person, the coroner shall:

(1) notify the law enforcement agency handling the missing persons case that the missing person is deceased; and

(2) instruct the law enforcement agency to make documented efforts to contact family members of the missing person.

(e) No person may order the cremation of unidentified human remains.

As added by P.L.92-2007, SEC.6. Amended by P.L.225-2007, SEC.15.

IC 36-2-14-13

Immunity from civil liability; autopsy

Sec. 13. A person who in good faith orders or performs a medical examination or autopsy under statutory authority is immune from civil liability for damages for ordering or performing the examination or autopsy.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-14-14

Repealed

(*Repealed by P.L.225-2007, SEC.21.)*

IC 36-2-14-15

Compensation

Sec. 15. When fixing the compensation of county officers under this title, the county fiscal body shall fix:

(1) compensation for the coroner as if he is licensed to practice as a physician in Indiana; and

(2) compensation for the coroner as if he is not licensed to practice as a physician in Indiana.

The compensation fixed under subdivision (1) must be one and one-half (1 1/2) times that fixed under subdivision (2). The county fiscal body shall then determine whether or not the coroner is a licensed physician and shall fix his compensation in the proper amount.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-14-16

Counties over 400,000 population; disposition of unclaimed bodies

Sec. 16. (a) This section applies to each county having a population of more than four hundred thousand (400,000).

(b) For purposes of this section, a body is unclaimed if:

(1) a person cannot be located to take custody of the body; or

(2) there is a person to take custody of the body, but that person cannot or will not assume financial responsibility for disposition of the body.

(c) Except as provided in IC 21-44-2, the coroner may order the burial or cremation of any unclaimed body left in the coroner's custody.

(d) If the deceased died without leaving money or other means necessary to defray the funeral expenses, the coroner may contract with a funeral director licensed under IC 25-15 to dispose of the body. The necessary and reasonable expenses for disposing of the body shall be paid by the county auditor upon the order of the coroner.

As added by P.L.106-1986, SEC.3. Amended by P.L.3-1990, SEC.123; P.L.2-2007, SEC.385.

IC 36-2-14-17

Violent or suspicious death of person; failure to notify authorities of discovery of body or moving body from scene; offenses

Sec. 17. (a) A person who knowingly or intentionally fails to immediately notify the coroner or a law enforcement agency of the discovery of the body of a person who:

(1) has died from violence;

(2) has died in an apparently suspicious, unusual, or unnatural manner; or

(3) has died at less than three (3) years of age;

commits a Class B infraction. However, the failure to immediately notify under this subsection is a Class A misdemeanor if the person fails to immediately notify with the intent to hinder a criminal investigation.

(b) A person who, with the intent to hinder a criminal investigation and without the permission of the coroner or a law enforcement officer, knowingly or intentionally alters the scene of death of a person who has died:

(1) from violence; or

(2) in an apparently suspicious, unusual, or unnatural manner;

commits a Class D felony.

As added by P.L.339-1987, SEC.2. Amended by P.L.225-2007, SEC.16.

IC 36-2-14-18

Public inspection and copying of information; investigatory records; copies of autopsy; availability of report

Sec. 18. (a) Notwithstanding IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the following:

(1) The name, age, address, sex, and race of the deceased.

(2) The address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred.

(3) The name of the agency to which the death was reported and the name of the person reporting the death.

(4) The name of any public official or governmental employee present at the scene of the death and the name of the person certifying or pronouncing the death.

(5) Information regarding an autopsy (requested or performed) limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to:

(A) the probable cause of death;

(B) the probable manner of death; and

(C) the probable mechanism of death.

(6) The location to which the body was removed, the person determining the location to which the body was removed, and the authority under which the decision to remove the body was made.

(7) The records required to be filed by a coroner under section 6 of this chapter and the verdict and the written report required under section 10 of this chapter.

(b) A county coroner or a coroner's deputy who receives an investigatory record from a law enforcement agency shall treat the investigatory record with the same confidentiality as the law enforcement agency would treat the investigatory record.

(c) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, a video recording, or an audio recording of the autopsy, upon the written request of a parent of the decedent, an adult child of the decedent, a next of kin of the decedent, or an insurance company investigating a claim arising from the death of the individual upon whom the autopsy was performed. A parent of the decedent, an adult child of the decedent, a next of kin of the decedent, and an insurance company are prohibited from publicly disclosing any information contained in the report beyond that information that may otherwise be disclosed by a coroner under this section. This prohibition does

not apply to information disclosed in communications in conjunction with the investigation, settlement, or payment of the claim.

(d) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, a video recording, or an audio recording of the autopsy, upon the written request of:

(1) the director of the division of disability and rehabilitative services established by IC 12-9-1-1;

(2) the director of the division of mental health and addiction established by IC 12-21-1-1; or

(3) the director of the division of aging established by IC 12-9.1-1-1;

in connection with a division's review of the circumstances surrounding the death of an individual who received services from a division or through a division at the time of the individual's death.

(e) Notwithstanding any other provision of this section, a coroner shall make available, upon written request, a full copy of an autopsy report, including a photograph, a video recording, or an audio recording of the autopsy, to:

(1) the department of child services established by IC 31-25-1-1, including an office of the department located in the county where the death occurred;

(2) the statewide child fatality review committee established by IC 31-33-25-6; or

(3) a county child fatality review team or regional child fatality review team established under IC 31-33-24-6 by the county or for the county where the death occurred;

for purposes of an entity described in subdivisions (1) through (3) conducting a review or an investigation of the circumstances surrounding the death of a child (as defined in IC 31-9-2-13(d)(1)) and making a determination as to whether the death of the child was a result of abuse, abandonment, or neglect. An autopsy report made available under this subsection is confidential and shall not be disclosed to another individual or agency, unless otherwise authorized or required by law.

(f) Except as provided in subsection (g), the information required to be available under subsection (a) must be completed not later than fourteen (14) days after the completion of:

(1) the autopsy report; or

(2) if applicable, any other report, including a toxicology report, requested by the coroner as part of the coroner's investigation;

whichever is completed last.

(g) The prosecuting attorney may petition a circuit or superior court for an order prohibiting the coroner from publicly disclosing the information required in subsection (a). The prosecuting attorney shall serve a copy of the petition on the coroner.

(h) Upon receipt of a copy of the petition described in subsection (g), the coroner shall keep the information confidential until the court rules on the petition.

(i) The court shall grant a petition filed under subsection (g) if the

prosecuting attorney proves by a preponderance of the evidence that public access or dissemination of the information specified in subsection (a) would create a significant risk of harm to the criminal investigation of the death. The court shall state in the order the reasons for granting or denying the petition. An order issued under this subsection must use the least restrictive means and duration possible when restricting access to the information. Information to which access is restricted under this subsection is confidential.

(j) Any person may petition the court to modify or terminate an order issued under subsection (i). The petition for modification or termination must allege facts demonstrating that:

(1) the public interest will be served by allowing access; and

(2) access to the information specified in subsection (a) would not create a significant risk to the criminal investigation of the death.

The person petitioning the court for modification or termination shall serve a copy of the petition on the prosecuting attorney and the coroner.

(k) Upon receipt of a petition for modification or termination filed under subsection (j), the court may:

(1) summarily grant, modify, or dismiss the petition; or

(2) set the matter for hearing.

If the court sets the matter for hearing, upon the motion of any party or upon the court's own motion, the court may close the hearing to the public.

(l) If the person filing the petition for modification or termination proves by a preponderance of the evidence that:

(1) the public interest will be served by allowing access; and

(2) access to the information specified in subsection (a) would not create a significant risk to the criminal investigation of the death;

the court shall modify or terminate its order restricting access to the information. In ruling on a request under this subsection, the court shall state the court's reasons for granting or denying the request.

As added by P.L.299-1989, SEC.1. Amended by P.L.4-1994, SEC.23; P.L.2-1995, SEC.129; P.L.2-1996, SEC.290; P.L.271-2001, SEC.5; P.L.243-2003, SEC.13; P.L.141-2006, SEC.113; P.L.102-2007, SEC.6; P.L.157-2007, SEC.5; P.L.225-2007, SEC.17; P.L.3-2008, SEC.257.

IC 36-2-14-19

Cornea donations

Sec. 19. (a) As used in this section, "cornea" includes corneal tissue.

(b) As used in this section, "decedent" means a person described in section 6(a)(1) through 6(a)(5) of this chapter.

(c) As used in this section, "eye bank" means a nonprofit corporation:

(1) organized under Indiana law;

(2) exempt from federal income taxation under Section 501 of

the Internal Revenue Code; and

(3) whose purposes include obtaining, storing, and distributing corneas that are to be used for corneal transplants or for other medical or medical research purposes.

(d) If under section 6(d) of this chapter the coroner requires an autopsy to be performed upon a decedent, the coroner may authorize the removal of one (1) or both of the decedent's corneas for donation to an eye bank for transplantation, if the following conditions exist:

(1) The decedent's corneas are not necessary for successful completion of the autopsy.

(2) The decedent's corneas are not necessary for use as evidence.

(3) Removal of the decedent's corneas will not alter the postmortem facial appearance of the decedent.

(4) A representative of the eye bank, authorized by the trustees of the eye bank to make requests for corneas, has done the following:

(A) Within six (6) hours after the time of death, made a reasonable attempt to:

(i) contact any of the persons listed in the order of priority specified in IC 29-2-16.1-8; and

(ii) inform the person of the effect of the removal of the decedent's corneas on the physical appearance of the decedent.

(B) Submitted to the coroner:

(i) a written request for the donation by the coroner of corneas of the decedent subject to autopsy under section 6(d) of this chapter; and

(ii) a written certification that corneas donated under this section are intended to be used only for cornea transplant.

(5) The removal of the corneas and their donation to the eye bank will not alter a gift made by:

(A) the decedent when alive; or

(B) any of the persons listed in the order of priority specified in IC 29-2-16.1-8;

to an agency or organization other than the eye bank making the request for the donation.

(6) The coroner, at the time the removal and donation of a decedent's corneas is authorized, does not know of any objection to the removal and donation of the decedent's corneas made by:

(A) the decedent, as evidenced in a written document executed by the decedent when alive; or

(B) any of the persons listed in the order of priority specified in IC 29-2-16.1-8.

(e) A person, including a coroner and an eye bank and the eye bank's representatives, who exercises reasonable care in complying with subsection (d)(6) is immune from civil liability arising from cornea removal and donation allowed under this section.

(f) A person who authorizes the donation of a decedent's corneas

may not be charged for the costs related to the donation. The recipient of the donation is responsible for the costs related to the donation.

As added by P.L.36-1993, SEC.6. Amended by P.L.147-2007, SEC.19.

IC 36-2-14-20

Billing counties for costs of autopsies

Sec. 20. (a) As used in this section, "autopsy" means the external and surgical internal examination of all body systems of a decedent, including toxicology and histology.

(b) Except as provided in subsection (b) and IC 4-24-4-1, if an Indiana resident:

(1) dies in an Indiana county as a result of an incident that occurred in another Indiana county; and

(2) is the subject of an autopsy performed under the authority and duties of the county coroner of the county where the death occurred;

the county coroner shall bill the county in which the incident occurred for the cost of the autopsy, including the physician fee under section 6(d) of this chapter.

(c) Except as provided in subsection (b) and IC 4-24-4-1, payment for the costs of an autopsy requested by a party other than the:

(1) county prosecutor; or

(2) county coroner;

of the county in which the individual died must be made by the party requesting the autopsy.

(d) This section does not preclude the coroner of a county in which a death occurs from attempting to recover autopsy costs from the jurisdiction outside Indiana where the incident that caused the death occurred.

As added by P.L.271-2001, SEC.6. Amended by P.L.67-2003, SEC.1; P.L.225-2007, SEC.18.

IC 36-2-14-21

Coroners obtaining decedent's health records; coroners provide health records to investigative units

Sec. 21. (a) As used in this section, "health records" means written, electronic, or printed information possessed by a provider concerning any diagnosis, treatment, or prognosis of the patient. The term includes mental health records, alcohol and drug abuse records, and emergency ambulance service records.

(b) As used in this section, "provider" has the meaning set forth in IC 16-18-2-295(b).

(c) As part of a medical examination or autopsy conducted under this chapter, a coroner may obtain a copy of the decedent's health records.

(d) Except as provided in subsection (e), health records obtained under this section are confidential.

(e) The coroner may provide the health records of a decedent that

were obtained under this section to a prosecuting attorney or law enforcement agency that is investigating the individual's death. Health records received from a coroner under this subsection are confidential.

(f) A person who receives confidential records or information under this section and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor.

As added by P.L.28-2002, SEC.3. Amended by P.L.1-2007, SEC.240.

IC 36-2-14-22

Providing climate controlled environment

Sec. 22. A coroner shall exercise reasonable care in providing a climate controlled environment for the purpose of retarding decomposition of a human body in the coroner's custody.

As added by P.L.58-2007, SEC.1.

IC 36-2-14-22.1

Coroner requests to hospitals for blood or tissue samples

Sec. 22.1. (a) Upon the request of a coroner who is conducting or will conduct a death investigation on an individual who is admitted or was admitted to a hospital, the hospital shall provide a sample of the individual's blood or tissue to the coroner.

(b) A coroner does not need to obtain a warrant to request a blood or tissue sample under this section.

As added by P.L.225-2007, SEC.19.

IC 36-2-14-22.2

Repealed

(*Repealed by P.L.3-2008, SEC.269.)*

IC 36-2-14-22.3

Training courses for coroners and deputy coroners

Sec. 22.3. (a) The coroners training board established by IC 4-23-6.5-3, in consultation with the Indiana law enforcement academy, shall create and offer a training course for coroners and deputy coroners. The training course must include:

(1) at least forty (40) hours of instruction; and

(2) instruction regarding:

(A) death investigation;

(B) crime scenes; and

(C) preservation of evidence at a crime scene for police and crime lab technicians.

(b) The coroners training board, in consultation with the Indiana law enforcement academy, shall create and offer an annual training course for coroners and deputy coroners. The annual training course must:

(1) include at least eight (8) hours of instruction; and

(2) cover recent developments in:

(A) death investigation;

(B) crime scenes; and

(C) preservation of evidence at a crime scene for police and crime lab technicians.

(c) In creating the courses under subsections (a) and (b), the coroners training board shall consult with a pathologist certified by the American Board of Pathology regarding medical issues that are a part of the training courses.

(d) All training in the courses offered under subsections (a) and (b) that involves medical issues must be approved by a pathologist certified by the American Board of Pathology.

(e) All training in the courses offered under subsections (a) and (b) that involves crime scenes and evidence preservation must be approved by a law enforcement officer.

(f) The coroners training board shall issue a coroner or deputy coroner a certificate upon successful completion of the courses described in subsections (a) and (b).

As added by P.L.3-2008, SEC.258.

IC 36-2-14-22.4

Organ and tissue procurement

Sec. 22.4. A coroner shall follow the procedures set forth in IC 29-2-16.1 concerning organ and tissue procurement.

As added by P.L.3-2008, SEC.259.

IC 36-2-14-22.6

Information requests; medicolegal examinations; interference with postmortem examinations; denial of recovery

Sec. 22.6. (a) Upon request of a procurement organization, a coroner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the coroner. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the coroner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the coroner only if relevant to transplantation or therapy.

(b) The coroner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the coroner which the coroner determines may be relevant to the investigation.

(c) A person that has any information requested by a coroner under subsection (b) shall provide that information as expeditiously as possible to allow the coroner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

(d) If an anatomical gift has been or might be made of a part of a

decedent whose body is under the jurisdiction of the coroner and a postmortem examination is not required, or the coroner determines that a postmortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the coroner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research, or education.

(e) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner has been or might be made, but the coroner, in consultation with a pathologist, initially believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death or interfere with the preservation or collection of evidence, the coroner and pathologist shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the coroner may allow the recovery, delay the recovery, or deny the recovery.

(f) Before the removal procedure, the coroner or designee may allow recovery by the procurement organization to proceed, or, if the coroner or designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death or, in tissue procurement cases, if the coroner or designee determines that, for evidentiary purposes, the body must remain undisturbed prior to autopsy, deny recovery by the procurement organization. The coroner or designee must be present at the scene before denying the recovery of a part. When practicable, the coroner and pathologist shall work with the procurement organization to facilitate removal of a part following any postmortem examination of the decedent.

(g) If the coroner or designee denies recovery under subsection (e) or (f), the coroner or designee shall:

(1) explain in a record the specific reasons for not allowing recovery of the part;

(2) include the specific reasons in the records of the coroner and forensic pathologist; and

(3) provide a record with the specific reasons to the procurement organization and the state department of health.

(h) If the coroner or designee allows recovery of a part under subsection (d), (e), or (f), the procurement organization shall do the following:

(1) At the request of the coroner or designee and when practicable, perform diagnostic studies that would aid in documenting the presence or absence of injuries.

(2) Cause the physician or technician who removes the part to explain in a signed record the condition of the part, including the presence or absence of any injuries to the part or any surrounding tissue or organs.

(3) Provide a copy of the record described in subdivision (2) to the coroner and the investigating law enforcement agency.

(4) Cause the physician or technician who removes the part to photograph, collect, preserve, and maintain the appropriate

chain of custody of any evidence that is found during procurement.

(5) Cause the physician or technician who removes the part to collect blood and other bodily fluid samples as directed by the coroner or designee.

(6) Cause the physician or technician who removes the part to, upon the request of the coroner or designee, photograph, biopsy, or provide any other information and observations concerning the part or body that would assist in the postmortem examination.

(i) If a coroner or designee must:

(1) be present at a removal procedure under subsection (f); or

(2) perform duties at times other than those that are usual and customary for the coroner or designee to maximize tissue or eye recovery under IC 29-2-16.1-21(b);

at the request of the coroner or designee, the procurement organization that requested the recovery of the part shall reimburse the coroner or designee for the additional costs incurred by the coroner or designee to comply with subsection (f) or IC 29-2-16.1-21(b).

As added by P.L.147-2007, SEC.20.

IC 36-2-14-23

Requirement that coroner and deputy coroner complete course; auditor to withhold pay if course not timely completed; withheld pay released upon successful completion of course; exception

Sec. 23. (a) Each coroner shall successfully complete the training course offered under section 22.3(a) of this chapter within six (6) months after taking office.

(b) Each deputy coroner shall successfully complete the training course offered under section 22.3(a) of this chapter within one (1) year after beginning employment with a coroner's office.

(c) Each coroner and each deputy coroner shall successfully complete the annual training course offered under section 22.3(b) of this chapter each year after the year in which the coroner or deputy coroner received the training required by section 22.3(a) of this chapter.

(d) After a coroner or deputy coroner has:

(1) successfully completed the training course as required under subsection (a) or (b); and

(2) successfully completed the annual training course as required under subsection (c);

the coroner or deputy coroner shall present a certificate or other evidence to the county executive, or in the case of a county that contains a consolidated city, the city-county council, that the coroner or deputy coroner has successfully completed the training required under subsection (a), (b), or (c).

(e) If a coroner or deputy coroner does not present a certificate or other evidence to the county executive, or in the case of a county that contains a consolidated city, the city-county council, that the coroner

or deputy coroner has successfully completed the training required under subsection (a), (b), or (c), the county executive or city-county council shall order the auditor to withhold the paycheck of the coroner or deputy coroner until the coroner or deputy coroner satisfies the respective training requirements under subsections (a), (b), and (c), unless the county executive or city-county council adopts a resolution finding that:

(1) the failure of the coroner or deputy coroner to complete the respective training requirements under subsections (a), (b), and (c) is the result of unusual circumstances;

(2) the coroner or deputy coroner is making reasonable progress, under the circumstances, toward completing the respective training requirements under subsections (a), (b), and (c); and

(3) in light of the unusual circumstances described in subdivision (1), withholding the paycheck of the coroner or deputy coroner would be unjust.

(f) If the county executive or city-county council orders an auditor to withhold a paycheck under subsection (e) and a coroner or deputy coroner later presents a certificate or other evidence to the county executive or city-county council that the coroner or deputy coroner has successfully completed training required under subsection (a), (b), or (c), the county executive or city-county council shall order the auditor to release all of the coroner's or deputy coroner's paychecks that were withheld from the coroner or deputy coroner.

As added by P.L.157-2007, SEC.7. Amended by P.L.3-2008, SEC.260.

IC 36-2-14-24

Requirement for the release of autopsy and other reports; auditor to withhold pay if autopsy or other reports not timely released; withheld pay released upon release of autopsy or other reports; exception

Sec. 24. (a) Except as provided in subsection (b), if a coroner does not release a written report required under section 10 of this chapter or a full copy of an autopsy report required under section 18 of this chapter as required by law, the county executive, or in the case of a county containing a consolidated city, the city-county council, shall order the auditor to withhold the paycheck of the coroner until the coroner properly releases the written report or full autopsy report, unless the county executive or city-county council adopts a resolution finding that:

(1) the failure of the coroner or deputy coroner to release the written report or full autopsy report is the result of unusual circumstances;

(2) the coroner or deputy coroner is making reasonable progress, under the circumstances, toward completing and releasing the written report or full autopsy report; and

(3) in light of the unusual circumstances described in subdivision (1), withholding the paycheck of the coroner or

deputy coroner would be unjust.

(b) A county auditor may not withhold the paycheck of a coroner if a coroner is legally prohibited from releasing a written report or from releasing a full autopsy report. However, a coroner is required to release a written report or full autopsy report as soon as possible after the legal prohibition on releasing the written report or full autopsy report ceases to exist.

(c) If the county executive or city-county council orders an auditor to withhold a paycheck under subsection (a) and a coroner properly releases the written report or full autopsy report, the county executive or city-county council shall order the auditor to release all of the coroner's paychecks that were withheld from the coroner.

As added by P.L.157-2007, SEC.8.

IC 36-2-15
Chapter 15. County Assessor

IC 36-2-15-0.3
Transfer of personnel, property, obligations, funds of township assessors to county assessor; county assessor interview of township assessor employees

Sec. 0.3. (a) The following are transferred to the county assessor:

(1) On July 1, 2008:

(A) employment positions as of June 30, 2008, of each elected township assessor in the county whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by P.L.146-2008, including:

(i) the employment position of the elected township assessor; and

(ii) the employment positions of all employees of the elected township assessor;

(B) real and personal property of:

(i) elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by P.L.146-2008; and

(ii) township trustee-assessors in the county;

used solely to carry out property assessment duties;

(C) obligations outstanding on June 30, 2008, of:

(i) elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by P.L.146-2008; and

(ii) township trustee-assessors in the county;

relating to the assessment of tangible property; and

(D) funds of:

(i) elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by P.L.146-2008; and

(ii) township trustee-assessors in the county;

on hand for the purpose of carrying out property assessment duties in the amount determined by the county auditor.

(2) On January 1, 2009:

(A) employment positions as of December 31, 2008, of each elected township assessor in the county whose duties relating to the assessment of tangible property are transferred to the county assessor as the result of a referendum under this chapter, as amended by P.L.146-2008, including:

(i) the employment position of the elected township assessor; and

(ii) the employment positions of all employees of the

elected township assessor;

(B) real and personal property of elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor as the result of a referendum under this chapter, as amended by P.L.146-2008, used solely to carry out property assessment duties;

(C) obligations outstanding on December 31, 2008, of elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor as the result of a referendum under this chapter, as amended by P.L.146-2008, relating to the assessment of tangible property; and

(D) funds of elected township assessors in the county whose duties relating to the assessment of tangible property are transferred to the county assessor as the result of a referendum under this chapter, as amended by P.L.146-2008, on hand for the purpose of carrying out property assessment duties in the amount determined by the county auditor.

(b) Before July 1, 2008, the county assessor shall interview, or give the opportunity to interview to, each individual who:

(1) is an employee of:

(A) an elected township assessor in the county whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by P.L.146-2008; or

(B) a trustee-assessor in the county;

as of March 19, 2008; and

(2) applies before June 1, 2008, for an employment position referred to in subsection (a)(1)(A).

(c) Before December 31, 2008, the county assessor shall interview, or give the opportunity to interview to, each individual who:

(1) is an employee of an elected township assessor in the county whose duties relating to the assessment of tangible property are transferred to the county assessor as the result of a referendum under this chapter, as amended by P.L.146-2008, as of March 19, 2008; and

(2) applies before December 1, 2008, for an employment position referred to in subsection (a)(2)(A).

(d) A township served on June 30, 2008, by a township assessor whose duties relating to the assessment of tangible property are transferred to the county assessor under IC 36-6-5-1(h), as added by P.L.146-2008 shall transfer to the county assessor all revenue received after the date of the transfer that is received by the township for the purpose of carrying out property assessment duties in the amount determined by the county auditor.

As added by P.L.220-2011, SEC.645.

IC 36-2-15-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-15-2

Election; eligibility; residence; term of office

Sec. 2. (a) A county assessor shall be elected under IC 3-10-2-13 by the voters of the county.

(b) To be eligible to serve as an assessor, a person must meet the qualifications prescribed by IC 3-8-1-23.

(c) A county assessor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the county.

(d) The term of office of a county assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.5-1986, SEC.37; P.L.3-1987, SEC.550; P.L.1-2004, SEC.61 and P.L.23-2004, SEC.63; P.L.88-2005, SEC.15.

IC 36-2-15-3

Location of office; business hours and days

Sec. 3. (a) Subject to subsection (b), the assessor shall keep the assessor's office in a building provided at the county seat by the county executive. The assessor shall keep the office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, the assessor may close the office on days specified by the county executive according to custom and practice of the county.

(b) After June 30, 2008, the county assessor may establish one (1) or more satellite offices in the county.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.146-2008, SEC.692.

IC 36-2-15-4

Legal action on days office is closed

Sec. 4. A legal action required to be taken in the assessor's office on a day when his office is closed under section 3 of this chapter may be taken on the next day his office is open.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-15-5

Duties; transfer of duties; referendum

Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

(1) Countywide equalization.

(2) Selection and maintenance of a countywide computer system.

(3) Certification of gross assessments to the county auditor.

(4) Discovery of omitted property.

(5) In:

(A) a township in which the transfer of duties of the elected township assessor is required by subsection (c); or

(B) a township in which the duties relating to the assessment of tangible property are not required to be performed by a township assessor elected under IC 36-6-5;

performance of the assessment duties prescribed by IC 6-1.1.

(b) A transfer of duties between assessors does not affect:

(1) any assessment, assessment appeal, or other official action made by an assessor before the transfer; or

(2) any pending action against, or the rights of any party that may possess a legal claim against, an assessor that is not described in subdivision (1).

Any assessment, assessment appeal, or other official action of an assessor made by the assessor within the scope of the assessor's official duties before the transfer is considered as having been made by the assessor to whom the duties are transferred.

(c) If:

(1) for a particular general election after June 30, 2008, the person elected to the office of township assessor has not attained the certification of a level two assessor-appraiser; or

(2) for a particular general election after January 1, 2012, the person elected to the office of township assessor has not attained the certification of a level three assessor-appraiser;

as provided in IC 3-8-1-23.6 before the date the term of office begins, the assessment duties prescribed by IC 6-1.1 that would otherwise be performed in the township by the township assessor are transferred to the county assessor on that date. If assessment duties in a township are transferred to the county assessor under this subsection, those assessment duties are transferred back to the township assessor if at a later election a person who has attained the required level of certification referred to in subdivision (1) or (2) is elected to the office of township assessor.

(d) If assessment duties in a township are transferred to the county assessor under subsection (c), the office of elected township assessor remains vacant for the period during which the assessment duties prescribed by IC 6-1.1 are transferred to the county assessor.

(e) A referendum shall be held under sections 7.4 through 11 of this chapter in each township in which the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000) to determine whether to transfer to the county assessor the assessment duties prescribed by IC 6-1.1 that would otherwise be performed by the elected township assessor of the township.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.6-1997, SEC.206; P.L.90-2002, SEC.469; P.L.219-2007, SEC.108; P.L.3-2008, SEC.261; P.L.146-2008, SEC.693.

IC 36-2-15-6
Repealed

(*Repealed by P.L.84-1995, SEC.6.)*

IC 36-2-15-7
Transition on transfer of duties between assessors

Sec. 7. (a) Each county assessor, elected township assessor, or township trustee-assessor whose assessment duties prescribed by IC 6-1.1 will be transferred under section 5 of this chapter shall:

(1) organize the records of the assessor's office relating to the assessment of tangible property in a manner prescribed by the department of local government finance; and

(2) transfer the records as directed by the department of local government finance.

(b) The department of local government finance shall determine a procedure and schedule for the transfer of the records and operations. The assessors shall assist each other and coordinate their efforts to:

(1) ensure an orderly transfer of all records; and

(2) provide for an uninterrupted and professional transition of the property assessment functions consistent with this chapter and the directions of the department of local government finance.

As added by P.L.219-2007, SEC.109.

IC 36-2-15-7.4
Transfer of assessment duties after referendum; question to be submitted in referendum

Sec. 7.4. (a) Assessment duties are transferred to the county assessor as described in section 5(e) of this chapter only if a majority of the individuals in the township who vote in a referendum that is conducted in accordance with this section and sections 8 through 11 of this chapter approves the transfer.

(b) The question to be submitted to the voters in the referendum must read as follows:

"Should the assessing duties of the elected township assessor in the township be transferred to the county assessor?".

As added by P.L.146-2008, SEC.694.

IC 36-2-15-8
Certification of referendum question; date of referendum; notice of referendum question

Sec. 8. (a) The county legislative body shall act under IC 3-10-9-3 to certify the question to be voted on at the referendum under this chapter to the county election board.

(b) Each county clerk shall, upon receiving the question certified by the county legislative body under subsection (a), call a meeting of the county election board to make arrangements for the referendum.

(c) The referendum shall be held in the general election in 2008.

(d) The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum.

(e) Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1.
As added by P.L.146-2008, SEC.695.

IC 36-2-15-9
County election board duties

Sec. 9. Each county election board shall cause:

(1) the question certified to the circuit court clerk by the county legislative body to be placed on the ballot in the form prescribed by IC 3-10-9-4; and

(2) an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum under this chapter is to be held.

As added by P.L.146-2008, SEC.696.

IC 36-2-15-10
Individuals entitled to vote in referendum

Sec. 10. The individuals entitled to vote in a referendum under this chapter are all the registered voters resident in the township in which the referendum is held.
As added by P.L.146-2008, SEC.697.

IC 36-2-15-11
Count by precinct election board; certification of results; notice of results; nullification of election in certain circumstances

Sec. 11. (a) Each precinct election board shall count the affirmative votes and the negative votes cast in the referendum under this chapter and shall certify those two (2) totals to the county election board of the county. The circuit court clerk of the county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the county legislative body. Upon receiving the certification of all the votes cast in the referendum, the county legislative body shall promptly notify the department of local government finance of the result of the referendum. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question:

(1) the county legislative body shall promptly notify:

(A) the county assessor;

(B) the elected township assessor in the township; and

(C) each candidate in an election described in subsection (b);

of the results of the referendum; and

(2) with respect to a particular elected township assessor in the county, the assessment duties prescribed by IC 6-1.1 are transferred to the county assessor on January 1, 2009.

(b) If:

(1) an election is held in the general election in 2008 of an elected township assessor; and

(2) a majority of the individuals who voted in the referendum

held under this chapter voted "yes" on the referendum question; the results of the election of the elected township assessor are nullified.

As added by P.L.146-2008, SEC.698.

IC 36-2-16

Chapter 16. Deputies and Employees

IC 36-2-16-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-16-2

Bond; oath

Sec. 2. (a) A deputy appointed under this chapter may be required to give a bond, in accordance with IC 5-4-1, for the proper discharge of the deputy's duties.

(b) If required under IC 5-4-1-1, a deputy appointed under this chapter shall take the oath required of the officer who appointed the deputy.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1982, P.L.33, SEC.19; P.L.14-2004, SEC.193.

IC 36-2-16-3

Performance of duties of appointing officer; regulations and penalties; responsibility for acts of deputy

Sec. 3. (a) A deputy appointed under this chapter may perform all the official duties of the officer who appointed him and is subject to the same regulations and penalties as the officer.

(b) The officer appointing the deputy is responsible for all the official acts of the deputy.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-16-4

Officers entitled to appoint chief or other deputies and employees

Sec. 4. Each of the following county officers is entitled to appoint one (1) first or chief deputy, and also may appoint the number of other full-time or part-time deputies and employees authorized by the county fiscal body:

(1) The county auditor.
(2) The county treasurer.
(3) The county recorder.
(4) The county superintendent of schools.
(5) The county sheriff.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.154; P.L.174-2006, SEC.20.

IC 36-2-16-5

County surveyor authorized to appoint chief or other deputies and employees; bridge engineer; field notes

Sec. 5. (a) The county surveyor may appoint one (1) first or chief deputy, if authorized by the county fiscal body, and also may appoint the number of other full-time or part-time deputies and employees authorized by the county fiscal body.

(b) The surveyor of a county having a population of one hundred sixty-five thousand (165,000) or more may appoint a registered professional civil engineer as bridge engineer.

(c) If a deputy surveyor takes field notes, he shall return them to the county surveyor within sixty (60) days.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.155; P.L.154-1993, SEC.2.

IC 36-2-16-6
Repealed

(*Repealed by P.L.131-1983, SEC.17.)*

IC 36-2-16-7
County coroner authorized to appoint deputies and clerical employees

Sec. 7. The county coroner may appoint the number of deputies and clerical employees authorized by the county fiscal body.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.156.

IC 36-2-16-8
County assessor authorized to appoint deputies and employees; required level of certification

Sec. 8. (a) The county assessor may appoint the number of full-time or part-time deputies and employees authorized by the county fiscal body.

(b) After June 30, 2009, an employee of the county assessor who performs real property assessing duties must have attained the level of certification under IC 6-1.1-35.5 that the county assessor is required to attain under IC 3-8-1-23.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.157; P.L.146-2008, SEC.699.

IC 36-2-16-9
Compensation of certain deputies in charge of various courts or branches

Sec. 9. If a county has:

(1) a superior court; or

(2) two (2) or more courthouses in which branches of county offices are maintained;

the deputies in charge of the various courts or branches rank as, and shall be compensated as, first or chief deputies.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.201-2011, SEC.112.

IC 36-2-16-10
County animal disease control emergency coordinator

Sec. 10. The county executive of each county shall designate a county animal disease control emergency coordinator who is responsible for receiving information as to the policy of the state

board of animal health on animal disease control matters. The county animal disease control emergency management coordinator shall distribute information as directed by the state board of animal health. Not later than seven (7) days after making the designation, the county executive shall forward the name of the county animal disease control emergency coordinator to the Indiana state board of animal health.

As added by P.L.262-1999, SEC.1.

IC 36-2-16.5
Chapter 16.5. Salary Schedule for Probation Officers

IC 36-2-16.5-1
Application
Sec. 1. This chapter applies to all counties, cities, and towns that employ probation officers.
As added by P.L.277-2003, SEC.14.

IC 36-2-16.5-2
"Probation officer"
Sec. 2. As used in this chapter, "probation officer" means a probation officer or a juvenile probation officer.
As added by P.L.277-2003, SEC.14.

IC 36-2-16.5-3
Adoption of salary schedule
Sec. 3. In consultation with:
(1) at least one (1) judge of a court or division of a court authorized to impose probation; and
(2) at least one (1) probation officer;
the county, city, or town fiscal body shall adopt a salary schedule setting the compensation of a probation officer. The salary schedule must comply with the minimum compensation requirements for probation officers adopted by the judicial conference of Indiana under IC 11-13-1-8.
As added by P.L.277-2003, SEC.14.

IC 36-2-16.5-4
Salary of probation officer
Sec. 4. The county, city, or town fiscal body shall fix the salary of a probation officer based on the salary schedule adopted under this chapter.
As added by P.L.277-2003, SEC.14.

IC 36-2-16.5-5
Benefits; holidays; hours
Sec. 5. Unless otherwise specified in the salary schedule, a probation officer is entitled to the same benefits, holidays, and hours as other county, city, or town employees.
As added by P.L.277-2003, SEC.14.

IC 36-2-16.5-6
Use of fees deposited into certain funds; use of excess revenue generated by fees
Sec. 6. (a) Except as provided in subsection (b), the administrative fees deposited into:
(1) the county supplemental juvenile probation services fund under IC 31-40-2-1;
(2) the county supplemental adult probation services fund under

IC 35-38-2-1(f); and

(3) the local supplemental adult probation services fund under IC 35-38-2-1(g);

shall be used to pay for salary increases required under the salary schedule adopted under this chapter and IC 11-13-1-8 that became effective January 1, 2004.

(b) Administrative fees collected that exceed the amount required to pay for salary increases required under the salary schedule adopted under this chapter and IC 11-13-1-8 may be used in any manner permitted under IC 31-40-2-2, IC 35-38-2-1(f), or IC 35-38-2-1(j).

As added by P.L.220-2011, SEC.646.

IC 36-2-17

Chapter 17. County Records

IC 36-2-17-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-2

Keeping records in offices; delivery to successors; use of permanent ink; violation

Sec. 2. (a) The county auditor, county treasurer, county surveyor, county sheriff, and county superintendent of schools shall keep in their offices all records that they are required to make and shall deliver them to their successors.

(b) The clerk of the circuit court, county auditor, and county recorder shall use permanent jet-black, nonfading ink when preparing official records in longhand. A person who violates this subsection commits a Class C infraction.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-3

Photostatic recording of documents; force of recording

Sec. 3. (a) A county officer who is required to record documents may record them by a photographic process if:

(1) the process is adopted by the county executive; and

(2) the necessary photographic equipment and supplies are furnished for that purpose by the county executive.

(b) Photostatic recording of documents has the same force as recording of documents by handwriting, typewriter, or handwriting on partly printed pages.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-4

Miniature photographic or microfilm recording of documents; marginal entry or notation; control over film and records; original and duplicate copies; index

Sec. 4. (a) A county officer may record documents by miniature photographic process or microfilm process if:

(1) the installation of the process is approved by the county executive; and

(2) the process provides for an original and a duplicate film copy of each document that the officer is required to record.

The officer shall index and file the original copy in a suitable container in the office where the document is recorded, in such a manner that it is easily accessible and readable by an interested person. The officer shall preserve the duplicate copy in a fireproof vault, either in the courthouse where the office is located or in a place designated by the county executive.

(b) When recording a release, assignment, or other document that

requires a marginal entry or notation on a prior record made under this section, an officer acting under this section shall:

(1) record the document on the index page of the photographic or microfilm record containing the prior record; or

(2) index and cross-reference the marginal entry or notation and record it on a separate page attached to or filed with and made a part of the prior record.

(c) An officer recording a document under this section has exclusive control over the film and records in his office, and he may not return an original document to the person presenting it for record until the film copy of that document is properly recorded, indexed, filed, and made available to interested persons.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-5

Preservation of records; copies; control of records

Sec. 5. (a) If it is necessary to preserve the records of:

(1) the circuit court clerk's office;

(2) the county auditor's office;

(3) the county treasurer's office;

(4) the county recorder's office;

(5) the county sheriff's office;

(6) a court of record; or

(7) the county surveyor's office;

from damage, the county executive shall order the officer in charge of the records to copy them in suitable books procured by him for that purpose. The executive shall specify in its order the particular records or parts of records to be copied.

(b) If:

(1) parts of a county's records have been destroyed;

(2) the remaining parts of the records have been copied to preserve them from damage; and

(3) the proper holder of the original documents on which the records were based presents those documents to the officer in charge of the records;

the officer in charge of the records shall use the original documents to complete the records, and, if the original index no longer exists, shall index the completed records.

(c) If a map or plat in the office of the county auditor, county recorder, or county surveyor is so worn or defaced that it is not fit for use, the auditor, recorder, or surveyor shall make an accurate copy of the legible part of the map or plat. If a part of the map or plat is illegible, the auditor or recorder shall resort to the most accurate sources to complete the copy.

(d) Copies of records made under this section have the same force as the original records. Certified transcripts of copies of records made under subsection (a) of this section have the same force as transcripts of the original records.

(e) Control of the county recorder's records, including copying, storage, and retrieval is the responsibility of the county recorder.

(f) Control of the county surveyor's records, including copying, storage, and retrieval is the responsibility of the county surveyor.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.231-1989, SEC.13; P.L.276-2001, SEC.8.

IC 36-2-17-6
Destruction of records; meetings; list; replacement; appointment of commissioner

Sec. 6. (a) If records belonging to the county or a court of record in the county are destroyed, the county auditor shall immediately notify the county executive, which shall meet at the time and place specified by the auditor. During the next twelve (12) months, the county executive may hold additional meetings concerning the destroyed records if it finds that such meetings are necessary.

(b) At the meeting held under subsection (a) of this section, after a showing that records of the county or a court of record in the county have been destroyed, the county executive shall order the county auditor to make out and certify a list of all the destroyed records that were furnished by the state under a statute or joint resolution. The auditor shall immediately forward this list to the governor, who shall immediately give notice of the destruction of county records to the state officer whose duty it is to furnish records to the county. That officer shall immediately furnish to the county all records on the list, as if the county had never received them.

(c) At the meeting held under subsection (a) of this section, the county executive shall appoint a person as a commissioner if any of the records of:

(1) a court of record in the county;
(2) a clerk of a court of record in the county; or
(3) a county officer other than the county recorder;

have been destroyed. After taking an oath of office, the commissioner has the powers and duties set forth in section 7 of this chapter.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-7
Destruction of records; powers and duties of commissioner; procedures

Sec. 7. (a) Before performing any of his duties, a commissioner appointed under section 6(c) of this chapter shall give twenty (20) days notice of:

(1) his appointment;
(2) the time when he will begin to perform his duties; and
(3) the place where he will begin to perform his duties;

by publication under IC 5-3-1 and by posting written notices in each township of the county.

(b) The commissioner may:

(1) employ a clerk, who shall take an oath of office before performing any of his duties;
(2) administer oaths when testimony is required to be taken

before him;

(3) issue subpoenas for and compel the attendance of witnesses;

(4) cite persons for and issue execution for contempt;

(5) tax costs; and

(6) adjourn his proceedings from time to time, but after an adjournment without a day specified for reconvening, he may not resume his duties without an order of the county executive authorizing him to do so.

(c) A sheriff who delivers the commissioner's writs and subpoenas and witnesses who testify before the commissioner are entitled to the same fees as are allowed for the same service or attendance in the circuit court. This compensation shall be taxed against the party bearing costs.

(d) The commissioner shall obtain record books in which the proceedings held before him shall be fully recorded. Proceedings concerning the different courts and different offices of the county shall be recorded in separate books.

(e) The commissioner or his clerk may not record proof of the existence and contents of the following records and documents of a clerk of a court of record:

(1) Judgments and decrees.

(2) Writs of execution and returns of writs of execution.

(3) Recognizances and forfeitures of bonds.

The commissioner or his clerk shall record proof of the existence and content of any other record or document that belonged to or was filed or deposited in the office of a clerk of a court of record and has been destroyed, if that proof is presented to the commissioner by a disinterested witness. However, the commissioner may receive proof of the contents of a will only if the evidence leads him to believe that neither the original will nor an authenticated copy can be produced.

(f) The commissioner shall record the complete statement of each witness who testifies before him. The commissioner may not include his own conclusions in the record.

(g) The commissioner shall sign the record of each day's testimony that he hears, and shall certify each completed volume of the record to be a complete and accurate copy of the testimony taken before him. The commissioner shall deliver each completed volume of the record to the appropriate county office.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-8

Destruction of records; force and effect of records or certified copies; removal of commissioner for neglect; expenses

Sec. 8. (a) Records compiled by the commissioner, or certified copies of those records, are admissible in any legal proceeding and have the force that the same testimony would have if it were delivered orally. Complete or partial copies of a volume of the commissioner's records may be certified by the commissioner if he has custody of the volume; otherwise, the county officer having custody of the volume may certify copies. Certified copies of the

commissioner's record have the same evidentiary force as the commissioner's record.

(b) If the county executive finds that the commissioner is incompetent or that he unreasonably delays or neglects his duties, it may, by an order on the record, remove him from office and appoint a successor. An order of removal is not appealable.

(c) If more than twelve (12) months have passed since the commissioner commenced his duties, the county executive may give him twenty (20) days notice to terminate his proceedings. After twenty (20) days, the duties of his office cease. However, the county executive may subsequently authorize the commissioner to resume his duties for a limited period of time.

(d) All expenses of books, stationery, and per diems under this section and section 7 of this chapter shall be paid by the county.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-9

Destruction of recorder's records; restoration; proof of execution, acknowledgment, or action

Sec. 9. (a) If all or part of the records of the recorder's office are destroyed, the recorder shall immediately obtain a book in which he shall restore the destroyed parts of the record. The recorder shall, in the order in which they are presented, record in this book documents that had been recorded but the records of which have been destroyed. The recorder shall also record the recorder's original indorsement showing the time when each document was originally filed for record. This new record has the same force as the original record would have had if it had not been destroyed.

(b) Whenever the recorder acts under subsection (a), he shall also obtain another book in which he shall, in the order in which it is presented, record all proof of the execution, acknowledgment, contents, destruction, and recording of documents that had been recorded in his office but the records of which have been destroyed. The recorder shall index this book in the manner in which records of deeds are indexed.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-10

Destruction of recorder's records; statement of person having interest in preserving evidence of document; witnesses; oaths; witnesses' recollections

Sec. 10. (a) A person who has an interest in preserving evidence of a document, the record of which in the recorder's office has been destroyed, shall make a verified statement before the recorder that:

(1) he has an interest in preserving evidence of the document;

(2) the document was previously recorded in the recorder's office; and

(3) he has searched diligently for the original of the document and has not been able to find it.

After recording the person's statement and requiring him to sign it,

the recorder shall take and record the verified statement of each witness who testifies before him. The recorder may be sworn as a witness by a person authorized to administer oaths.

(b) The recorder shall require each witness testifying under this section to make a verified statement of his interest in preserving his testimony, and shall include this statement in the record. The recorder shall require each witness to sign the record of his testimony and shall add his certificate stating that the witness was duly sworn.

(c) A recorder shall administer all oaths required by this section.

(d) Testimony admissible before the recorder under this section consists of witnesses' best recollections of:

(1) the execution and acknowledgment of the document;

(2) the date of the document;

(3) the contents of the document;

(4) the prior recording of the document in the recorder's office; and

(5) the time when the document was initially recorded or deposited for record.

(e) The recorder shall record the complete statement of each witness who testifies before him. The recorder may not include his own conclusions in the record.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-11

Destruction of recorder's records; force and effect of record; certified copies; fee for recording

Sec. 11. (a) A party to a legal proceeding may introduce a record of testimony made under section 10 of this chapter into evidence. Such a record has the same force as oral testimony at the trial by the witness whose statement makes up the record, and it may be excluded, rebutted, or impeached in the same manner in which that oral testimony could be excluded, rebutted, or impeached.

(b) If the recorder certifies that a copy of a record made under section 10 of this chapter is a complete copy of all parts of the record relevant to a document in issue in a trial, the certified copy is admissible in evidence in that trial and has the same force as the original record.

(c) The recorder shall charge half the usual fee for recording a document under section 9 or 10 of this chapter.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-12

Wills, letters testamentary, or letters of administration destroyed; copies; force and effect of record

Sec. 12. If the record of a will, letters testamentary, or letters of administration is destroyed, and an authenticated copy of the will or letters is presented to the clerk of the proper court, he shall record the copy as if it was the original and shall note on the record the date on which the document was originally recorded. A record made under this section has the same force as the original record.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-13
Bond for guardian, administrator, or executor destroyed; new bond; liability of surety on destroyed bond

Sec. 13. A guardian, administrator, or executor whose official bond is destroyed in a general destruction of a county's records shall file a new bond with the proper officer within three (3) months after the bond is destroyed. The liability on the new bond commences with its filing in the proper office. Sureties on the destroyed bond are not liable for acts of their principal occurring after the filing of the new bond.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-14
Bond for county officer destroyed; new bond; liability

Sec. 14. If:

(1) the official bond of a county officer is destroyed; and

(2) the county officer receives a written notice of the destruction of his bond from the officer having custody of the bond;

he shall file a new bond with the proper officer within twenty (20) days after he receives the notice. The liabilities on the new or old bond are the same as those prescribed by section 13 of this chapter on bonds of guardians, administrators, or executors.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-15
Public documents in custody of county treasurer destroyed; copies; county tax duplicate; liability of persons charged with tax

Sec. 15. (a) If public documents in the custody of the county treasurer are destroyed, the officer whose duty it is to furnish those documents shall immediately make new copies of them in the same manner in which they were originally made and shall deliver these copies to the treasurer. A copy made under this section has the same force as the original document.

(b) If a county tax duplicate is destroyed and a copy is supplied under this section, persons charged with taxes on that copy are liable for those taxes unless they:

(1) produce proper receipts for the taxes; or

(2) prove to the county treasurer or county executive that the taxes have been paid.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-16
Assessment rolls and tax duplicates destroyed; new assessments and appraisals; proceedings to collect taxes due

Sec. 16. If the assessment rolls and tax duplicates of a county are destroyed, the county executive shall cause new assessments and appraisals to be made, in the same manner and under the same

regulations that they were originally made, and shall conduct all proceedings necessary to enable the treasurer to collect all taxes due in the county.
As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-17-17
Electronic storage medium; retrieved information as evidence of official record; data processing system; duties of recorder

Sec. 17. (a) As used in this section:

"Book" means a book, register, index, or file that the law requires a county recorder to maintain.

"Electronic storage medium" means a magnetic tape, card, diskette, disk, or other medium on which data may be entered and retained and from which data may be retrieved by the operation of an electronic data processing system.

"Recorded information" means information in any written matter, such as a record, document, plat, or paper, that the law requires a recorder to enter into a book.

(b) The county recorder may substitute an electronic storage medium for any book. For the purposes of admissibility into evidence, printouts or other types of information retrieved from an electronic storage medium in written form shall be treated as an official record in all courts and administrative agencies.

(c) When the recorder substitutes an electronic storage medium for a book, the recorder shall operate a data processing system that during normal business hours allows:

(1) retrieval of recorded information by reference to the same identification number assigned to the written matter that has been recorded, the written matter's date of recording, the name of affected parties, the legal description of affected real property (if any), and any other category of information that the law requires the recorder to maintain in a related index or file; and

(2) reproduction of recorded information in written form.

(d) The recorder shall enter the identification number assigned by the recorder to a recorded matter with the related recorded information being entered into the electronic storage medium. The recorder shall verify the correctness of all recorded information entered into the electronic storage medium and assign security access codes to it that will protect it from alteration. An original of recorded matter may not be returned to the person submitting it before certification and security coding occur.

(e) At intervals determined by the recorder, the recorder shall duplicate the data on an electronic storage medium containing recorded information and permanently store one (1) copy outside the office of the recorder in a secure location that is designated by the county executive and under the exclusive custody and control of the recorder. If either copy is lost or damaged, the recorder may use the other copy to perform his duties.
As added by P.L.193-1984, SEC.1.

IC 36-2-18

Chapter 18. Weed Cutting on County Roadsides

IC 36-2-18-1

Duty of county highway department

Sec. 1. Each county highway department shall control detrimental plants (as defined in IC 15-16-8-1), and noxious weeds as required by law.

As added by P.L.86-1988, SEC.225. Amended by P.L.2-2008, SEC.81.

IC 36-2-18-2

Expenses

Sec. 2. All expenses for carrying out this chapter shall be paid out of funds from that county's allocation from the motor vehicle highway account.

As added by P.L.86-1988, SEC.225.

IC 36-2-19
Chapter 19. Filing of Surveys

IC 36-2-19-1
"Land surveyor" defined

Sec. 1. As used in this chapter, "land surveyor" means any of the following:

(1) A land surveyor registered under IC 25-21.5.

(2) An employee or subordinate of a land surveyor registered under IC 25-21.5.

(3) An individual who is exempt from registration as a land surveyor under IC 25-21.5-3.

As added by P.L.76-1989, SEC.4. Amended by P.L.23-1991, SEC.37.

IC 36-2-19-2
"Original survey" defined

Sec. 2. As used in this chapter, "original survey" means a survey that is executed for the purpose of locating and describing real property that has not been previously described in documents conveying an interest in real property.

As added by P.L.76-1989, SEC.4.

IC 36-2-19-3
"Retracement or record document survey" defined

Sec. 3. As used in this chapter, "retracement or record document survey" means a survey of real property that has been previously described in documents conveying an interest in that real property.

As added by P.L.76-1989, SEC.4.

IC 36-2-19-4
Recording plat of survey; information included; filing ordinance; filing fee

Sec. 4. (a) If a land surveyor has prepared a plat of any original, retracement, or record document survey (not including Indiana surveyor location reports or other similar documents normally associated with a mortgage loan) the plat shall be recorded in the county recorder's office when:

(1) a new tax parcel is created;

(2) no survey has been previously recorded; or

(3) the monuments, monument references, or the description varies from the last recorded survey of the parcel.

(b) The plat of survey described in subsection (a) must include the following:

(1) The name of the owner or title holder according to the current county tax records at the time of recording (or the actual title holder if the land surveyor knows the tax records are not accurate).

(2) The area of each surveyed tract.

(3) A statement indicating the existence or absence of improvements on each surveyed tract.

(c) The county may enact an ordinance requiring that if plats of survey have been prepared the plats must be filed with the county surveyor's office. If such an ordinance is adopted and a plat of survey has been prepared, a notarized record executed by the surveyor of the filing (showing the name of the surveyor, the date of certification, the name of the owner of the surveyed parcel as described in subsection (b)(1), and a brief description of the surveyed parcel) must be recorded in the recorder's office. The ordinance shall establish a fee schedule for the filing of the plat.
As added by P.L.76-1989, SEC.4.

IC 36-2-19-5
Copy of plat to county auditor or surveyor

Sec. 5. A copy of any plat recorded in the recorder's office or filed in the surveyor's office under this chapter must be provided to the county auditor or the county surveyor, if this action is authorized by county ordinance for the maintenance of the plat book under IC 6-1.1-5-1.
As added by P.L.76-1989, SEC.4.

IC 36-2-19-6
Filing fee disposition

Sec. 6. If the plat described in section 4 of this chapter is filed in the county surveyor's office under a county ordinance, the filing fee shall be deposited in the county surveyor's corner perpetuation fund.
As added by P.L.76-1989, SEC.4.

IC 36-2-19-7
Duplicate plat copy to township assessor

Sec. 7. (a) Except as provided in subsection (b), in a county in which IC 6-1.1-5-9 or IC 6-1.1-5-9.1 applies, the county surveyor shall file a duplicate copy of any plat described in section 4 of this chapter with the township assessor (if any).

(b) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.
As added by P.L.76-1989, SEC.4. Amended by P.L.219-2007, SEC.110; P.L.146-2008, SEC.700.

IC 36-2-20

Chapter 20. Acquisition of Materials, Supplies, or Services

IC 36-2-20-1

Application of chapter

Sec. 1. This chapter applies to a county in which the executive and the fiscal body adopt identical ordinances to do the following:

(1) Accept the applicability of this chapter.

(2) Designate a procurement agent.

As added by P.L.252-1993, SEC.5.

IC 36-2-20-2

Item

Sec. 2. As used in this chapter, "item" means any of the following:

(1) Materials.

(2) Supplies.

(3) Services, other than professional services.

As added by P.L.252-1993, SEC.5.

IC 36-2-20-3

Procurement agent

Sec. 3. As used in this chapter, "procurement agent" means a board, an officer, or an employee position having sole authority on behalf of a county to buy, purchase, lease, or otherwise acquire items for which payment is to be made from a public fund.

As added by P.L.252-1993, SEC.5.

IC 36-2-20-4

Written requisitions

Sec. 4. An official or employee who wants the county to acquire an item shall forward a written requisition for the item to the procurement agent. The requisition must include the following information concerning the item:

(1) Specifications.

(2) Quantity.

(3) Type.

(4) Purpose for which the item is needed.

(5) Office or place where the item will be used.

(6) Date when needed.

(7) Evidence that sufficient funds were appropriated and are available to pay for the item.

As added by P.L.252-1993, SEC.5.

IC 36-2-20-5

Acquisition of items

Sec. 5. After consultation with the person submitting the requisition, the procurement agent shall acquire the item in the manner required by IC 5-22 or other applicable statutes.

As added by P.L.252-1993, SEC.5. Amended by P.L.49-1997, SEC.77.

IC 36-2-20-6

Acquisitions in violation of chapter

Sec. 6. A claim by an official or employee for an item that was acquired in violation of this chapter:

(1) may not be approved for payment by the county executive; and

(2) is the personal responsibility of the person who acquired the item.

As added by P.L.252-1993, SEC.5.

IC 36-3

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

IC 36-3-1

Chapter 1. Consolidation and Transfer of Powers

IC 36-3-1-0.3

General assembly findings

Sec. 0.3. The general assembly finds the following:

(1) A consolidated city faces unique budget challenges due to a high demand for services combined with the large number of tax exempt properties located in a consolidated city as the seat of state government, home to several institutions of higher education, and home to numerous national, state, and regional nonprofit corporations.

(2) By virtue of its size and population density, a consolidated city has unique overlapping territories of county and city government and an absence of unincorporated areas within its county.

(3) Substantial operational efficiencies, reduction of administrative costs, and economies of scale may be obtained in a consolidated city through consolidation of certain county, city, and township functions.

(4) Consolidation of certain county, city, and township services and operations will serve the public purpose by allowing the consolidated city to:

(A) eliminate duplicative services;

(B) provide better coordinated and more uniform delivery of local governmental services;

(C) provide uniform oversight and accountability for the budgets for local governmental services; and

(D) allow local government services to be provided more efficiently and at a lower cost than without consolidation.

(5) Efficient and fiscally responsible operation of local government benefits the health and welfare of the citizens of a consolidated city and is of public utility and benefit.

(6) The public purpose of those parts of P.L.227-2005 relating to a consolidated city is to provide a consolidated city with the means to perform essential governmental services for its citizens in an effective, efficient, and fiscally responsible manner.

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

IC 36-3-1-1

Application of chapter

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

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

IC 36-3-1-2
Transitional provisions; change to first class city

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

(1) During the period before July 1 of the year in which the change occurs, the city shall be governed as if it remained a second class city.

(2) During the period after June 30 of the year in which the change occurs, the city shall be governed by an interim government under section 3 of this chapter.

(3) On January 1 following the year in which the change occurs, the city becomes a consolidated city.

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

IC 36-3-1-3
Interim government of first class city; powers of officers; budgets and appropriations; appointment of future directors

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

(1) the city executive, who is interim mayor and has the powers of the executive of a consolidated city;

(2) the city clerk, who is interim clerk and has the powers of the clerk of a consolidated city;

(3) the members of the city legislative body and the members of the county fiscal body, who together comprise an interim city-county council having the powers of the legislative body of a consolidated city; and

(4) the members of the city legislative body, who together comprise an interim special service district council having the powers of the legislative body of a special service district.

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

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

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

IC 36-3-1-4
Consolidated city; abolishment of first class city; territory; name; interim government

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

(1) all the territory that comprised the first class city before it became a consolidated city; and

(2) all other territory in the county except territory of an excluded city.

However, certain departments and special taxing districts of the consolidated city may have jurisdiction as provided by law over more or less territory than that inside the boundaries of the consolidated city.

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

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

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

IC 36-3-1-5

Officers of executive and legislative body; board of commissioners

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

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

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

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

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

IC 36-3-1-5.1

Consolidation of police department and county sheriff's department

Sec. 5.1. (a) Except for those duties that are reserved by law to the county sheriff in this section, the city-county legislative body may by majority vote adopt an ordinance, approved by the mayor, to consolidate the police department of the consolidated city and the county sheriff's department.

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

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

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

(d) Notwithstanding any other law, an ordinance adopted under

this section must provide that the county sheriff's department shall be responsible for all the following for the consolidated city and the county under the direction and control of the sheriff:

(1) County jail operations and facilities.

(2) Emergency communications.

(3) Security for buildings and property owned by:

(A) the consolidated city;

(B) the county; or

(C) both the consolidated city and county.

(4) Service of civil process and collection of taxes under tax warrants.

(5) Sex and violent offender registration.

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

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

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

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

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

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

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department;

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

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

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

(B) after the consolidation becomes a law enforcement officer of the consolidated law enforcement department;

remains a member of the 1953 fund or the 1977 fund. The member retains, after the consolidation, credit in the 1953 fund or the 1977 fund for service earned while a member of the police department of the consolidated city and continues to earn

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

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

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

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

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

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

(B) any tax shifts among taxpayers;

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

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

IC 36-3-1-6
Special service districts; special taxing districts

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

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

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

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

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

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

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

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

IC 36-3-1-6.1
Consolidation of fire departments

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

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

(b) If the requirements of subsection (g) are satisfied, the consolidated fire department shall provide fire protection services within an entity described in subsection (a)(1) or (a)(2) in which the

requirements of subsection (g) are satisfied on the date agreed to in the resolution of the township legislative body and the ordinance of the legislative body of the consolidated city.

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

(1) transferred to; or

(2) assumed by;

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

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

(1) are in effect on the effective date of the consolidation; and

(2) apply to employees of the department consolidated into the fire department of the consolidated city who become employees of the consolidated fire department.

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

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

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

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

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

(2) Notwithstanding any other provision, a firefighter:

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

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section;

remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter shall receive credit for any service as a member of the 1977 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-8.

(3) Notwithstanding any other provision, a firefighter:

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

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section;

remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-7.

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

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

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

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

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

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

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

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

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

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

(B) any tax shifts among taxpayers;

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

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

IC 36-3-1-6.2
Emergency ambulance services

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

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

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

IC 36-3-1-7
Excluded cities; included towns

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

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

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

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

IC 36-3-1-8

Transfer of functions and obligations

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

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

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

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

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

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

IC 36-3-1-9

Ordinances; application; disposition

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

(1) the first class city;

(2) the county;

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

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

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

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

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

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

IC 36-3-1-10

Annexation proceedings pending; continuation; expansion effect

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

(1) If the annexation is by the first class city, it has the effect of expanding the special service districts created by section 6 of this chapter.

(2) If the annexation is by another municipality in the county, it has the effect of expanding the municipality as an excluded city or included town.

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

IC 36-3-1-11

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

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

(1) the power to levy and collect property taxes in furtherance of functions not transferred to the consolidated city; and

(2) if applicable, the power to adopt and enforce ordinances prescribing a penalty for violation.

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

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

IC 36-3-1-12

Alteration of status, boundaries, or ordinances of political subdivisions

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

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

IC 36-3-2

Chapter 2. Powers of Political Subdivisions in the County

IC 36-3-2-1

Application of chapter

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

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

IC 36-3-2-2

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

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

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

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

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

IC 36-3-2-3

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

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

(1) may sue and be sued;

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

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

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

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

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

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

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

(A) set a date for a public hearing;
(B) publish notice of the hearing in accordance with IC 5-3-1; and
(C) upon hearing the matter, determine whether the territory should be added to the district.

(4) If the works board recommends that the territory should be added to the district, the legislative body must hold a public hearing and then may pass the ordinance.

(5) Territory in the solid waste collection district may also be removed from the district in the manner prescribed by this section.

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

IC 36-3-2-4
Excluded city; home rule powers; annexation of territory

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

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

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

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

IC 36-3-2-5
Included town; home rule powers; restrictions; annexation of territory

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

(1) enforce an ordinance or regulation that is in conflict with or permits a lesser standard than an applicable ordinance or regulation of the consolidated city; or

(2) issue general obligation bonds.

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

(1) the included town must follow the procedures prescribed by IC 36-4-3 for other annexations; and

(2) all territory annexed under this subsection remains part of the consolidated city.

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

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

IC 36-3-2-6
Conservancy district; statutory powers; restrictions

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

(1) enforce a regulation that is in conflict with or permits a lesser standard than an applicable ordinance or regulation of the consolidated city; or

(2) issue general obligation bonds.

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

IC 36-3-2-7

Transfer of territory; procedure

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

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

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

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

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

(1) a petition for annexation of that territory with the legislative body of the contiguous municipality; and

(2) a petition for disannexation of that territory with the legislative body of the municipality containing that territory.

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

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

(1) Except as provided in subsection (g), if both legislative bodies approve, the transfer of territory takes effect:

(A) on the effective date of the approval of the latter legislative body to act; and

(B) when a copy of each transfer approval has been filed under subsection (f).

(2) If the legislative body of the contiguous municipality disapproves or fails to act within the prescribed period, the proceedings are terminated.

(3) If the legislative body of the contiguous municipality approves but the legislative body of the other municipality disapproves or fails to act within the prescribed period, the proceedings are terminated unless there is an appeal under subsection (d).

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

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

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

(1) the requirements of this section have been met; and

(2) the benefits to be derived by the petitioners outweigh the detriments to the municipality;

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

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

(1) the office of the secretary of state; and

(2) the circuit court clerk of each county in which the municipality is located.

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

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

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

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

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

IC 36-3-2-7.5

Connection of sewer and water service; waiver against remonstrance

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

or water service if all of the following conditions apply:

(1) The landowner is required to connect to the sewer or water service because a person other than the landowner has polluted or contaminated the area.

(2) A person other than the landowner or the municipality has paid the cost of connection to the service.

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

IC 36-3-2-8

Services provided outside boundaries; service charge

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

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

IC 36-3-2-9

Federal manpower program; approval to operate or be prime sponsor

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

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

IC 36-3-2-10

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

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

(1) That the tax base of the consolidated city and the county have been significantly eroded through the ownership of tangible property by separate municipal corporations and other public entities that operate as private enterprises yet are exempt or whose property is exempt from property taxation.

(2) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the legislative body of the consolidated city and county should be authorized to collect payments in lieu of taxes from these public entities.

(3) That the appropriate maximum payments in lieu of taxes would be the amount of the property taxes that would be paid if the tangible property were not subject to an exemption.

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

(1) Assessed value.

(2) Exemption.

(3) Owner.

(4) Person.

(5) Personal property.

(6) Property taxation.

(7) Tangible property.

(8) Township assessor.

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

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

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

(2) A capital improvement board of managers under IC 36-10-9.

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

(4) A wastewater treatment facility.

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

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

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

(3) both.

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

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

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

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

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

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

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

(1) operating and maintenance expenses;

(2) payment of principal and interest on any bonded indebtedness;
(3) depreciation or replacement fund expenses;
(4) bond and interest sinking fund expenses; and
(5) any other priority fund requirements required by law or by any bond ordinance, resolution, indenture, contract, or similar instrument binding on the facility.

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

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

IC 36-3-2-11
Ordinance requiring payment of PILOTS

Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:
(1) Assessed value.
(2) Exemption.
(3) Owner.
(4) Person.
(5) Property taxation.
(6) Real property.
(7) Township assessor.

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

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

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

(e) The PILOTS must be calculated so that the PILOTS are in an amount that is:
(1) agreed upon by the property owner and the legislative body of the consolidated city;
(2) a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation; and
(3) not more than the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property

taxation.

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

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

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

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

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

IC 36-3-3

Chapter 3. Executive Authorities

IC 36-3-3-1

Application of chapter

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

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

IC 36-3-3-2

Mayor as executive; election; qualifications; term of office

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

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

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

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

IC 36-3-3-3

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

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

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

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

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

IC 36-3-3-4

Residence; vacancy in office

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

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

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

(2) ceases to be a resident of the county; or

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

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

IC 36-3-3-5
Supervision of work of departments, special service districts, and special taxing districts
Sec. 5. As the chief officer of the executive branch of the consolidated city government as provided by IC 36-4-4, the executive shall supervise the work of the departments of the consolidated city, its special service districts, and its special taxing districts.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-3-6
Approval or veto of ordinances and resolutions
Sec. 6. The executive shall approve or veto ordinances and resolutions of the legislative body under IC 36-3-4.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-3-7
Investigation of work and reports; examination of records
Sec. 7. The executive may investigate the work of those under his supervision and require reports from them. He may examine any records of the consolidated city.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-3-8
Appointment powers
Sec. 8. The executive shall make the appointments prescribed by IC 36-3-5 and all other appointments required by statute to be made by the executive of a consolidated or first class city or a county having such a city.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-3-9
Performance of duties and exercise of powers; restrictions
Sec. 9. The executive shall perform the duties and exercise the powers prescribed for the board of commissioners of the county by statutes other than this title, except for the following:
(1) Duties and powers vested in the city-county legislative body by IC 36-3-4.
(2) Duties and powers retained by the board of commissioners of the county under section 10 of this chapter.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-3-10
Board of commissioners of county; members; powers and duties
Sec. 10. (a) The board of commissioners of the county is composed of the county treasurer, the county auditor, and the county assessor. These officers shall serve ex officio as commissioners

without additional compensation for performing the duties of the board.

(b) The board of commissioners:

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

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

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

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

IC 36-3-4
Chapter 4. Legislative Bodies

IC 36-3-4-0.1
Application of certain amendments to chapter

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

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

IC 36-3-4-1
Application of chapter

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

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

IC 36-3-4-2
City-county council; membership; election; eligibility; vacancy; term of office

Sec. 2. (a) A twenty-nine (29) member city-county council, which is the legislative body of both the consolidated city and the county, shall be elected under IC 3-10-6 by the voters of the county.

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

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

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

(2) the district from which the member was elected, if applicable.

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

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

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

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

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

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

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

IC 36-3-4-3
City-county legislative body; division of county into districts; composition of body; election; petition for division of county

Sec. 3. (a) The city-county legislative body shall, by ordinance,

divide the whole county into twenty-five (25) districts that:

(1) are compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) contain, as nearly as is possible, equal population; and

(3) do not cross precinct boundary lines.

This division shall be made during the second year after a year in which a federal decennial census is conducted and may also be made at any other time, subject to IC 3-11-1.5-32.

(b) The legislative body is composed of twenty-five (25) members elected from the districts established under subsection (a) and four (4) members elected from an at-large district containing the whole county.

(c) Each voter of the county may vote for four (4) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The four (4) at-large candidates receiving the most votes from the whole county and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

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

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

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1980, P.L.213, SEC.2; P.L.346-1983, SEC.2; P.L.5-1986, SEC.41; P.L.13-1988, SEC.15; P.L.230-2005, SEC.84; P.L.141-2007, SEC.2.

IC 36-3-4-3.5

Territories not included in any district or more than one district

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

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

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

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under section 3 of this chapter;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

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

IC 36-3-4-4

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

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

(1) expel any member for violation of an official duty;

(2) declare the seat of any member vacant if he is unable to perform the duties of his office; and

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

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

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

IC 36-3-4-5

Special service district council; composition

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

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

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

IC 36-3-4-6

Meetings

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

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

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

member if he:

(1) attends the meeting; or

(2) executes a written waiver of notice of the time and place of the meeting.

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

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

IC 36-3-4-7

Election of president and officers of city-county legislative body

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

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

IC 36-3-4-8

Clerk of city-county legislative body; appointment; duties

Sec. 8. (a) The city-county legislative body shall appoint a clerk for a term of one (1) year. The clerk serves at the pleasure of the legislative body and continues in office until his successor is appointed and qualified.

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

(1) act as secretary to the legislative body;

(2) send out all notices of its meetings;

(3) keep all its records;

(4) present ordinances and resolutions to the executive under section 15 of this chapter; and

(5) perform other duties connected with the work of the legislative body that are delegated to him by it.

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

IC 36-3-4-8.5

Employment of attorneys or legal research assistants

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

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

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

IC 36-3-4-9

Quorum

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

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

IC 36-3-4-10

Ordinance or resolution; majority vote; two-thirds vote

Sec. 10. (a) A requirement that an ordinance or resolution of a

legislative body be passed by a majority vote means at least a majority vote of all the elected members.

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

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

IC 36-3-4-11

Ordinance or resolution; majority vote; joint passage

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

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

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

IC 36-3-4-12

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

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

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

(1) initiated by a director, board, or commission and does not provide for an appropriation or tax levy or the incurring of any general obligation indebtedness; or

(2) for a reappropriation or transfer of money previously appropriated by the annual budget ordinance.

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

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

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

IC 36-3-4-13

Ordinance or resolution; public hearing requirement

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

(1) provides for the annual budget and tax levy;

(2) appropriates previously unappropriated monies; or

(3) provides for any general obligation indebtedness.

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

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

IC 36-3-4-14

Ordinance or resolution adoption; requirements

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

(1) signed by the presiding officer; and

(2) if subject to veto, either approved by the executive or passed over the executive's veto by the legislative body, under section 16 of this chapter.

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

(1) An ordinance or resolution, or part of either, providing for the budget or appropriating money for an office or officer of the county provided for by the Constitution of Indiana or for a judicial office or officer.

(2) An ordinance or resolution approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review.

(3) A resolution making an appointment that the legislative body is authorized to make.

(4) A resolution selecting officers or employees of the legislative body.

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

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

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

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

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

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

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

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

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

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

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

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

(1) subject to subsection (h), give written notice to the

department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

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

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

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

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

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

(1) approved by the department; and

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

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

IC 36-3-4-15

Ordinance or resolution; passage and presentation

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

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

IC 36-3-4-16

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

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

(1) approve the ordinance or resolution, by entering his approval on it, signing it, and sending the legislative body a message announcing his approval; or

(2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing his veto and stating his reasons for the veto.

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

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

(c) Whenever an ordinance or resolution is vetoed by the executive, it is considered defeated unless the legislative body, at its

first regular or special meeting after the ten (10) day period prescribed by subsection (a), passes the ordinance or resolution over his veto by a two-thirds (2/3) vote.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-4-17
Recording of adopted ordinance

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

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

The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-4-18
City-county legislative body; ordinances and resolutions; permitted acts; special service district legislative body; powers

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

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

(b) The special service district legislative body of any special service district shall, with respect to such district, have exclusive power by ordinance to approve its budget and make appropriations and tax levies required to be made under the provisions of this title. No special service district legislative body shall have authority to originate or separately to adopt any other ordinance. However, any ordinance adopted by the city-county legislative body relating solely or exclusively to a special service district shall be suspended and of no effect until separately approved and concurred in by a majority of

a special service district legislative body when, but only when, the Constitution of the United States or the Constitution of Indiana prohibits such taking effect without such approval.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-4-19
City-county legislative body; statutory powers and duties

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

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

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

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

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

IC 36-3-4-20
City-county legislative body; statutory appointments

Sec. 20. The city-county legislative body shall make all appointments required by statute to be made by it or by:

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

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

IC 36-3-4-21
City-county legislative body; making loans and issuing bonds by ordinance; procedure for issuing bonds

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

(b) An ordinance adopted under this section:

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

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

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

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

(5) may be sold for not less than par value.

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

(1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;

(2) deliver them to the county treasurer after they have been properly executed and shall take his receipt for them; and

(3) when a contract for the sale of all or any part of the bonds is consummated, certify to the county treasurer the amount the purchaser is to pay, together with the name and address of the purchaser.

The county treasurer shall then receive from the purchaser the amount certified by the fiscal officer, deliver the bonds to the purchaser, and take the purchaser's receipt for the bonds. The fiscal officer and county treasurer shall then report the proceedings in the sale to the legislative body. However, if the county treasurer is not present to receive the properly executed bonds from the fiscal officer or to issue the bonds, the fiscal officer shall perform his duties under this subsection.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-4-22

City-county legislative body; temporary or short-term loans in anticipation of current revenues; procedures

Sec. 22. (a) The city-county legislative body may, by ordinance, make temporary loans in anticipation of current revenues of the consolidated city that have been levied and are being collected for the fiscal year in which the loans are made. Loans under this subsection shall be made in the same manner as loans under section 21 of this chapter, except that:

(1) the ordinance authorizing the loans must appropriate and pledge to their payment a sufficient amount of the revenues in anticipation of which they are issued and out of which they are payable; and

(2) the loans must be evidenced by time warrants of the city in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which they are issued and out of which they are payable.

(b) The city-county legislative body may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the consolidated city, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the consolidated city's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made in the same manner as loans made under section 21 of this chapter, except that:

(1) the ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing

five (5) years to provide for refunding the loans; and

(2) the loans must be evidenced by notes of the consolidated city in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.37-1988, SEC.22; P.L.2-1989, SEC.24.

IC 36-3-4-23

City-county legislative body; creation of agencies; transfer of agency powers

Sec. 23. (a) The city-county legislative body may, by ordinance:

(1) create or terminate departments, divisions, offices, community councils, and other agencies of the consolidated city; and

(2) transfer to or from those agencies any powers, duties, functions, or obligations.

(b) The powers granted by subsection (a) may not be applied to:

(1) the department of public utilities of the consolidated city;

(2) offices established by the Constitution of Indiana; or

(3) agencies of municipal corporations other than the consolidated city.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-4-24

Departments; investigation of policies and expenditures; audit of books and records; other investigations

Sec. 24. (a) For each department of the consolidated city, the city-county legislative body shall establish a standing committee, having at least three (3) members, to investigate the policies and expenditures of the department.

(b) The legislative body or its committee may:

(1) hire an internal auditor or an independent certified public accountant, or both, to examine the books and records of the consolidated city, any of its special service districts or special taxing districts, and the county;

(2) investigate any charges against a department, officer, or employee of the consolidated city, or any of its special service districts or special taxing districts, or the county; and

(3) investigate the affairs of a person with whom a city or county agency has entered or is about to enter into a contract.

(c) When conducting an investigation under this section, the legislative body or its committee:

(1) is entitled to access to all records pertaining to the investigation; and

(2) may compel the attendance of witnesses and the production of evidence by subpoena and attachment served and executed in the county.

(d) If a person refuses to testify or produce evidence at an investigation conducted under this section, the legislative body may order its clerk to immediately present to the circuit court of the county a written report of the facts relating to the refusal. The court shall hear all questions relating to the refusal to testify or produce evidence and shall also hear any new evidence not included in the clerk's report. If the court finds that the testimony or evidence sought should be given or produced, it shall order the person to testify or produce evidence, or both.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1980, P.L.213, SEC.4; P.L.14-2000, SEC.79.

IC 36-3-4-25
Repealed

(*Repealed by Acts 1980, P.L.73, SEC.23.)*

IC 36-3-4-26
Repealed

(*Repealed by Acts 1980, P.L.73, SEC.23.)*

IC 36-3-5

Chapter 5. Appointed Officers, Departments, and Boards

IC 36-3-5-1

Application of chapter

Sec. 1. This chapter applies to each consolidated city and its county.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-5-2

Deputies and directors; acting deputies and directors; controller and deputy controllers; corporation counsel

Sec. 2. (a) The executive shall, subject to the approval of the city-county legislative body, appoint each of the executive's deputies and the director of each department of the consolidated city. A deputy or director is appointed for a term of one (1) year and until a successor is appointed and qualified, but serves at the pleasure of the executive.

(b) When making an appointment under subsection (a), the executive shall submit the name of an appointee to an office to the legislative body for its approval as follows:

(1) When the office has an incumbent, not more than forty-five (45) days before the expiration of the incumbent's one (1) year term.

(2) When the office has been vacated, not more than forty-five (45) days after the vacancy occurs.

(c) The executive may appoint an acting deputy or acting director whenever the incumbent is incapacitated or the office has been vacated. An acting deputy or acting director has all the powers of the office.

(d) The executive shall appoint:

(1) a controller;

(2) two (2) deputy controllers, only one (1) of whom may be from the same political party as the executive; and

(3) a corporation counsel;

each of whom serves at the pleasure of the executive.

(e) The corporation counsel and every attorney who is a city employee working for the corporation counsel must be a resident of the county and admitted to the practice of law in Indiana.

As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.334-1985, SEC.1; P.L.227-2005, SEC.21.

IC 36-3-5-2.5

Controller as fiscal officer and director of office of finance and management; county treasurer as ex officio treasurer

Sec. 2.5. (a) The controller appointed under section 2 of this chapter is:

(1) the fiscal officer of:

(A) the consolidated city; and

(B) the county; and

(2) the director of the office of finance and management under section 2.7 of this chapter.

(b) The county treasurer serves ex officio as the treasurer of the consolidated city.

As added by Acts 1981, P.L.11, SEC.158. Amended by P.L.227-2005, SEC.22.

IC 36-3-5-2.6

Immunity of controller and deputy controllers; exception for gross negligence

Sec. 2.6. The:

(1) controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the controller's duty as a fiscal officer of:

(A) the consolidated city; and

(B) the county; and

(2) deputy controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the deputy controller's duty;

unless the act or omission constitutes gross negligence or an intentional disregard of the controller's or the deputy controller's duty.

As added by P.L.67-2002, SEC.4. Amended by P.L.227-2005, SEC.23.

IC 36-3-5-2.7

Office of finance and management; responsibilities; controller serves as director

Sec. 2.7. (a) The office of finance and management is established and is responsible for:

(1) budgeting, except as provided in subsection (c);

(2) financial reporting and audits;

(3) purchasing; and

(4) fixed assets;

for all city and county departments, offices, and agencies.

(b) The controller:

(1) serves as the director of; and

(2) may organize into divisions;

the office of finance and management.

(c) The office of finance and management is not responsible for the issuance of warrants for payments from county and city funds.

As added by P.L.227-2005, SEC.24.

IC 36-3-5-2.8

Powers and duties of controller

Sec. 2.8. (a) Except as provided in subsections (b) and (c), the controller:

(1) has all the powers; and

(2) performs all the duties;

of the county auditor under law.

(b) The controller:

(1) does not have the powers; and

(2) may not perform the duties;

of the county auditor under IC 36-2-9.5 and IC 36-3-6, or as a member of the board of commissioners of the county under IC 36-3-3-10.

(c) Notwithstanding subsection (a) or any other law, the executive, with the approval of the legislative body, may allocate the duties of the county auditor, except the duties referred to in subsection (b), among:

(1) the controller;

(2) the county assessor;

(3) the county auditor; or

(4) other appropriate city or county officials.

As added by P.L.227-2005, SEC.25.

IC 36-3-5-3

Deputy mayors; number; nature of office

Sec. 3. (a) The city-county legislative body shall, by ordinance, fix the number of deputy mayors of the consolidated city and the county.

(b) A deputy mayor serves as a deputy of the executive and has only the powers delegated to him by the executive in accord with ordinances of the legislative body, except when he is designated as acting executive under IC 36-3-3-3.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-5-4

Establishment; powers and duties of executive departments; department of public utilities

Sec. 4. (a) The following executive departments of the consolidated city are established, subject to IC 36-3-4-23:

(1) Department of administration and equal opportunity.

(2) Department of metropolitan development.

(3) Department of public safety.

(4) Department of public works.

(5) Department of transportation.

(6) Department of parks and recreation.

These departments and their divisions have all the powers, duties, functions, and obligations prescribed by law for them as of August 31, 1981, subject to IC 36-3-4-23.

(b) The department of public utilities established under IC 8-1-11.1 continues as an agency of the consolidated city, which is the successor trustee of a public charitable trust created under Acts 1929, c. 78. The department of public utilities is governed under IC 8-1-11.1 and is not subject to this article.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.18; P.L.227-2005, SEC.26.

IC 36-3-5-5

Director of department as chief administrative officer; divisions; appointment of administrator; powers of director

Sec. 5. (a) The director of a department is its chief administrative officer and shall exercise the powers of the department, subject to the authority granted to any board or commission in the department.

(b) A department may be administratively organized by divisions. If it is, the director shall, subject to the approval of the executive, appoint an administrator to be the head of each division, unless this title provides that the appointment be made otherwise. An administrator serves at the pleasure of the executive.

(c) The director of a department may:

(1) approve the hiring and dismissal of the administrator of each division and all other personnel of the department, subject to limitations prescribed by this title and rules adopted by the executive; and

(2) delegate to personnel of the department authority to act on his behalf.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-5-6

Establishment; powers and duties; membership of administrative boards; metropolitan development commission

Sec. 6. (a) Administrative boards are established in the departments listed in sections 4(a)(3), 4(a)(4), 4(a)(5), and 4(a)(6) of this chapter, to be known respectively as the board of public safety, the board of public works, the board of transportation, and the board of parks and recreation. These boards have all the powers, duties, functions, and obligations prescribed by law for them as of August 31, 1981, subject to IC 36-3-4-23. In addition, the metropolitan development commission, which is established in the department of metropolitan development by IC 36-7-4-202, has all the powers, duties, functions, and obligations prescribed by law for it as of August 31, 1981, subject to IC 36-3-4-23.

(b) Each board established under this section is composed of five (5) members as follows:

(1) The director of its department, who serves as presiding officer of the board.

(2) Two (2) members appointed by the executive.

(3) Two (2) members appointed by the city-county legislative body.

A member appointed under subdivision (2) or (3) is appointed for a term of one (1) year and until his successor is appointed and qualified, but serves at the pleasure of the appointing authority.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.19.

IC 36-3-5-7

Administrative boards; meetings; notice; quorum; majority vote

Sec. 7. (a) This section applies to each board established under section 6 of this chapter.

(b) A board shall hold regular meetings at least once a month, at times and places prescribed by its rules or established by resolution.

(c) A special meeting of a board shall be held when called by its presiding officer or when called by at least two-fifths (2/5) of its members, at any place in the county designated in the call.

(d) No notice of a regular meeting, or meeting required by statute, need be given to a member of a board. For a special meeting, a written notice specifying the time and place of the meeting must be delivered, mailed, or sent by telegram to all members so that each member has at least seventy-two (72) hours notice of the meeting. However, this requirement is waived as to a member if he:

(1) attends the meeting; or

(2) executes a written waiver of notice of the time and place of the meeting.

A written waiver of notice may be executed before or after the meeting, but it must state in general terms the purpose of the meeting if executed after the meeting.

(e) A majority of all the members of a board constitutes a quorum.

(f) A majority vote of all the members of a board is required to pass a resolution.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-5-8

Special taxing district; power to issue bonds, notes, or warrants; approval; issuance procedure

Sec. 8. (a) This section applies whenever a special taxing district of the consolidated city has the power to issue bonds, notes, or warrants.

(b) Before any bonds, notes, or warrants of a special taxing district may be issued, the issue must be approved by resolution of the legislative body of the consolidated city.

(c) Any bonds of a special taxing district must be issued in the manner prescribed by statute for that district, and the board of the department having jurisdiction over the district shall:

(1) hold all required hearings;

(2) adopt all necessary resolutions; and

(3) appropriate the proceeds of the bonds;

in that manner. However, the legislative body shall levy each year the special tax required to pay the principal of and interest on the bonds and any bank paying charges.

(d) Notwithstanding any other statute, bonds of a special taxing district may:

(1) be dated;

(2) be issued in any denomination;

(3) except as otherwise provided by IC 5-1-14-10, mature at any time or times not exceeding fifty (50) years after their date; and

(4) be payable at any bank or banks;

as determined by the board. The interest rate or rates that the bonds will bear must be determined by bidding, notwithstanding IC 5-1-11-3.

(e) Bonds of a special taxing district are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the following:

(1) The filing of a petition requesting the issuance of bonds and giving notice of the petition.

(2) The giving of notice of a hearing on the appropriation of the proceeds of bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(6) The sale of bonds at public sale.

(7) The maximum term or repayment period provided by IC 5-1-14-10.

As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.90-2002, SEC.470; P.L.219-2007, SEC.113; P.L.146-2008, SEC.703.

IC 36-3-5-9

Standard forms for use in transaction of business

Sec. 9. The controller shall furnish standard forms for use in the:

(1) transaction of business; and

(2) performance of services for which the consolidated city or county receives a specific fee.

As added by P.L.227-2005, SEC.27.

IC 36-3-5-10

Suits against principals and sureties on obligations

Sec. 10. The controller, in the name of the state and on behalf of any fund of the county or consolidated city, may sue principals or sureties on any obligation, whether the obligation is in the name of the state or another person.

As added by P.L.227-2005, SEC.28.

IC 36-3-5-11

Treasurer's report; filing

Sec. 11. The controller shall:

(1) immediately file the original of the county treasurer's monthly report under IC 36-2-10-16 with the records of the county board of finance;

(2) present one (1) copy of the report to the legislative body of the consolidated city at its next regular meeting; and

(3) immediately transmit one (1) copy of the report to the state board of accounts.

As added by P.L.227-2005, SEC.29.

IC 36-3-5-12

Personal liability for penalties and interest assessed by Internal Revenue Service; reimbursement

Sec. 12. (a) Except as provided in subsection (b), if the controller is held personally liable for penalties and interest assessed by the Internal Revenue Service, the county treasurer shall reimburse the controller in an amount equal to the penalties and interest.

(b) The county treasurer may not reimburse the controller under subsection (a) if the controller willfully or intentionally fails or refuses to file a return or make a required deposit on the date the return or deposit is due.

As added by P.L.227-2005, SEC.30.

IC 36-3-6

Chapter 6. Budget Procedures and Compensation of Officers and Employees

IC 36-3-6-1

Application of chapter

Sec. 1. This chapter applies to each consolidated city and its county.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-6-2

Compensation of elected officers

Sec. 2. The city-county legislative body shall, by ordinance, fix the annual compensation of all elected consolidated city and county officers. Their compensation may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the year 1980.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.20.

IC 36-3-6-3

Compensation of appointed officers, deputies, and employees; exceptions and limitations on appropriations

Sec. 3. (a) A legislative body shall, by ordinance or resolution, fix the annual compensation of all appointed officers, deputies, and employees under its jurisdiction. This may be done by adopting schedules of compensation. The schedules of compensation may include a provision for salaried employees whose salaries are paid on an annual basis. Salaried employees shall work a regularly scheduled work week, in accordance with the schedule of compensation.

(b) The city-county legislative body has jurisdiction over all appointed officers, deputies, and employees:

(1) of the consolidated city, except those of special service districts; or

(2) whose compensation is payable from the county general fund or any other fund from which the county auditor issues warrants for compensation.

A special service district legislative body has jurisdiction over all appointed officers, deputies, and employees of the special service district.

(c) This chapter does not affect the salaries of judges, officers of courts, prosecuting attorneys, and deputy prosecuting attorneys whose minimum salaries are fixed by statute, but the city-county legislative body may make appropriations to pay them more than the minimums fixed by statute. Beginning July 1, 1995, an appropriation made under this subsection may not exceed five thousand dollars ($5,000) for each judge or full-time prosecuting attorney in any calendar year.

As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.44-1986, SEC.2; P.L.16-1986, SEC.78; P.L.279-1995, SEC.22; P.L.280-1995,

SEC.24; P.L.2-1996, SEC.291.

IC 36-3-6-4
Budget estimates; preparation; verified certificate; courts; submission

Sec. 4. (a) Before the Wednesday after the first Monday in July each year, the consolidated city and county shall prepare budget estimates for the ensuing budget year under this section.

(b) The following officers shall prepare for their respective departments, offices, agencies, or courts an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure they anticipate:

(1) The director of each department of the consolidated city.

(2) Each township assessor (if any), elected county officer, or head of a county agency.

(3) The county clerk, for each court the clerk serves.

(c) In addition to the estimates required by subsection (b), the county clerk shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.

(d) Each officer listed in subsection (b)(2) or (b)(3) shall append a certificate to each estimate the officer prepares stating that in the officer's opinion the amount fixed in each item will be required for the purpose indicated. The certificate must be verified by the oath of the officer.

(e) An estimate for a court or division of a court is subject to modification and approval by the judge of the court or division.

(f) All of the estimates prepared by city officers and county officers shall be submitted to the controller.

(g) The controller shall also prepare an itemized estimate of city and county expenditures for other purposes above the money proposed to be used by the city departments and county officers and agencies.

As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.196-1984, SEC.2; P.L.227-2005, SEC.31; P.L.146-2008, SEC.704.

IC 36-3-6-5
Review and revision of estimates; report and recommendations; determination of amounts

Sec. 5. (a) The controller shall review and revise the estimates of expenditures submitted under section 4 of this chapter. Then the controller shall prepare for the executive a report of the estimated budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates, along with the controller's recommendations.

(b) The executive shall determine the amounts to be included in the proposed appropriations ordinance by the controller and advise the controller of those amounts.

As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.227-2005, SEC.32.

IC 36-3-6-6

Proposed appropriations; ordinances; rate of taxation; submittal

Sec. 6. (a) The controller shall, with the assistance of the corporation counsel, prepare:

(1) proposed appropriations ordinances for the city and county and each special service district; and

(2) proposed ordinances fixing the rate of taxation for the taxes to be levied for all city and county departments, offices, and agencies.

The proposed appropriations ordinances must contain all the amounts necessary for the operation of consolidated government, listed in major classifications.

(b) The controller shall submit the proposed ordinances prepared under subsection (a) along with appropriation detail accounts for each city and county department, office, and agency, to the city clerk not later than the first meeting of the city-county legislative body in August.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.52, SEC.6; P.L.227-2005, SEC.33.

IC 36-3-6-7

Proposed ordinances; fixing and reviewing budgets, tax rates, and levies

Sec. 7. (a) The city-county legislative body and the special service district legislative bodies shall act on ordinances proposed under this chapter in the manner prescribed by IC 6-1.1-17.

(b) A tax levied by the consolidated city for a department or division having territorial jurisdiction over the whole county shall be levied on property in the whole county, and the money received from that tax shall be paid into a fund to be known as the consolidated county fund. A tax levied by the consolidated city for a department or division having territorial jurisdiction only inside the corporate boundaries of the consolidated city shall be levied only on property in the consolidated city. A tax levied for support of a special service district shall be levied only on property in the special service district. A tax or special tax to finance the operations, improvements, or debt service of a special taxing district shall be levied only on property in the special taxing district. A tax to be levied by the county or consolidated city for any other function shall be levied only on property in the territorial jurisdiction affected.

As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.82-1985, SEC.2.

IC 36-3-6-8

Additional appropriations

Sec. 8. After the passage of an appropriations ordinance, a legislative body may, on the recommendation of the controller, as to all city and county matters, make further or additional appropriations, unless their result is to increase a tax levy set by ordinance.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981,

P.L.11, SEC.160; P.L.227-2005, SEC.34.

IC 36-3-6-9

Operating and maintenance budgets and tax levies of certain entities; review and modification; adoption; submittal

Sec. 9. (a) Except as provided in subsection (d), the city-county legislative body shall review the proposed operating and maintenance budgets and tax levies and adopt final operating and maintenance budgets and tax levies for each of the following entities in the county:

(1) An airport authority operating under IC 8-22-3.

(2) A public library operating under IC 36-12.

(3) A capital improvement board of managers operating under IC 36-10.

(4) A public transportation corporation operating under IC 36-9-4.

(5) A health and hospital corporation established under IC 16-22-8.

(6) Any other taxing unit (as defined in IC 6-1.1-1-21) that is located in the county and has a governing body that is not comprised of a majority of officials who are elected to serve on the governing body.

Except as provided in subsection (c), the city-county legislative body may reduce or modify but not increase a proposed operating and maintenance budget or tax levy under this section.

(b) The board of each entity listed in subsection (a) shall, after adoption of its proposed budget and tax levies, submit them, along with detailed accounts, to the city clerk before September 2.

(c) The city-county legislative body or, when subsection (d) applies, the fiscal body of an excluded city or town shall review the issuance of bonds of an entity listed in subsection (a). Approval of the city-county legislative body or, when subsection (d) applies, the fiscal body of an excluded city or town is required for the issuance of bonds. The city-county legislative body or the fiscal body of an excluded city or town may not reduce or modify a budget or tax levy of an entity listed in subsection (a) in a manner that would:

(1) limit or restrict the rights vested in the entity to fulfill the terms of any agreement made with the holders of the entity's bonds; or

(2) in any way impair the rights or remedies of the holders of the entity's bonds.

(d) If the assessed valuation of a taxing unit is entirely contained within an excluded city or town (as described in IC 36-3-1-7) that is located in a county having a consolidated city, the governing body of the taxing unit shall submit its proposed operating and maintenance budget and tax levies to the city or town fiscal body for approval and not the city-county legislative body. Except as provided in subsection (c), the fiscal body of the excluded city or town may reduce or modify but not increase a proposed operating and maintenance budget or tax levy under this section.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.52, SEC.7; P.L.347-1983, SEC.1; P.L.2-1993, SEC.201; P.L.1-2005, SEC.237; P.L.227-2005, SEC.35; P.L.1-2006, SEC.561; P.L.146-2008, SEC.705; P.L.182-2009(ss), SEC.401; P.L.137-2012, SEC.118.

IC 36-3-7

Chapter 7. Miscellaneous Fiscal and Administrative Provisions

IC 36-3-7-1

Application of chapter

Sec. 1. This chapter applies to each consolidated city and its county. In addition, IC 36-4-8 applies to the consolidated city, and IC 36-2-6 applies to the county.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-7-2

Money consolidated city is entitled to receive

Sec. 2. The consolidated city is entitled to receive the following monies, as they become available, to use in carrying out the powers, duties, and obligations of the consolidated city and its special service districts and special taxing districts:

(1) Revenues from the levies of taxes or special taxes on property or otherwise as prescribed by law.

(2) The aggregate of allocated amounts of money collected and available for distribution to the consolidated city and the county in the motor vehicle highway account as prescribed by IC 8-14-1.

(3) All public money, whether held in general accounts, special accounts, trusts, or otherwise, or receivable by the county or the consolidated city, or its departments, special taxing districts, or special service districts, that is budgeted or made available for functions conferred on the consolidated city or its departments or districts.

(4) All money that becomes available from the federal government or any federal agency organized for the disbursement or allocation of federal monies in furtherance of powers conferred on the consolidated city or its departments or districts.

(5) All money appropriated in furtherance of the powers conferred on the consolidated city.

(6) All money received as proceeds from the sale of bonds by the consolidated city or its special taxing districts.

(7) All parking fees and mass transportation revenues collected by the department of transportation under IC 36-9.

(8) All money received by the consolidated city from the exercise of its powers or control and use of its property.

(9) All money in the cigarette tax fund available for distribution to the consolidated city or the department of transportation as prescribed by IC 6-7-1-30.1.

(10) The aggregate of allocated amounts of money collected and available for distribution to the consolidated city and the county as prescribed by IC 7.1-4-7 pertaining to alcoholic beverage fees and taxes.

(11) Any other money available for distribution by the state

under any statute, according to that statute.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-7-3
Basis for determining right to receive distribution of money

Sec. 3. (a) For purposes of determining the right of the consolidated city to receive a distribution of money described by section 2 of this chapter based on population, the population of the fire special service district is considered the population of the consolidated city.

(b) Notwithstanding subsection (a), for purposes of determining the right of the consolidated city to receive a distribution of money under IC 7.1-4 based on population, the population of all the territory of the consolidated city is considered its population.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-7-4
Administering of money held, appropriated, contributed for specific function, or in special fund or trust

Sec. 4. Whenever any money is held, appropriated, or contributed for a specific function, or in a special fund or trust, the consolidated city, or its special service district or special taxing district, shall administer that money according to the requirements and limitations placed on its use.
As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-7-5
Perfected tax or assessment liens

Sec. 5. (a) Liens for taxes levied by the consolidated city are perfected when evidenced on the tax duplicate in the office of the treasurer of the county.

(b) Liens created when the city enters upon property to make improvements to bring it into compliance with a city ordinance, and liens created upon failure to pay charges assessed by the city for services shall be certified to the auditor, after the adoption of a resolution confirming the incurred expense by the appropriate city department, board, or other agency. In addition, the resolution must state the name of the owner as it appears on the township assessor's or county assessor's record and a description of the property.

(c) The amount of a lien shall be placed on the tax duplicate by the auditor in the nature of a delinquent tax subject to enforcement and collection as otherwise provided under IC 6-1.1-22, IC 6-1.1-24, and IC 6-1.1-25.
As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.131-2005, SEC.6; P.L.146-2008, SEC.706.

IC 36-3-7-6
Use of county option income tax revenue

Sec. 6. The governing body of a public library located in the county may recommend and the county fiscal body may elect to

provide revenue to the public library from part of the certified distribution, if any, that the county is to receive during that same year under IC 6-3.5-6-17. To make the election, the county fiscal body must adopt an ordinance before November 1 of the preceding year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to provide revenue to the public library. If such an ordinance is adopted, the county fiscal body shall immediately send a copy of the ordinance to the county auditor.
As added by P.L.135-2011, SEC.2.

IC 36-4

ARTICLE 4. GOVERNMENT OF CITIES AND TOWNS GENERALLY

IC 36-4-1

Chapter 1. Classification of Municipalities; City Status and Town Status

IC 36-4-1-1

Basis of classification

Sec. 1. (a) Municipalities are classified according to their status and population as follows:

STATUS AND POPULATION	CLASS
Cities of 600,000 or more	First class cities
Cities of 35,000 to 599,999	Second class cities
Cities of less than 35,000	Third class cities
Other municipalities of any population	Towns

(b) Except as provided in subsection (c), a city that attains a population of thirty-five thousand (35,000) remains a second class city even though its population decreases to less than thirty-five thousand (35,000) at the next federal decennial census.

(c) The legislative body of a city to which subsection (b) applies may, by ordinance, adopt third class city status.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.37; P.L.340-1987, SEC.1; P.L.71-1997, SEC.2; P.L.64-2004, SEC.34; P.L.81-2004, SEC.46; P.L.119-2012, SEC.184.

IC 36-4-1-1.1

Change of status to second class city

Sec. 1.1. (a) Except as provided in subsection (b), a third class city remains a third class city even though the city attains a population of at least thirty-five thousand (35,000) at a federal decennial census.

(b) The legislative body of a city to which subsection (a) applies may, by ordinance, adopt second class city status.

As added by P.L.209-1999, SEC.1.

IC 36-4-1-2

Repealed

(*Repealed by Acts 1981, P.L.44, SEC.61.)*

IC 36-4-1-2.1

Certain localities governed as cities; validation of elections, contracts, acts, and official proceedings

Sec. 2.1. Any locality that has elected city officers, and has governed itself as a city, for at least ten (10) years immediately preceding September 1, 1981, is a city for all purposes. All elections, contracts, acts, and other official proceedings of such a locality that

occurred before September 1, 1981, and would have been valid if the locality had been a city, are legalized and validated.
As added by Acts 1981, P.L.44, SEC.38.

IC 36-4-1-3
Repealed
(*Repealed by P.L.111-2005, SEC.8.)*

IC 36-4-1-4
Repealed
(*Repealed by P.L.111-2005, SEC.8.)*

IC 36-4-1-4.1
Repealed
(*Repealed by P.L.111-2005, SEC.8.)*

IC 36-4-1-5
Repealed
(*Repealed by P.L.111-2005, SEC.8.)*

IC 36-4-1-6
Petition to change city to town; summons; trial; issue; order; transition; provisional government

Sec. 6. (a) A petition to change a city into a town may be filed as a civil action in the circuit court for the county in which the city is located. The petition must be signed by at least two-thirds (2/3) of the taxpayers twenty-one (21) years of age or older who reside in the city.

(b) Whenever a petition is filed under this section, the clerk of the circuit court shall issue a summons to the city in its corporate name. A taxpayer who signed the petition may not withdraw his signature on or after the return date of the summons.

(c) An action under this section shall be tried by the court without a jury, and the only issue to be determined is whether the petition contains the genuine signatures of the number of taxpayers required. If the court finds in the affirmative, it shall enter an order changing the city into a town.

(d) After an order is entered under subsection (c), the executive and the legislative body of the municipality shall organize as a town legislative body, with the executive becoming the town executive, and the remaining officers of the municipality shall exercise only the functions that may be exercised by the corresponding town officers. If none of the functions of a city officer or board is exercised under a town government, that officer or board shall immediately file a final report with and turn over all records and property in his or its custody to the town legislative body. After the final report of a former city officer or board is approved by the town legislative body, that office or board is abolished.

(e) The provisional town government provided for in subsection (d) shall serve until the time prescribed by IC 3-10-6-5 for a regular

town election.
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1983, SEC.11; P.L.5-1986, SEC.43.

IC 36-4-1-7
Petition to change name of city; hearing; ordinance

Sec. 7. (a) A petition to change the name of a city may be filed with the city legislative body. The petition must:

(1) be signed by at least five hundred (500) voters of the city, or, in a city having less than five hundred (500) registered voters at the time of the most recent general election, by at least ten percent (10%) of those voters;
(2) be verified by one (1) or more of the petitioners; and
(3) set forth reasons for the change of name.

(b) If the legislative body considers the reasons set forth in the petition sufficient, it shall conduct a public hearing on the petition after giving notice by publication in the manner prescribed by IC 5-3-1.

(c) If after the hearing the legislative body finds that the matters set forth in the petition are true and that the requested change of name should be granted, it shall pass an ordinance changing the name of the city. The change of name takes effect sixty (60) days after the effective date of the ordinance.
As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.45, SEC.12.

IC 36-4-1-8
Classification change due to population change; applicable laws

Sec. 8. (a) Whenever the classification of a city under section 1 of this chapter changes due to a change in the city's population, the city shall be governed by the laws applicable to its new class, except as provided by subsection (b).

(b) The membership of a city legislative body remains unchanged until the expiration of the terms of its members, despite a change in the classification of the city for any reason. At the municipal election preceding the expiration of those terms, the number of members of the legislative body required by the laws applicable to its new class shall be elected. The powers, duties, functions, and office of an elected official of a city shall remain unchanged until the expiration of the term of the elected official, despite a change in city classification for any reason.
As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.40; P.L.209-1999, SEC.2.

IC 36-4-1-9
Continuation of prior acts, contracts, obligations, ordinances, and regulations

Sec. 9. The validity of the prior acts, contracts, and obligations of a city that changes its status, name, or classification under this chapter is not affected by that change. The ordinances, rules, and

regulations of the city continue in effect until amended or repealed.
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.111-2005, SEC.1.

IC 36-4-1.5

Chapter 1.5. Changing a Town Into a City

IC 36-4-1.5-1

Change of status; town to city

Sec. 1. (a) A town may be changed into a city only as provided in this chapter.

(b) A town with a population of less than two thousand (2,000) may not be changed into a city.

As added by P.L.111-2005, SEC.2.

IC 36-4-1.5-2

Change of status; procedure

Sec. 2. A town may be changed into a city through the following:

(1) The town legislative body must adopt a resolution submitting to the town's voters the question of whether the town should be changed into a city. The town legislative body shall adopt a resolution described in this subdivision if at least the number of registered voters of the town equal to ten percent (10%) of the total votes cast in the town at the last election for secretary of state sign a petition requesting the town legislative body to adopt such a resolution. In determining the number of signatures required under this subdivision, any fraction that exceeds a whole number shall be disregarded.

(2) A resolution adopted under subdivision (1) must fix the date for an election on the question of whether the town should be changed into a city. If the election is to be a special election, the date must be:

(A) not less than thirty (30); and

(B) not more than sixty (60);

days after the notice of the election. If the election is to be on the same date as a general election, the resolution must state that fact and be certified in accordance with IC 3-10-9-3.

(3) The town legislative body shall file a copy of the resolution adopted under subdivision (1) with the circuit court clerk of each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.

(4) The county election board shall give notice of the election in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(5) The question described in subdivision (1) shall be placed on the ballot in the form prescribed by IC 3-10-9-4. The text of the question shall be: "Shall the town of _____ change into a city?".

(6) If a majority of the voters voting on the question described in subdivision (1) vote "yes", the town is changed into a city as provided in this chapter. If a majority of the voters voting on the question vote "no", the town remains a town.

As added by P.L.111-2005, SEC.2.

IC 36-4-1.5-3
Adoption of ordinance

Sec. 3. (a) A town legislative body may satisfy the requirements of this section in an ordinance adopted either before or after the town's voters vote on the question described in section 2 of this chapter.

(b) If a resolution is adopted under section 2 of this chapter, the town legislative body shall adopt an ordinance providing for the transition from governance as a town to governance as a city. The ordinance adopted under this section must include the following details:

(1) A division of the town into city legislative body districts as provided in the applicable provisions of IC 36-4-6.

(2) Provisions for the election of the following officers:

(A) The city executive.

(B) The members of the city legislative body.

(C) The city clerk or city clerk-treasurer as appropriate under IC 36-4-10.

(3) The date of the first election of the city officers. The first election may be held only on the date of a general election or a municipal election. Candidates for election to the city offices shall be nominated:

(A) at the corresponding primary election during a general election year or a municipal election year; or

(B) as otherwise provided in IC 3.

(4) Subject to section 4 of this chapter, the term of office of each city officer elected at the first election of city officers.

(5) Any other details the town legislative body considers useful in providing for the transition of the town into a city.

(c) An ordinance adopted under this section is effective only if the voters of the town approve the conversion of the town into a city under section 2(6) of this chapter.

(d) The provisions of an ordinance adopted under this section are subject to all other laws governing the structure of city government.

(e) Subject to this chapter, the town legislative body or the city legislative body (after the town is changed into a city) may amend an ordinance adopted under this section.

As added by P.L.111-2005, SEC.2.

IC 36-4-1.5-4
Newly elected city officers' term of office

Sec. 4. (a) Notwithstanding any other law, the term of office of the city officers elected at the first election of city officers held under the ordinance adopted under section 3 of this chapter:

(1) begins on January 1 after the first election of city officers; and

(2) may not extend after December 31 of the next municipal election year that occurs after the first election of city officers.

(b) The ordinance adopted under section 3 of this chapter may provide for a shorter term of office for specified members of the city

legislative body to stagger terms as permitted under IC 3 and IC 36-4-6 if a general election will occur before the next municipal election after the first election of city officers.

(c) After the first municipal election after the first election of city officers, the term of office of each city officer is four (4) years.

As added by P.L.111-2005, SEC.2.

IC 36-4-1.5-5

Effective date of status change

Sec. 5. A town becomes a city under this chapter on January 1 after the first election of city officers under section 4 of this chapter.

As added by P.L.111-2005, SEC.2.

IC 36-4-1.5-6

Continuation of town acts, ordinances, contracts, rules, and regulations

Sec. 6. (a) The acts, contracts, and obligations of a town that is changed into a city under this chapter become the acts, contracts, and obligations of the city.

(b) The ordinances, rules, and regulations of a town that is changed into a city under this chapter continue in effect as ordinances, rules, and regulations of the city until amended or repealed.

As added by P.L.111-2005, SEC.2.

IC 36-4-2

Chapter 2. Merger of Adjoining Municipalities

IC 36-4-2-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-2-2

Resolution; election; notice; ballot; result; certified copies of agreement and result of election

Sec. 2. (a) If the legislative bodies of two (2) or more adjoining municipalities each agree, by resolution, on:

(1) the date of an election to consider the merger of the municipalities; and

(2) the name by which the municipality formed by the merger would be known;

the municipalities shall certify the question to the county election board. The board shall conduct an election to consider the merger. The election shall be held in each of the municipalities.

(b) Notice of an election under this section shall be given in each municipality by publication in the manner prescribed by IC 5-3-1.

(c) An election under this section shall be held in each municipality in the manner prescribed by IC 3-10-8-6. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall _____ and _____ merge and become the (City or Town) of _____?".

(d) The election board shall report the results of the election to each legislative body, and a certified copy of the result of the election in each municipality shall be filed with the legislative body of each of the municipalities involved in the election.

(e) If a majority of the votes cast in each of the municipalities is in favor of the merger, the municipalities are merged under the terms prescribed by this section and sections 9 through 17 of this chapter. A certified copy of the agreement, and of the result of the election, shall be filed in the office of the recorder of the county or counties in which the new municipality is located. The agreement must be:

(1) signed by the municipal executive;

(2) attested by the clerk; and

(3) sealed with the seal;

of each of the constituent municipalities. Copies of the record shall be received in all courts and places as conclusive of the merger of the municipality under the name agreed on.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.45, SEC.13; P.L.5-1986, SEC.44; P.L.3-1987, SEC.554.

IC 36-4-2-3

Petition; contents; affidavit

Sec. 3. (a) If each of the clerks of two (2) or more adjoining municipalities receives a written petition:

(1) signed by at least ten percent (10%) of the qualified voters of the municipality, as determined by the vote cast in the municipality for secretary of state at the most recent general election;

(2) requesting that a special election be held to determine whether the municipalities should be merged into one (1) municipality; and

(3) stating the name by which the proposed municipality will be known;

he shall deliver a certified copy of the petition to the clerk of every other municipality involved in the proposed merger, and the respective legislative bodies of the municipalities shall hold an election in each municipality.

(b) An affidavit of one (1) or more freeholders of the municipality, stating that the persons who signed the petition are legal voters of the municipality, must be attached to each petition filed under this section. An affidavit filed under this section is conclusive evidence of the facts stated in the affidavit.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-2-4

Election; date; notice

Sec. 4. (a) If petitions are filed under section 3 of this chapter, the legislative body of each municipality involved in the proposed merger shall meet and by resolution fix a date for the election. The date must be the same in each of the municipalities, and may not be more than three (3) months after the date of the filing of the petitions.

(b) Notice of an election under section 3 of this chapter must be given by publication in each municipality in the manner prescribed by IC 5-3-1.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.4; Acts 1981, P.L.45, SEC.14.

IC 36-4-2-5

Petition proposing name of municipality; submission to electorate

Sec. 5. (a) If, at least thirty (30) days before an election held under section 3 of this chapter, voters of each municipality involved in the election file with each of their municipal clerks a petition signed by at least the number of voters required under IC 3-8-6-3 to place a candidate on the ballot in each of the municipalities and proposing a name for the new municipality, the election board shall place that name on the ballot for the election. The election board shall list names added to the ballot under this subsection in the order in which the petitions proposing them were received, but shall place them after the name included on the ballot under section 2 of this chapter.

(b) The names proposed under this section shall be submitted as public questions in the form prescribed by IC 3-10-9-4 and must state "Shall the merged municipality be named _____?".

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.5; P.L.3-1987, SEC.555; P.L.12-1995, SEC.128.

IC 36-4-2-6
Place of election; manner; expense; voting

Sec. 6. (a) An election held under section 3 of this chapter shall be held in each municipality in the manner prescribed by IC 3-10-8-6. Each municipality is responsible for the expense of the election within its own corporate boundaries.

(b) A voter in an election held under section 3 of this chapter may:

(1) vote "Yes" or "No" on the proposed merger; and

(2) vote in favor of one (1) proposed name listed on the ballot under section 5 of this chapter.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.45.

IC 36-4-2-7
Filing of returns of election; effect

Sec. 7. (a) After an election held under section 3 of this chapter, the election board shall file with the clerk of each municipality the returns of the election in each voting precinct in the manner prescribed by IC 3-12-4.

(b) Within ten (10) days after an election held under section 3 of this chapter, the election board shall certify and file with:

(1) the legislative bodies of the municipalities; and

(2) the county auditor;

a copy of the result of the election in each municipality. The county auditor shall enter the copy he receives in the records of the county executive.

(c) If, in an election held under section 3 of this chapter, a majority of the votes cast in each of the municipalities is in favor of the merger, the municipalities are merged under the terms prescribed by sections 9 through 17 of this chapter. After the merger becomes effective, the name of the new municipality is the name receiving the highest number of votes at the election.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.46.

IC 36-4-2-8
Election year under this chapter

Sec. 8. An election held under section 2 or 3 of this chapter may not be held in a calendar year in which a general municipal election is to be held.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-2-9
Effective date of merger; effect of merger

Sec. 9. (a) Except as provided in subsection (c), a merger approved under this chapter takes effect when:

(1) the officers of the new municipality are elected and qualified, as prescribed by section 13 of this chapter; and

(2) a copy of the agreement under section 2 of this chapter or the certified election results under section 7 of this chapter are

filed with:

(A) the office of the secretary of state; and

(B) the circuit court clerk of each county in which the municipality is located.

(b) On the effective date of the merger, the merging municipalities cease to exist and are merged into a single municipality of the class created by the combined population of the merging municipalities. The new municipality shall be governed by the laws applicable to that class.

(c) A merger approved under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A merger that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(d) Notwithstanding subsection (c) as that subsection existed on December 31, 2009, a merger that took effect January 2, 2010, because of the application of subsection (c), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.90; P.L.3-1997, SEC.454; P.L.123-2000, SEC.4; P.L.113-2010, SEC.115.

IC 36-4-2-10

Election of officers at large and by district

Sec. 10. At the next general municipal election after a vote in favor of a merger at an election held under section 2 or 3 of this chapter, one (1) set of officers for a municipality having the combined population of the merging municipalities shall be elected by the voters of the merging municipalities as prescribed by statute, except that:

(1) one (1) member of the municipal legislative body shall be elected from each district established under section 12 of this chapter; and

(2) the total number of at large members prescribed by statute for the municipal legislative body shall be elected.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-2-11

Joint election board; members; powers and duties

Sec. 11. (a) The election prescribed by section 10 of this chapter shall be conducted in the manner prescribed by the applicable election statutes, except that there must be a joint election board for the new municipality in place of separate boards for each of the merging municipalities. The joint election board consists of:

(1) the clerks of each of the merging municipalities; and

(2) three (3) persons appointed by the executive of the county in which the merging municipalities are located, not more than two (2) of whom are resident voters of one (1) of the merging

municipalities.

(b) In order to conduct the election prescribed by section 10 of this chapter, the joint election board shall meet and organize in the manner prescribed by IC 3-6 for election boards and has the same powers and duties as those boards. All subsequent primary and general elections in the new municipality shall be held in the manner prescribed by statute.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.7-1983, SEC.36; P.L.5-1986, SEC.47.

IC 36-4-2-12

Joint session of legislative bodies of merging municipalities; resolution to fix boundaries of districts; exclusion of territory in any territory or inclusion of territory in more than one district; certification, attestation, and filing of resolution

Sec. 12. (a) The legislative bodies of municipalities that vote to merge under this chapter shall meet in joint session at the hall of the municipality having the largest population at 8 p.m. on the second Monday of January of the next year in which a general municipal election is to be held. At the joint meeting, the legislative bodies shall:

(1) elect a presiding officer and clerk; and

(2) fix, by joint resolution, the boundaries of the districts from which members will be elected to the legislative body of the new municipality.

The legislative bodies shall fix the district boundaries so that, as nearly as is possible, all parts of the merging municipalities have equal representation in the legislative body of the new municipality. The district boundaries fixed under this subsection constitute the district boundaries for the new municipality until they are altered by the legislative body of the new municipality.

(b) If any territory in the municipality is not included in one (1) of the districts established under subsection (a), the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(c) If any territory in the municipality is included in more than one (1) of the districts established under subsection (a), the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the joint resolution adopted under subsection (a);

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(d) A copy of the joint resolution passed under subsection (a) shall be:

(1) certified by the presiding officer;

(2) attested by the clerk; and

(3) filed with the legislative body of each of the merging

municipalities and the circuit court clerk of each county in which the municipalities are located.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.3-1993, SEC.261.

IC 36-4-2-13

Elected officers; date of taking office

Sec. 13. Officers elected under section 10 of this chapter shall qualify and take office at noon on the first Monday of January after their election.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-2-14

Elected officers; delivery of money, property, and records by officers of merging municipalities to successors

Sec. 14. Officers elected under section 10 of this chapter are the successors in office of the officers of municipalities merging under this chapter. When the officers elected under section 10 take office, each officer of the merging municipalities shall deliver to his successor in office all money, property, and records pertaining to his office.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-2-15

Terms of office of elective and appointed officers of merging municipalities

Sec. 15. The terms of office of elective and appointive officers of municipalities merging under this chapter are not shortened by the merger. The officers shall serve out the respective terms of office to which they have been elected or appointed at the time of the election on the proposed merger.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-2-16

Effect of merger; rights, powers, and liabilities; pending actions

Sec. 16. (a) After a merger under this chapter takes effect, the new municipality:

(1) has all the rights, powers, privileges, immunities, and obligations of the merging municipalities;

(2) is liable for all the debts, contracts, and liabilities of the merging municipalities;

(3) is entitled to all the rights, credits, monies, and properties of the merging municipalities; and

(4) may, in the name adopted in the merger, sue and be sued in relation to the debts, contracts, liabilities, rights, credits, monies, and properties of the merging municipality.

(b) After a merger under this chapter takes effect, pending actions that involve municipalities taking part in the merger shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the new

municipality without any change of the name of the plaintiff or defendant.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-2-17
Effect of merger; ordinances, rules, and resolutions; continuation

Sec. 17. After a merger under this chapter takes effect, the ordinances, rules, resolutions, bylaws, and regulations of each of the merging municipalities remain in force within the territory to which they applied before the merger, and continue in force until amended or repealed by the legislative body or an administrative body of the new municipality.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3

Chapter 3. Municipal Annexation and Disannexation

IC 36-4-3-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of sections 8.5 and 8.6 (before its repeal) of this chapter by P.L.379-1987(ss) applies to taxable years that begin after January 1, 1987.

(2) The amendments made to section 4 of this chapter by P.L.379-1987(ss) apply to taxable years that begin after January 1, 1987.

As added by P.L.220-2011, SEC.649.

IC 36-4-3-1

Application of chapter

Sec. 1. This chapter applies to all municipalities except consolidated cities. However, sections 3 and 21 of this chapter do not apply to towns.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-1.5

Contiguous territory; determination

Sec. 1.5. For purposes of this chapter, territory sought to be annexed may be considered "contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous, a strip of land less than one hundred fifty (150) feet wide which connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory.

As added by Acts 1981, P.L.308, SEC.1.

IC 36-4-3-1.6

Territory covered by lake

Sec. 1.6. (a) For purposes of this chapter, the acreage of the territory sought to be annexed that is covered by a public or private lake shall not be considered when determining whether the territory meets the population density or subdivision percentages required by this chapter.

(b) This section does not affect the definition of "contiguous" prescribed by section 1.5 of this chapter.

As added by P.L.348-1983, SEC.1.

IC 36-4-3-2

Territories inside corporate boundaries of another municipality

Sec. 2. Territory may be annexed by a municipality under section 3 or 4 of this chapter. However, a municipality may not annex territory that is inside the corporate boundaries of another

municipality, although municipalities may merge under IC 36-4-2.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-2.1
Public hearing; notice

Sec. 2.1. (a) This section does not apply to an annexation under section 5.1 of this chapter.

(b) A municipality may adopt an ordinance under this chapter only after the legislative body has held a public hearing concerning the proposed annexation. The municipality shall hold the public hearing not earlier than sixty (60) days after the date the ordinance is introduced. All interested parties must have the opportunity to testify as to the proposed annexation. Except as provided in subsection (d), notice of the hearing shall be:

(1) published in accordance with IC 5-3-1 except that the notice shall be published at least sixty (60) days before the hearing; and

(2) mailed as set forth in section 2.2 of this chapter, if section 2.2 of this chapter applies to the annexation.

(c) A municipality may adopt an ordinance under this chapter not earlier than thirty (30) days or not later than sixty (60) days after the legislative body has held the public hearing under subsection (b).

(d) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. Notice of the hearing shall be:

(1) published one (1) time at least twenty (20) days before the hearing in accordance with IC 5-3-1; and

(2) mailed as set forth in section 2.2 of this chapter.

As added by P.L.231-1996, SEC.1. Amended by P.L.248-1999, SEC.1; P.L.49-2000, SEC.1; P.L.224-2001, SEC.1.

IC 36-4-3-2.2
Notice by certified mail

Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter or an annexation described in section 5.1 of this chapter.

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. Except as provided in subsection (f), the notice must be sent by certified mail at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) For purposes of an annexation of territory described in section 2.5 of this chapter, if the hearing required under section 2.1 of this chapter is conducted after June 30, 2010, the notice required by this section must also be sent to each owner of real property, as shown on the county auditor's current tax list, whose real property is adjacent to contiguous areas of rights-of-way of the public highway that are

only included in the annexation of territory by operation of IC 36-4-3-2.5 on the side of the public highway that is not part of the annexed territory.

(d) The notice required by this section must include the following:

(1) A legal description of the real property proposed to be annexed.

(2) The date, time, location, and subject of the hearing.

(3) A map showing the current municipal boundaries and the proposed municipal boundaries.

(4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.

(5) A detailed summary of the fiscal plan described in section 13 of this chapter.

(6) The location where the public may inspect and copy the fiscal plan.

(7) A statement that the municipality will provide a copy of the fiscal plan after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.

(8) The name and telephone number of a representative of the municipality who may be contacted for further information.

(e) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

(f) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by certified mail not later than twenty (20) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

As added by P.L.248-1999, SEC.2. Amended by P.L.217-1999, SEC.2; P.L.49-2000, SEC.2; P.L.224-2001, SEC.2; P.L.69-2010, SEC.2.

IC 36-4-3-2.5

"Public highway" defined

Sec. 2.5. (a) As used in this section, "public highway" has the meaning set forth in IC 9-25-2-4.

(b) An annexation of territory under this chapter after June 30, 1996, that includes land contiguous to a public highway must also include contiguous areas of:

(1) the public highway; and

(2) rights-of-way of the public highway.

As added by P.L.232-1996, SEC.1.

IC 36-4-3-3

Annexation of contiguous territory; authorization

Sec. 3. (a) The legislative body of a municipality may, by an ordinance defining the corporate boundaries of the municipality,

annex territory that is contiguous to the municipality, subject to subsection (b).

(b) If territory that was not contiguous (under section 1.5 of this chapter) was annexed in proceedings begun before May 1, 1981, an ordinance adopted after April 30, 1981, may not annex additional territory that is contiguous when the contiguity is based on the additional territory's boundaries with the previously annexed territory.

(c) Subsection (b) does not apply when the previously annexed territory has been used as a part of the contiguous boundary of separate parcels of land successfully annexed to the municipality before May 1, 1981.

(d) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance described by subsection (a) must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.2; P.L.333-1985, SEC.2; P.L.5-1989, SEC.91; P.L.3-1993, SEC.262.

IC 36-4-3-3.1
Written fiscal plan

Sec. 3.1. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

(b) A municipality shall develop and adopt a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

(c) Except as provided in subsection (d), the municipality shall establish and adopt the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

(d) In an annexation under section 5 or 5.1 of this chapter, the municipality shall establish and adopt the written fiscal plan before adopting the annexation ordinance.

As added by P.L.248-1999, SEC.3. Amended by P.L.217-1999, SEC.3; P.L.224-2001, SEC.3.

IC 36-4-3-3.3
Application of section 8 of this chapter to certain annexation ordinances

Sec. 3.3. (a) This section applies to a municipality that:

(1) adopts an annexation ordinance under section 3 or 4 of this chapter:

(A) before July 1, 1999; and

(B) that becomes effective after July 1, 1999;

(2) approves the establishment of a fiscal plan under section 13 of this chapter before July 1, 1999; and

(3) is subject to section 8 of this chapter.

(b) Notwithstanding section 8 of this chapter, a municipality described in this section is not required to amend its annexation

ordinance and its fiscal plan. However, a municipality described in this section shall comply with section 8 of this chapter.
As added by P.L.220-2011, SEC.650.

IC 36-4-3-3.5
Annexation ordinance; contents

Sec. 3.5. (a) An annexation ordinance adopted under this chapter must contain the following information:

(1) A description of the boundaries of the territory to be annexed, including any public highway or right-of-way.

(2) The approximate number of acres in the territory to be annexed.

(3) A description of any special terms and conditions adopted under section 8 of this chapter.

(b) An ordinance adopted under section 3 or 4 of this chapter must also contain a description of any property tax abatements adopted under section 8.5 of this chapter.
As added by P.L.217-1999, SEC.4.

IC 36-4-3-4
Annexation of contiguous territory or noncontiguous airport, landfill, golf course, or hospital

Sec. 4. (a) The legislative body of a municipality may, by ordinance, annex any of the following:

(1) Territory that is contiguous to the municipality.

(2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated airport or landing field.

(3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by a municipally owned or regulated sanitary landfill, golf course, or hospital. However, if territory annexed under this subsection ceases to be used as a municipally owned or regulated sanitary landfill, golf course, or hospital for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(b) This subsection applies to municipalities in a county having a population of:

(1) more than seventy thousand fifty (70,050) but less than seventy-one thousand (71,000);

(2) more than seventy-five thousand (75,000) but less than seventy-seven thousand (77,000);

(3) more than seventy-one thousand (71,000) but less than

seventy-five thousand (75,000);

(4) more than forty-seven thousand (47,000) but less than forty-seven thousand five hundred (47,500);

(5) more than thirty-eight thousand five hundred (38,500) but less than thirty-nine thousand (39,000);

(6) more than thirty-seven thousand (37,000) but less than thirty-seven thousand one hundred twenty-five (37,125);

(7) more than thirty-three thousand three hundred (33,300) but less than thirty-three thousand five hundred (33,500);

(8) more than twenty-three thousand three hundred (23,300) but less than twenty-four thousand (24,000);

(9) more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000);

(10) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); or

(11) more than thirty-two thousand five hundred (32,500) but less than thirty-three thousand (33,000).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

(2) expanding the municipality's extraterritorial jurisdictional area; or

(3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than twenty-nine thousand nine hundred (29,900) but less than thirty-one thousand (31,000). The city legislative body may, by ordinance, annex territory that:

(1) is not contiguous to the city;

(2) has its entire area not more than eight (8) miles from the city's boundary;

(3) does not extend more than:

(A) one and one-half (1 1/2) miles to the west;

(B) three-fourths (3/4) mile to the east;

(C) one-half (1/2) mile to the north; or

(D) one-half (1/2) mile to the south;

of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and

(4) is owned by the city or by a property owner that consents to the annexation.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.91-1985, SEC.2; P.L.379-1987(ss), SEC.12; P.L.5-1989, SEC.92; P.L.12-1992, SEC.156; P.L.62-1992, SEC.2; P.L.2-1993, SEC.202; P.L.257-1993, SEC.1; P.L.1-1994, SEC.174; P.L.166-1994, SEC.1; P.L.79-1996, SEC.2; P.L.255-1997(ss), SEC.9; P.L.2-1998, SEC.83; P.L.170-2002, SEC.141; P.L.111-2005, SEC.3; P.L.182-2009(ss), SEC.402; P.L.119-2012, SEC.185.

IC 36-4-3-4.1

Property tax liability exemption for consensual annexation of territory classified as agricultural for zoning purposes

Sec. 4.1. (a) The legislative body of a municipality may, by ordinance, annex territory that:

(1) is contiguous to the municipality;

(2) is in a town having a population of more than:

(A) twenty-five thousand (25,000); or

(B) ten thousand (10,000) but less than twenty thousand (20,000);

located in a county having a population of more than one hundred forty thousand (140,000) but less than one hundred fifty thousand (150,000), if the town has its entire area within the township within which the town is primarily located; and

(3) is owned by a property owner who consents to the

annexation.

(b) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that are classified for zoning purposes as agricultural and remain exempt from the property tax liability while the property's zoning classification remains agricultural. However, if the annexation ordinance annexing the territory is adopted after June 30, 2006, the property tax liability under IC 6-1.1 for municipal purposes may be exempted for a period of not more than ten (10) years.

(c) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

(d) Territory annexed under this section may not be considered a part of the municipality for purposes of annexing additional territory under section 3 or 4 of this chapter. However, territory annexed under this section shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter.

As added by P.L.166-1994, SEC.2. Amended by P.L.79-1996, SEC.3; P.L.71-1997, SEC.3; P.L.224-1997, SEC.1; P.L.253-1997(ss), SEC.31; P.L.224-2001, SEC.4; P.L.170-2002, SEC.142; P.L.111-2005, SEC.4; P.L.71-2006, SEC.1; P.L.119-2012, SEC.186.

IC 36-4-3-4.5

Applicability of IC 36-4-3-4(g)

Sec. 4.5. Section 4(g) of this chapter does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1.

As added by P.L.3-1993, SEC.263. Amended by P.L.255-1997(ss), SEC.10.

IC 36-4-3-5

Private lands; petition requesting ordinance to annex; filing; proceedings

Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(c) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;

(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.3; P.L.5-1989, SEC.93; P.L.3-1993, SEC.264; P.L.255-1997(ss), SEC.11; P.L.224-2001, SEC.5; P.L.173-2003, SEC.22.

IC 36-4-3-5.1

Petitions signed by 100% of landowners

Sec. 5.1. (a) This section applies to an annexation in which owners of land located outside but contiguous to a municipality file a petition with the legislative body of the municipality:

(1) requesting an ordinance annexing the area described in the petition; and

(2) signed by one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(d) The municipality may:

(1) adopt an annexation ordinance annexing the territory; and

(2) adopt a fiscal plan and establish a definite policy by

resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

(i) A remonstrance under section 11 of this chapter may not be filed. However, an appeal under section 15.5 of this chapter may be filed.

(j) In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter.

As added by P.L.224-2001, SEC.6.

IC 36-4-3-6

Effect of certified copy of ordinance

Sec. 6. (a) A certified copy of an ordinance adopted under section 3 of this chapter is conclusive evidence of the corporate boundaries of the municipality in any proceeding.

(b) A certified copy of an ordinance adopted under section 4 of this chapter is conclusive evidence in any proceeding that the territory described in the ordinance was properly annexed and is a part of the municipality.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-7

Publication of adopted ordinance; effectiveness; fire protection districts

Sec. 7. (a) After an ordinance is adopted under section 3, 4, 5, or 5.1 of this chapter, it must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b), (c), or (f), in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(b) An ordinance described in subsection (d) or adopted under section 3, 4, 5, or 5.1 of this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(c) Subsections (d) and (e) apply to fire protection districts that are established after June 14, 1987.

(d) Except as provided in subsection (b), whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

(1) provide fire protection to that territory beginning the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) If the fire protection district from which a municipality annexes territory under subsection (d) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(f) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d), and in the absence of an

appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.4; Acts 1982, P.L.33, SEC.21; P.L.341-1987, SEC.1; P.L.5-1989, SEC.94; P.L.224-2001, SEC.7; P.L.113-2010, SEC.116.

IC 36-4-3-7.1

Immediate effectiveness of certain annexations

Sec. 7.1. Notwithstanding section 7(b) of this chapter, an ordinance adopted under section 4 of this chapter takes effect immediately upon the expiration of the sixty (60) day remonstrance and appeal period under section 11 or 15.5 of this chapter and after the publication, filing, and recording required by section 22(a) of this chapter if all of the following conditions are met:

(1) The annexed territory has no population.

(2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.

(3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits.

As added by P.L.120-1999, SEC.6.

IC 36-4-3-8

Terms and conditions in adopted ordinance

Sec. 8. (a) This section does not apply to an ordinance adopted under section 5 or 5.1 of this chapter.

(b) An ordinance adopted under section 3 or 4 of this chapter must include terms and conditions fairly calculated to make the annexation equitable to the property owners and residents of the municipality and the annexed territory. The terms and conditions may include:

(1) postponing the effective date of the annexation for not more than three (3) years; and

(2) establishing equitable provisions for the future management and improvement of the annexed territory and for the rendering of needed services.

(c) This subsection applies to territory sought to be annexed that meets all of the following requirements:

(1) The resident population density of the territory is at least three (3) persons per acre.

(2) The territory is subdivided or is parceled through separate ownerships into lots or parcels such that at least sixty percent (60%) of the total number of lots and parcels are not more than one (1) acre.

This subsection does not apply to an ordinance annexing territory described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The ordinance must include terms and conditions impounding in a special fund all of the municipal property taxes imposed on the annexed territory after the annexation takes effect that are not used to meet

the basic services described in section 13(d)(4) and 13(d)(5) of this chapter for a period of at least three (3) years. The impounded property taxes must be used to provide additional services that were not specified in the plan of annexation. The impounded property taxes in the fund shall be expended as set forth in this section, not later than five (5) years after the annexation becomes effective.
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.248-1999, SEC.4; P.L.217-1999, SEC.5; P.L.224-2001, SEC.8.

IC 36-4-3-8.1
Advisory board

Sec. 8.1. (a) An advisory board shall be appointed to advise the municipality on the provision of services to the annexed territory that are paid for with the municipal property taxes impounded in a special fund under section 8 of this chapter.

(b) An advisory board shall be appointed not later than ninety (90) days after an annexation becomes effective by the filing prescribed under section 22 of this chapter.

(c) An advisory board consists of the following seven (7) members:

(1) The township trustee of the township with the largest number of residents living within the annexed territory.

(2) One (1) member of the county fiscal body representing the district with the largest number of residents living within the annexed territory.

(3) One (1) member who is:

(A) the municipal engineer if the annexing municipality has a municipal engineer; or

(B) a licensed professional engineer appointed by the municipal executive if the municipality does not have a municipal engineer.

(4) Two (2) citizen members appointed by the municipal executive who:

(A) own real property within; and

(B) reside within;

the annexed territory.

(5) Two (2) citizen members appointed by the county executive who:

(A) own real property within; and

(B) reside within;

the annexed territory.

(d) Four (4) members of the board constitute a quorum. An affirmative vote of four (4) members is required for the board to take action.

(e) A member of the board may not receive a salary. A member may receive reimbursement for necessary expenses, but only when those necessary expenses are incurred in the performance of the member's respective duties.

(f) A vacancy on the board shall be filled by the appointing authority.

(g) The board shall serve for not longer than the date all municipal property taxes impounded in the fund are expended.
As added by P.L.248-1999, SEC.5.

IC 36-4-3-8.5
Tax abatement in annexed territory; ordinance; required provisions

Sec. 8.5. (a) A municipality may, in an ordinance adopted under section 3 or 4 of this chapter, abate a portion of the property tax liability under IC 6-1.1 for municipal purposes for all property owners in the annexed territory.

(b) An ordinance adopted under subsection (a) must provide the following:

(1) A tax abatement program that is in effect for not more than three (3) taxable years after an annexation occurs.

(2) Except single family residential property described by subdivision (3), a tax abatement for all classes of property that does not exceed:

(A) seventy-five percent (75%) of a taxpayer's liability in the first year of the abatement program;

(B) fifty percent (50%) of a taxpayer's liability in the second year of the abatement program; and

(C) twenty-five percent (25%) of a taxpayer's liability in the third year of the abatement program.

(3) For a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), a tax abatement for single family residential property that does not exceed:

(A) ninety percent (90%) of a taxpayer's liability in the first year of the abatement program;

(B) eighty percent (80%) of a taxpayer's liability in the second year of the abatement program;

(C) sixty percent (60%) of a taxpayer's liability in the third year of the abatement program;

(D) forty percent (40%) of a taxpayer's liability in the fourth year of the abatement program; and

(E) twenty percent (20%) of a taxpayer's liability in the fifth year of the abatement program.

(4) The procedure by which an eligible property owner receives a tax abatement under this section.

As added by P.L.379-1987(ss), SEC.13. Amended by P.L.56-1988, SEC.12; P.L.12-1992, SEC.157; P.L.231-1996, SEC.2; P.L.255-1997(ss), SEC.12; P.L.119-2012, SEC.187.

IC 36-4-3-8.6
Repealed

(*Repealed by P.L.3-1989, SEC.228.)*

IC 36-4-3-9
Certain towns annexing territory; consents required

Sec. 9. (a) A town must obtain the consent of both the metropolitan development commission and the legislative body of a county having a consolidated city before annexing territory within the county where a consolidated city is located.

(b) A town must obtain the consent of the legislative body of a second or third class city before annexing territory within three (3) miles of the corporate boundaries of the city unless:

(1) the town that proposes to annex the territory is located in a different county than the city; or

(2) the annexation by the town is:

(A) an annexation under section 5 or 5.1 of this chapter; or

(B) consented to by at least fifty-one percent (51%) of the owners of land in the territory the town proposes to annex.

(c) In determining the total number of landowners of the annexed territory and whether signers of a consent under subsection (b)(2)(B) are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(d) Each municipality that is known as an included town under IC 36-3-1-7 is also considered a town for purposes of this section.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.213, SEC.5; P.L.257-1993, SEC.2; P.L.224-2001, SEC.9; P.L.170-2002, SEC.143; P.L.111-2005, SEC.5.

IC 36-4-3-9.1

Annexation of territory within county; requirements

Sec. 9.1. A municipality may annex territory within a county only if:

(1) part or all of that municipality was within the county on January 1, 1982; or

(2) the consent of the executive of the county is first obtained.

As added by Acts 1982, P.L.210, SEC.2.

IC 36-4-3-10

Liability of annexing municipality for indebtedness or other obligations of township; payment

Sec. 10. (a) If the township from which a municipality annexes territory is indebted or has outstanding unpaid bonds or other obligations at the time of the annexation, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory bears to the assessed valuation of all property in the township, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness.

(b) The annexing municipality shall pay its indebtedness under this section to the township executive. If the indebtedness consists of outstanding unpaid bonds or notes of the township, the payments to the executive shall be made as the principal or interest on the bonds

or notes becomes due.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-11
Remonstrances; filing; determination of signatures; hearing

Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsections (d) and (e), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

(1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or

(2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

(e) This subsection applies if:

(1) the territory to be annexed consists of not more than one hundred (100) parcels; and

(2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory as determined under subsection (b).
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.95; P.L.248-1999, SEC.6; P.L.217-1999, SEC.6; P.L.224-2001, SEC.10; P.L.173-2003, SEC.23; P.L.111-2005, SEC.6.

IC 36-4-3-11.5
Waiver of remonstrance not required

Sec. 11.5. A landowner in an unincorporated area is not required to grant a municipality a waiver against remonstrance as a condition of connection to a sewer or water service if all of the following conditions apply:

(1) The landowner is required to connect to the sewer or water service because a person other than the landowner has polluted or contaminated the area.

(2) A person other than the landowner or the municipality has paid the cost of connection to the service.

As added by P.L.172-1995, SEC.4.

IC 36-4-3-12
Remonstrances; hearing; judgment; effective date of annexation

Sec. 12. (a) The circuit or superior court shall:

(1) on the date fixed under section 11 of this chapter, hear and determine the remonstrance without a jury; and

(2) without delay, enter judgment on the question of the annexation according to the evidence that either party may introduce.

(b) If the court enters judgment in favor of the annexation, the annexation may not take effect during the year preceding the year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.96; P.L.113-2010, SEC.117.

IC 36-4-3-13
Remonstrances; hearing; order; requirements

Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the conditions set forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a

provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.
(ii) Street and road maintenance.
(B) The annexation will have a significant financial impact on the residents or owners of land.
(C) One (1) of the following opposes the annexation:
(i) A majority of the owners of land in the territory proposed to be annexed.
(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.
Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.
(h) The most recent:
(1) federal decennial census;
(2) federal special census;
(3) special tabulation; or
(4) corrected population count;
shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.
As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.11, SEC.161; Acts 1981, P.L.308, SEC.5; Acts 1982, P.L.33, SEC.22; P.L.56-1988, SEC.13; P.L.257-1993, SEC.3; P.L.4-1997, SEC.13; P.L.255-1997(ss), SEC.13; P.L.248-1999, SEC.7; P.L.217-1999, SEC.7; P.L.76-2001, SEC.2; P.L.170-2002, SEC.144; P.L.173-2003, SEC.24; P.L.97-2004, SEC.126; P.L.111-2005, SEC.7; P.L.119-2012, SEC.188.

IC 36-4-3-14
Remonstrances; hearing; change of venue; status of annexation pending
Sec. 14. In a hearing under section 12 of this chapter, the laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had as in other cases. Costs follow judgment. Pending the remonstrance, and during the time within which the remonstrance may be taken, the territory sought to be annexed is not considered a part of the municipality.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-15
Remonstrances; judgment; repeal of annexation; effective date of annexation
Sec. 15. (a) The court's judgment under section 12 or 15.5 of this chapter must specify the annexation ordinance on which the remonstrance is based. The clerk of the court shall deliver a certified copy of the judgment to the clerk of the municipality. The clerk of the municipality shall:
(1) record the judgment in the clerk's ordinance record; and
(2) make a cross-reference to the record of the judgment on the margin of the record of the annexation ordinance.

(b) If a judgment under section 12 or 15.5 of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory or any part of the territory during the four (4) years after the later of:

(1) the judgment of the circuit or superior court; or

(2) the date of the final disposition of all appeals to a higher court;

unless the annexation is petitioned for under section 5 or 5.1 of this chapter.

(c) This subsection applies if a municipality repeals the annexation ordinance:

(1) less than sixty-one (61) days after the publication of the ordinance under section 7(a) of this chapter; and

(2) before the hearing commences on the remonstrance under section 11(c) of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twelve (12) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(d) This subsection applies if a municipality repeals the annexation ordinance:

(1) at least sixty-one (61) days but not more than one hundred twenty (120) days after the publication of the ordinance under section 7(a) of this chapter; and

(2) before the hearing commences on the remonstrance under section 11(c) of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twenty-four (24) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(e) This subsection applies if a municipality repeals the annexation ordinance:

(1) either:

(A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences on the remonstrance under section 11(c) of this chapter; or

(B) after the hearing commences on the remonstrance as set forth in section 11(c) of this chapter; and

(2) before the date of the judgment of the circuit or superior court as set forth in subsection (b).

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this

chapter.

(f) If a judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.6; P.L.56-1988, SEC.14; P.L.5-1989, SEC.97; P.L.12-1992, SEC.158; P.L.231-1996, SEC.3; P.L.2-1997, SEC.82; P.L.248-1999, SEC.8; P.L.224-2001, SEC.11; P.L.1-2002, SEC.157.

IC 36-4-3-15.3

Prohibition against annexation; settlement agreement

Sec. 15.3. (a) As used in this section, "prohibition against annexation" means that a municipality may not make further attempts to annex certain territory or any part of that territory.

(b) As used in this section, "settlement agreement" means a written court approved settlement of a dispute involving annexation under this chapter between a municipality and remonstrators.

(c) Under a settlement agreement between the annexing municipality and either:

(1) seventy-five percent (75%) or more of all landowners participating in the remonstrance; or

(2) the owners of more than seventy-five percent (75%) in assessed valuation of the land owned by all landowners participating in the remonstrance;

the parties may mutually agree to a prohibition against annexation of all or part of the territory by the municipality for a period not to exceed twenty (20) years. The settlement agreement may address issues and bind the parties to matters relating to the provision by a municipality of planned services of a noncapital nature and services of a capital improvement nature (as described in section 13(d) of this chapter), in addition to a prohibition against annexation. The settlement agreement is binding upon the successors, heirs, and assigns of the parties to the agreement. However, the settlement agreement may be amended or revised periodically on further agreement between the annexing municipality and landowners who meet the qualifications of subsection (c)(1) or (c)(2).

As added by P.L.300-1989, SEC.1.

IC 36-4-3-15.5

Appeals after final publication of annexation ordinance; procedure; effective date

Sec. 15.5. (a) Except as provided in subsection (b), an owner of land within one-half (1/2) mile of territory proposed to be annexed under this chapter may, not later than sixty (60) days after the publication of the annexation ordinance, appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(b) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. An owner of land within one-half (1/2) mile of the territory proposed to be annexed under this chapter may, not later than thirty (30) days after the publication of the annexation ordinance, appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(c) Upon the determination of the court that the complaint is sufficient, the judge shall fix a time for a hearing to be held not later than sixty (60) days after the determination. Notice of the proceedings shall be served by summons upon the proper officers of the annexing municipality. The municipality shall become a defendant in the cause and be required to appear and answer. The judge of the circuit or superior court shall, upon the date fixed, proceed to hear and determine the appeal without a jury, and shall, without delay, give judgment upon the question of the annexation according to the evidence introduced by the parties. If the evidence establishes that the territory sought to be annexed is contiguous to the annexing municipality, the court shall deny the appeal and dismiss the proceeding. If the evidence does not establish the foregoing factor, the court shall issue an order to prevent the proposed annexation from taking effect. The laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had. Costs follow judgment. Pending the appeal, and during the time within which the appeal may be taken, the territory sought to be annexed is not a part of the annexing municipality.

(d) If the court enters a judgment in favor of the municipality, the annexation may not take effect during the year preceding a year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

As added by Acts 1981, P.L.308, SEC.7. Amended by P.L.5-1989, SEC.98; P.L.224-2001, SEC.12; P.L.113-2010, SEC.118.

IC 36-4-3-16

Complaint alleging injury from failure to implement plan; limitation period; relief; requirements; change of venue; costs

Sec. 16. (a) Within one (1) year after the expiration of:

(1) the one (1) year period for implementation of planned services of a noncapital nature under section 13(d)(4) of this chapter; or

(2) the three (3) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter;

any person who pays taxes on property located within the annexed

territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

(b) The court shall hear the case within sixty (60) days without a jury. In order to be granted relief, the plaintiff must establish one (1) of the following:

(1) That the municipality has without justification failed to implement the plan required by section 13 of this chapter within the specific time limit for implementation after annexation.

(2) That the municipality has not provided police protection, fire protection, sanitary sewers, and water for human consumption within the specific time limit for implementation, unless one (1) of these services is being provided by a separate taxing district or by a privately owned public utility.

(3) That the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality, regardless of topography, patterns of land use, and population density similar to the annexed territory.

(c) The court may:

(1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;

(2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;

(3) order the annexed territory or any part of it to be disannexed from the municipality;

(4) order the municipality to submit a revised fiscal plan for providing the services to the annexed territory within time limits set up by the court; or

(5) grant any other appropriate relief.

(d) A change of venue from the county is not permitted for an action brought under this section.

(e) If the court finds for the plaintiff, the defendant shall pay all court costs and reasonable attorney's fees as approved by the court.

(f) The provisions of this chapter that apply to territory disannexed by other procedures apply to territory disannexed under this section.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.1-1991, SEC.208; P.L.255-1997(ss), SEC.14; P.L.217-1999, SEC.8; P.L.173-2003, SEC.25.

IC 36-4-3-17

Disannexation; petition; remonstrances; hearing; order

Sec. 17. (a) The owner or owners of:

(1) fifty-one percent (51%) or more in number of the lots in an addition or subdivision to a municipality; or

(2) contiguous territory within the corporate boundaries of a municipality, constituting not less than one (1) entire block, if platted, and not less than one (1) acre, if not platted;

may file a petition for disannexation if any of the boundaries of the addition, subdivision, or contiguous territory forms part of the corporate boundary of the municipality. The petition must be filed with the works board of the municipality and must include a plat of the territory sought to be disannexed. Notice of the petition must be given in the manner prescribed by IC 5-3-1.

(b) A remonstrance against the granting of the petition may be filed by:

(1) the owner of a lot in the subdivision or addition; or

(2) the owner of territory adjoining the territory sought to be disannexed.

(c) The works board shall conduct a hearing and make a just and equitable order on the petition. In conducting the hearing, the works board may:

(1) subpoena witnesses;

(2) punish contempt;

(3) adjourn the hearing from time to time;

(4) make orders concerning streets and alleys, including their vacation; and

(5) award damages.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-18

Disannexation; appeal of order; bond; scope of order

Sec. 18. (a) An order under section 17 of this chapter may be appealed to the circuit court for the county in which any part of the affected territory is located. If an appeal is brought, the matters determined at the original hearing shall be tried de novo, and the circuit court's order may be appealed in the same manner as other civil actions are tried and appealed. The municipality involved in the disannexation may, by its attorney, appear and defend its interests in the proceeding.

(b) The appellant or appellants in the circuit court shall give to the clerk of the municipality a bond:

(1) with a solvent, freehold surety who is a resident of the county in which the territory is located;

(2) conditioned on the due prosecution of the appeal and the payment of all costs accrued by or to accrue against the appellant or appellants; and

(3) in a sum considered adequate by the clerk.

If he approves the bond, the clerk shall immediately make a transcript of all proceedings in the cause and certify it, together with all papers in the cause, to the clerk of the court in which the appeal is filed.

(c) On an appeal under this section, a court may make orders concerning streets and alleys, including their vacation, and award damages.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-19

Disannexation; certified transcript of proceedings; list of lots affected; certified judgment; effective date of disannexation

Sec. 19. (a) If disannexation is ordered under this chapter by the works board of a municipality and no appeal is taken, the clerk of the municipality shall, without compensation and not later than ten (10) days after the order is made, make and certify a complete transcript of the disannexation proceedings to the auditor of each county in which the disannexed lots or lands lie and to the office of the secretary of state. The county auditor shall list those lots or lands appropriately for taxation. The proceedings of the works board shall not be certified to the county auditor or to the office of the secretary of state if an appeal to the circuit court has been taken.

(b) In all proceedings begun in or appealed to the circuit court, if vacation or disannexation is ordered, the clerk of the court shall immediately after the judgment of the court, or after a decision on appeal to the supreme court or court of appeals if the judgment on appeal is not reversed, certify the judgment of the circuit court, as affirmed or modified, to each of the following:

(1) The auditor of each county in which the lands or lots affected lie, on receipt of one dollar ($1) for the making and certifying of the transcript from the petitioners for the disannexation.

(2) The office of the secretary of state.

(3) The circuit court clerk of each county in which the lands or lots affected are located.

(4) The county election board of each county in which the lands or lots affected are located.

(5) If a board of registration exists, the board of each county in which the lands or lots affected are located.

(6) The office of census data established by IC 2-5-1.1-12.2.

(c) The county auditor shall forward a list of lots or lands disannexed under this section to the following:

(1) The county highway department of each county in which the lands or lots affected are located.

(2) The county surveyor of each county in which the lands or lots affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the disannexed territory.

(4) The township trustee of each township that lost or gained jurisdiction over the disannexed territory.

(5) The sheriff of each county in which the lands or lots affected are located.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the list of disannexed lots or lands or may charge the clerk a fee for photoreproduction of the

list.

(d) A disannexation described by this section takes effect upon the clerk of the municipality filing the order with:

(1) the county auditor of each county in which the annexed territory is located; and

(2) the circuit court clerk, or if a board of registration exists, the board of each county in which the annexed territory is located.

(e) The clerk of the municipality shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date a disannexation is effective under this chapter.

(f) A disannexation order under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A disannexation order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.218-1986, SEC.1; P.L.5-1989, SEC.99; P.L.7-1990, SEC.56; P.L.3-1997, SEC.455; P.L.248-1999, SEC.9; P.L.217-1999, SEC.9; P.L.212-2001, SEC.33; P.L.1-2002, SEC.158; P.L.113-2010, SEC.119.

IC 36-4-3-20

Disannexation; limitation on subsequent proceedings

Sec. 20. After the termination of a disannexation proceeding under this chapter, a subsequent disannexation proceeding affecting the same property and asking for the same relief may not be initiated for a period of two (2) years.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-21

Contracts with owners or lessees of designated properties in lieu of annexation

Sec. 21. (a) In lieu of annexing contiguous territory or in cases not involving annexation, the executive and the proper administrative agency of a municipality, with the consent of the municipal legislative body, may enter into contracts with the owners or lessees of designated property in the vicinity of the municipality, providing for the payment or contribution of money to the municipality for municipal or public purposes specified in the contract. The payments under the contract may be:

(1) related to or in consideration of municipal services or benefits received or to be received by the property owners or lessees;

(2) in lieu of taxes that might be levied on annexation of the designated property; or

(3) wholly unrelated to municipal services or benefits to or potential tax impositions on the designated property.

(b) Any other political subdivision that has taxing power in

respect to the designated property or is entitled to share in the property taxes assessed and collected by the municipality may:

(1) join in a contract under this section; or

(2) enter into a separate agreement with the municipality, providing for the division and distribution of contract payments made under this section and for the receipt of a share of those payments by the municipal authority.

(c) A contract under this section may be entered into for the term agreed to by the municipality and the property owners or lessees, but that term may not exceed:

(1) fifteen (15) continuous years under one (1) contract if the municipality is a consolidated or second class city; or

(2) four (4) continuous years under one (1) contract if the municipality is not a consolidated or second class city.

(d) A contract under this section continues in effect for its full term unless it is:

(1) induced by fraud of the property owners or lessees;

(2) grossly and corruptly improvident on the part of the municipality; or

(3) terminated or reduced in duration by agreement of the municipality and the property owners or lessees.

(e) A contract under this section may provide that during its effective term, the designated property of the contracting owners or lessees is not subject to annexation by the municipality.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.11, SEC.162.

IC 36-4-3-22

Filing and recording annexation ordinances; copies; tax records

Sec. 22. (a) The clerk of the municipality shall do the following:

(1) File each annexation ordinance against which a remonstrance or an appeal has not been filed during the period permitted under this chapter or the certified copy of a judgment ordering an annexation to take place with each of the following:

(A) The county auditor of each county in which the annexed territory is located.

(B) The circuit court clerk of each county in which the annexed territory is located.

(C) If a board of registration exists, the registration board of each county in which the annexed territory is located.

(D) The office of the secretary of state.

(E) The office of census data established by IC 2-5-1.1-12.2.

(2) Record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The copy must be filed and recorded no later than ninety (90) days after:

(1) the expiration of the period permitted for a remonstrance or appeal; or

(2) the delivery of a certified order under section 15 of this

chapter.

(c) Failure to record the annexation ordinance as provided in subsection (a)(2) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

(1) The county highway department of each county in which the lots or lands affected are located.

(2) The county surveyor of each county in which the lots or lands affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) The sheriff of each county in which the lots or lands affected are located.

(5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

As added by P.L.218-1986, SEC.2. Amended by P.L.301-1989, SEC.1; P.L.5-1989, SEC.100; P.L.1-1990, SEC.358; P.L.7-1990, SEC.57; P.L.3-1997, SEC.456; P.L.248-1999, SEC.10; P.L.217-1999, SEC.10; P.L.14-2000, SEC.80; P.L.212-2001, SEC.34; P.L.276-2001, SEC.9; P.L.1-2002, SEC.159.

IC 36-4-3-23

Change in effective date of annexation or disannexation to January 1, 2010.

Sec. 23. Notwithstanding sections 7, 12, 15.5, and 19 of this chapter, as those sections existed on December 31, 2009, an annexation or disannexation that took effect January 2, 2010, because of the application of section 7(b), 12(b), 15.5(d), or 19(f) of this chapter, as those sections existed on December 31, 2009, is instead considered to take effect January 1, 2010, without the adoption of an amended ordinance or the entry of an amended judgment or order under this chapter.

As added by P.L.113-2010, SEC.120.

IC 36-4-3-24

Legalization of certain annexation ordinances adopted in Tippecanoe County before March 1, 1990; legalization of

declaratory resolution of redevelopment commission; assessment date

Sec. 24. (a) This section applies to a second class city located in Tippecanoe County.

(b) Notwithstanding any other law, if a city annexed territory before March 1, 1990, and the annexation proceedings included a technical failure to describe a public way that separates the annexed territory from the city, the annexation is legalized and declared valid.

(c) Notwithstanding any other law, if the redevelopment commission of a city adopted a declaratory resolution under IC 36-7-14-15 before March 1, 1990, for any of the annexed territory described in subsection (b), the declaratory resolution is legalized and declared valid. If the declaratory resolution designated any of the annexed territory as an allocation area under IC 36-7-14-39, the assessment date for purposes of determining the base assessed value of the economic development area for purposes of IC 36-7-14-39 is March 1, 1989.

As added by P.L.220-2011, SEC.651. Amended by P.L.119-2012, SEC.189.

IC 36-4-4

Chapter 4. Division of Powers of Cities

IC 36-4-4-1

Application of chapter

Sec. 1. This chapter applies to all cities.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-4-2

Separation of powers; right of city employee to serve in office

Sec. 2. (a) The powers of a city are divided between the executive and legislative branches of its government. A power belonging to one (1) branch of a city's government may not be exercised by the other branch.

(b) Subject to IC 3-5-9, a city employee other than an elected or appointed public officer may:

(1) be a candidate for any elective office and serve in that office if elected; or

(2) be appointed to any office and serve in that office if appointed;

without having to resign as a city employee.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.315-1995, SEC.1; P.L.135-2012, SEC.9.

IC 36-4-4-3

Executive or administrative powers, duties, and functions

Sec. 3. (a) All powers and duties of a city that are executive or administrative in nature shall be exercised or performed by the city executive, another city officer, or a city department.

(b) An ordinance of the city legislative body requiring an executive or administrative function to be performed may:

(1) designate the department that is to perform that function; or

(2) establish a new department or agency to perform that function.

(c) If an executive or administrative function is not assigned by a statute, ordinance, or resolution, the city executive shall assign that function to the proper department or officer.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-4-4

Legislative powers and duties

Sec. 4. (a) The legislative power of a city is vested in its legislative body. All powers and duties of a city that are legislative in nature shall be exercised or performed by its legislative body. The legislative body of a city may not elect or appoint a person to any office or employment, except as provided by statute.

(b) The legislative body may manage the finances of the city to the extent that that power is not vested in the executive branch.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-4-5

Uncertainty or dispute in nature of power or duty

Sec. 5. (a) If uncertainty exists or a dispute arises concerning the executive or legislative nature of a power or duty exercised or proposed to be exercised by a branch, officer, department, or agency of the government of a municipality, a petition may be filed in the circuit court of the county in which the municipality is located by the municipal executive, another municipal elected official, the president of the municipal legislative body, or any person who alleges and establishes to the satisfaction of the court that the person is or would be adversely affected by the exercise of the power; however, in a county that does not contain a consolidated city and that has a superior court with three (3) or more judges, the petition shall be filed in the superior court and shall be heard and determined by the court sitting en banc.

(b) In a county containing a consolidated city, the petition shall be heard and determined by a five (5) member panel of judges from the superior court. The clerk of the court shall select the judges electronically and randomly. Not more than three (3) members of the five (5) member panel of judges may be of the same political party. The first judge selected shall maintain the case file and preside over the proceedings.

(c) The petition must set forth the action taken or the power proposed to be exercised, and all facts and circumstances relevant to a determination of the nature of the power, and must request that the court hear the matter and determine which branch, officer, department, or agency of the municipality, if any, is authorized to exercise the power. On the filing of the petition, the clerk of the court shall issue notice to the municipal executive, each municipal elected official, and the president of the municipal legislative body, unless the petition was filed by that person, and to the municipal attorney, department of law, or legal division.

(d) The court shall determine the matters set forth in the petition and shall affix the responsibility for the exercise of the power or the performance of the duty, unless it determines that the power or duty does not exist. Costs of the proceeding shall be paid by the municipality, except that if an appeal is taken from the decision of the court by any party to the proceeding other than the municipal executive, another municipal elected official, or the president of the municipal legislative body, the costs of the appeal shall be paid by the unsuccessful party on appeal or in the manner directed by the court deciding the appeal.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.69-1995, SEC.5; P.L.141-2007, SEC.3.

IC 36-4-5
Chapter 5. City Executive

IC 36-4-5-1
Application of chapter

Sec. 1. This chapter applies to second and third class cities.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.41.

IC 36-4-5-2
Mayor; election; eligibility; term of office

Sec. 2. (a) A mayor, who is the city executive, shall be elected under IC 3-10-6 by the voters of each city.

(b) A person is eligible to be a city executive only if the person meets the qualifications prescribed by IC 3-8-1-26.

(c) Residency in territory that is annexed by the city before the election is considered residency for the purposes of subsection (b), even if the annexation takes effect less than one (1) year before the election.

(d) The city executive must reside within the city as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The executive forfeits office if the executive ceases to be a resident of the city.

(e) The term of office of a city executive is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.48; P.L.3-1987, SEC.556.

IC 36-4-5-3
Powers and duties

Sec. 3. The executive shall:

(1) enforce the ordinances of the city and the statutes of the state;

(2) provide a statement of the finances and general condition of the city to the city legislative body at least once a year;

(3) provide any information regarding city affairs that the legislative body requests;

(4) recommend, in writing, to the legislative body actions that the executive considers proper;

(5) call special meetings of the legislative body when necessary;

(6) supervise subordinate officers;

(7) insure efficient government of the city;

(8) fill vacancies in city offices when required by IC 3-13-8;

(9) sign all bonds, deeds, and contracts of the city and all licenses issued by the city; and

(10) approve or veto ordinances, orders, and resolutions of the legislative body under IC 36-4-6-15.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.49.

IC 36-4-5-4
Appointments

Sec. 4. The executive shall make the appointments prescribed by IC 36-4-9 and IC 36-4-11-2.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-5-5
Power to hear complaints against person issued license; proceedings; findings and determination; violation, revocation, or suspension

Sec. 5. On reasonable notice of at least three (3) days to the person complained of, the executive shall hear any complaint against a person to whom the city has issued a license, and may issue subpoenas to compel the attendance of witnesses, administer oaths to those witnesses, and require them to testify. To the extent they can be applied, the Indiana rules of procedure, including the right to appear by counsel and to compel the attendance of witnesses for or against persons complained of, apply to proceedings under this section. If the executive finds that the person complained of has wilfully violated a term or condition of his license, or has wilfully done or permitted to be done an act in violation of a statute or city ordinance relating to the business licensed, the executive shall revoke or suspend the license. He shall file a copy of his findings and determination with the city fiscal officer within twenty-four (24) hours after it is made.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-5-6
Meetings with officers in charge of city departments; record

Sec. 6. At least once a month, the executive shall meet with the officers in charge of the city departments:

(1) for consultation on the affairs of the city;

(2) to adopt rules and regulations for the administration of the affairs of city departments; and

(3) to adopt rules and regulations prescribing a merit system for selecting, appointing, or promoting city officers and employees.

A record of meetings under this section shall be kept.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-5-7
Appointment of persons to examine or investigate city accounts and property

Sec. 7. The executive may appoint three (3) competent persons to examine, without notice, the city accounts and property in the possession or custody of a city department, officer, or employee, and to report the results of their investigation.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-5-8
Absence or inability of executive; designation and service of acting

executive

Sec. 8. (a) Whenever the executive is absent or going to be absent from the city, ill, or injured, he may designate:

(1) the deputy mayor, if that position has been established under IC 36-4-9-7; or

(2) a member of the city legislative body;

as acting executive, with all the powers of the office. The executive may exercise this power for a maximum of fifteen (15) days in any sixty (60) day period.

(b) A designation under subsection (a) shall be certified to the president or president pro tempore and clerk of the city legislative body. In addition, when the executive resumes his duties, he shall certify to those officers the expiration of the designation.

(c) Whenever the president or president pro tempore of the city legislative body files with the circuit court of the county in which the city is located a written statement suggesting that the executive is unable to discharge the powers and duties of his office, the circuit court shall convene within forty-eight (48) hours to decide that question. After that, when the executive files with the circuit court his written declaration that no inability exists, the circuit court shall convene within forty-eight (48) hours to decide whether that is the case. Upon a decision that no inability exists, the executive shall resume the powers and duties of his office.

(d) If the circuit court decides under subsection (c) that the executive is unable to discharge the powers and duties of his office, then:

(1) the deputy mayor, if that position has been established under IC 36-4-9-7; or

(2) the president of the legislative body in a second class city, or the president pro tempore of the legislative body in a third class city, if there is no deputy mayor;

shall serve as acting executive, with all the powers of the office. A person may serve as acting executive for a maximum of six (6) months under this subsection. The city legislative body may appropriate funds to compensate a person acting as executive under subsection (d).

As added by P.L.349-1983, SEC.1.

IC 36-4-5-9

Vacancy in office of executive

Sec. 9. (a) The office of executive becomes vacant whenever the executive:

(1) dies, resigns, or is removed from office;

(2) ceases to be a resident of the city;

(3) is convicted of a felony, as provided in IC 5-8-1-38; or

(4) is unable to discharge the powers and duties of his office for more than six (6) months.

(b) The vacancy shall be filled under IC 3-13-8.

As added by P.L.349-1983, SEC.2. Amended by P.L.5-1986, SEC.50; P.L.37-2008, SEC.3.

IC 36-4-6

Chapter 6. City Legislative Body

IC 36-4-6-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 13 and 14 of this chapter by P.L.335-1985 do not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.335-1985 had not been enacted.

As added by P.L.220-2011, SEC.652.

IC 36-4-6-1

Application of chapter

Sec. 1. This chapter applies to second and third class cities.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.42.

IC 36-4-6-2

Common council; election; eligibility; term of office

Sec. 2. (a) A common council, which is the city legislative body, shall be elected under IC 3-10-6 by the voters of each city.

(b) A person is eligible to be a member of the legislative body only if the person meets the qualifications prescribed by IC 3-8-1-27.

(c) Residency in territory that is annexed by the city before the person files a declaration of candidacy or petition of nomination is considered residency for the purposes of subsection (b), even if the annexation takes effect less than one (1) year before the election.

(d) A member of the legislative body must reside within:

(1) the city as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) the district from which the member was elected, if applicable.

(e) A member forfeits office if the member ceases to be a resident of the district or city.

(f) The term of office of a member of the legislative body is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.51; P.L.3-1987, SEC.557.

IC 36-4-6-3

Second class cities; division into six districts; boundaries; legislative body candidates; territory not included in any district or in more than one district

Sec. 3. (a) This section applies only to second class cities.

(b) The legislative body shall adopt an ordinance to divide the city into six (6) districts that:

(1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) are reasonably compact;

(3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

(1) more than one (1) member of the legislative body elected from the districts established under subsection (b) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and

(2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line:

(1) except when following a precinct boundary line; or

(2) unless the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) shall be made:

(1) during the second year after a year in which a federal decennial census is conducted; and

(2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) The legislative body is composed of six (6) members elected from the districts established under subsection (b) and three (3) at-large members.

(i) Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the

district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(k) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(l) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.6; P.L.13-1988, SEC.16; P.L.5-1989, SEC.101; P.L.7-1990, SEC.58; P.L.3-1993, SEC.265; P.L.230-2005, SEC.85.

IC 36-4-6-4

Third class cities; division into five districts; boundaries; alternative division into four districts; alternative division into three districts and two at-large candidates; voting

Sec. 4. (a) This section applies to third class cities, except as provided by section 5 of this chapter.

(b) This subsection does not apply to a city with an ordinance described by subsection (j) or (m). The legislative body shall adopt an ordinance to divide the city into five (5) districts that:

(1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) are reasonably compact;

(3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

(1) more than one (1) member of the legislative body elected from the districts established under subsection (b), (j), or (m) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and

(2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line:

(1) except when following a precinct boundary line; or

(2) unless the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b), (j), or (m) shall be made:

(1) during the second year after a year in which a federal decennial census is conducted; and

(2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j) or (m). The legislative body is composed of five (5) members elected from the districts established under subsection (b) and two (2) at-large members.

(i) This subsection does not apply to a city with an ordinance described by subsection (j) or (m). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into four (4) districts that:

(1) are composed of contiguous territory;

(2) are reasonably compact;

(3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (j) and three (3) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies only if the ordinance adopted under IC 36-4-1.5-3 by the town legislative body of a town that has a population of less than ten thousand (10,000) and that becomes a city

specifies that the city legislative body districts are governed by this subsection. The ordinance adopted under IC 36-4-1.5-3(b)(1) dividing the town into city legislative body districts may provide that:

(1) the city shall be divided into three (3) districts that:

(A) are composed of contiguous territory;

(B) are reasonably compact;

(C) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(D) contain, as nearly as is possible, equal population; and

(2) the legislative body of the city is composed of three (3) members elected from the districts established under this subsection and two (2) at-large members.

Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(n) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city no later than thirty (30) days after the ordinance is adopted.

(o) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(p) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.7; Acts 1981, P.L.44, SEC.43; P.L.13-1988, SEC.17; P.L.5-1989, SEC.102; P.L.7-1990, SEC.59; P.L.4-1991, SEC.141; P.L.1-1992, SEC.184; P.L.3-1993, SEC.266; P.L.230-2005, SEC.86; P.L.169-2006, SEC.51.

IC 36-4-6-5

Third class cities having populations of less than 10,000; division into four districts; boundaries; alternative division into three districts; voting for legislative body candidates; territory not included in any district or included in more than one district

Sec. 5. (a) This section applies to third class cities having a population of less than ten thousand (10,000). The legislative body

of such a city may, by ordinance adopted after June 30, 2010, and during a year in which an election of the legislative body will not occur, decide to be governed by this section instead of section 4 of this chapter. The legislative body districts created by an ordinance adopted under this subsection apply to the first election of the legislative body held after the date the ordinance is adopted. The clerk of the legislative body shall send a certified copy of any ordinance adopted under this subsection to the secretary of the county election board.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into four (4) districts that:

(1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) are reasonably compact;

(3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

(1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and

(2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line:

(1) except when following a precinct boundary line; or

(2) unless the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made:

(1) during the second year after a year in which a federal decennial census is conducted; and

(2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to

IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (b) and one (1) at-large member.

(i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter may vote for one (1) candidate for at-large membership and one (1) candidate from the district in which the voter resides. The at-large candidate receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into three (3) districts that:

(1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) are reasonably compact;

(3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of three (3) members elected from the districts established under subsection (j) and two (2) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies to a city having a population of less than seven thousand (7,000). A legislative body of such a city that has, by resolution adopted before May 7, 1991, decided to continue an election process that permits each voter of the city to vote for one (1) candidate at large and one (1) candidate from each of its four (4) council districts may hold elections using that voting arrangement. The at-large candidate and the candidate from each district receiving the most votes from the whole city are elected to the legislative body. The districts established in cities adopting such a resolution may cross precinct boundary lines.

(n) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

(o) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to

that territory.

(p) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.8; Acts 1981, P.L.44, SEC.44; P.L.13-1988, SEC.18; P.L.5-1989, SEC.103; P.L.7-1990, SEC.60; P.L.4-1991, SEC.142; P.L.1-1992, SEC.185; P.L.3-1993, SEC.267; P.L.230-2005, SEC.87; P.L.113-2010, SEC.121.

IC 36-4-6-6

Power to expel member or declare seat vacant; rules

Sec. 6. The legislative body may:

(1) expel any member for violation of an official duty;

(2) declare the seat of any member vacant if he is unable to perform the duties of his office; and

(3) adopt its own rules to govern proceedings under this section.

However, a two-thirds (2/3) vote is required to expel a member or vacate his seat.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-7

Meetings

Sec. 7. (a) The legislative body shall hold its first regular meeting in January after its election. In subsequent months, the legislative body shall hold regular meetings at least once a month, unless its rules require more frequent meetings.

(b) A special meeting of the legislative body shall be held when called by the city executive or when called under the rules of the legislative body.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.169-2006, SEC.52.

IC 36-4-6-8

President; vice president; president pro tempore

Sec. 8. (a) This subsection applies only to second class cities. At its first regular meeting under section 7 of this chapter, and each succeeding January, the legislative body shall choose from its members a president and a vice president.

(b) This subsection applies only to third class cities. The city executive shall preside at all meetings of the legislative body, but may vote only in order to break a tie. At its first regular meeting under section 7 of this chapter and each succeeding January, the legislative body shall choose from its members a president pro tempore to preside whenever the executive is absent.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982, P.L.33, SEC.23; P.L.349-1983, SEC.3; P.L.169-2006, SEC.53.

IC 36-4-6-9
Clerk; duties

Sec. 9. The city clerk is the clerk of the legislative body. He shall:

(1) preserve the legislative body's records in his office;

(2) keep an accurate record of the legislative body's proceedings;

(3) record the ayes and nays on each vote on an ordinance or resolution;

(4) record the ayes and nays on other votes when requested to do so by two (2) or more members;

(5) present ordinances, orders, or resolutions to the city executive under section 15 of this chapter; and

(6) record ordinances under section 17 of this chapter.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-10
Quorum

Sec. 10. A majority of all the elected members of the legislative body constitutes a quorum.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-11
Majority vote; two-thirds vote

Sec. 11. (a) A requirement that an ordinance, resolution, or other action of the legislative body be passed by a majority vote means at least a majority vote of all the elected members.

(b) A requirement that an ordinance, resolution, or other action of the legislative body be passed by a two-thirds (2/3) vote means at least a two-thirds (2/3) vote of all the elected members.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-12
Ordinance; majority vote

Sec. 12. A majority vote of the legislative body is required to pass an ordinance, unless a greater vote is required by statute.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-13
Ordinance; two-thirds vote with unanimous consent of members present

Sec. 13. (a) A two-thirds (2/3) vote of all the elected members, after unanimous consent of the members present to consider the ordinance, is required to pass an ordinance of the legislative body on the same day or at the same meeting at which it is introduced.

(b) Subsection (a) does not apply to a zoning ordinance or amendment to a zoning ordinance that is adopted under IC 36-7.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982,

P.L.33, SEC.24; P.L.335-1985, SEC.35.

IC 36-4-6-14
Ordinance, order, or resolution adoption; requirements

Sec. 14. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is:

(1) signed by the presiding officer; and

(2) either approved by the city executive or passed over the executive's veto by the legislative body, under section 16 of this chapter.

If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under subsection (c); or

(2) there is an urgent necessity requiring its immediate effectiveness, the city executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in each of the districts from which members are elected to the legislative body.

(c) Except as provided in subsection (e), if a city publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

(1) of the ordinances in the book or pamphlet;

(2) of the date of adoption of the ordinances; and

(3) that the ordinances have been properly signed, attested, recorded, and approved.

(d) This section (other than subsection (f)) does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(e) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

(f) Subject to subsection (j), the legislative body shall:

(1) subject to subsection (g), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental

restrictive ordinance; and

(2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(g) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (f)(1).

(h) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (f).

(i) The failure of an environmental restrictive ordinance to comply with subsection (h) does not void the ordinance.

(j) The notice requirements of subsection (f) apply only if the municipal corporation received under IC 13-25-5-8.5(f) written notice that the department is relying on the environmental restrictive ordinance referred to in subsection (f) as part of a risk based remediation proposal:

(1) approved by the department; and

(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.335-1985, SEC.36; P.L.100-2003, SEC.2; P.L.78-2009, SEC.25; P.L.159-2011, SEC.46.

IC 36-4-6-15

Ordinance, order, or resolution; presentation to city executive

Sec. 15. After an ordinance, order, or resolution passed by the legislative body has been signed by the presiding officer, the clerk shall present it to the city executive, and record the time of the presentation.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-16

Ordinance, order, or resolution; power of city executive to approve or veto

Sec. 16. (a) Within ten (10) days after an ordinance, order, or resolution is presented to him, the city executive shall:

(1) approve the ordinance, order, or resolution, by entering his approval on it, signing it, and sending the legislative body a message announcing his approval; or

(2) veto the ordinance, order, or resolution, by returning it to the legislative body with a message announcing his veto and stating his reasons for the veto.

The executive may approve or veto separate items of an ordinance appropriating money or levying a tax.

(b) If the executive fails to perform his duty under subsection (a), the ordinance, order, or resolution is considered vetoed.

(c) Whenever an ordinance, order, or resolution is vetoed by the city executive, it is considered defeated unless the legislative body, at its first regular or special meeting after the ten (10) day period

prescribed by subsection (a), passes the ordinance, order, or resolution over his veto by a two-thirds (2/3) vote.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-17
Ordinance adoption; recording; contents of record; effect as evidence

Sec. 17. Within a reasonable time after an ordinance of the legislative body is adopted, the clerk shall record it in a book kept for that purpose. The record must include:

(1) the signature of the presiding officer;
(2) the attestation of the clerk;
(3) the executive's approval or veto of the ordinance;
(4) if applicable, a memorandum of the passage of the ordinance over the veto; and
(5) the date of each recorded item.

The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-18
Purposes of ordinance, order, resolution, or motion

Sec. 18. The legislative body may pass ordinances, orders, resolutions, and motions for the government of the city, the control of the city's property and finances, and the appropriation of money.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-19
Loans and issuance of bonds

Sec. 19. (a) The legislative body may, by ordinance, make loans of money and issue bonds for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city or for the payment of city debts.

(b) An ordinance adopted under this section:

(1) must include the terms of the bonds to be issued in evidence of the loan;
(2) must include the time and manner of giving notice of the sale of the bonds;
(3) must include the manner in which the bonds will be sold; and
(4) may authorize a total amount for any issue of bonds.

(c) Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the city.

(d) Bonds issued and sold by a city under this section:

(1) are negotiable with or without registration, as may be provided by the ordinance authorizing the issue;
(2) may bear interest at any rate;
(3) may run not longer than thirty (30) years;
(4) may contain an option allowing the city to redeem them in

whole or in part at specified times prior to maturity; and

(5) may be sold for not less than par value.

(e) The city fiscal officer shall:

(1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;

(2) certify the amount the purchaser is to pay, together with the name and address of the purchaser;

(3) receive the amount of payment certified;

(4) deliver the bonds to the purchaser;

(5) take a receipt for the securities delivered;

(6) pay the purchaser's payment into the city treasury; and

(7) report the proceedings in the sale to the legislative body.

The actions of the fiscal officer under this subsection are ministerial. *As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.173-2003, SEC.26.*

IC 36-4-6-20

Temporary or short term loans in anticipation of current revenues

Sec. 20. (a) The legislative body may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the city's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made in the same manner as loans made under section 19 of this chapter, except that:

(1) the ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing five (5) years to provide for refunding the loans; and

(2) the loans must be evidenced by notes of the city in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

(b) The legislative body may, by ordinance, make loans and issue notes for the purpose of refunding those loans in anticipation of revenues of the city that are anticipated to be levied and collected during the term of the loans. The term of a loan made under this subsection may not be more than five (5) years. Loans under this subsection shall be made in the same manner as loans made under section 19 of this chapter, except that:

(1) the ordinance authorizing the loans must appropriate and pledge to their payment a sufficient amount of the revenues in anticipation of which they are issued and out of which they are payable; and

(2) the loans must be evidenced by time warrants of the city in terms designating the nature of the consideration, the time and

place payable, and the revenues in anticipation of which they are issued and out of which they are payable.

(c) An action to contest the validity of a loan made under this section must be brought within fifteen (15) days from the day on which the ordinance is adopted.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982, P.L.209, SEC.1; P.L.37-1988, SEC.23; P.L.35-1990, SEC.44; P.L.40-1996, SEC.9.

IC 36-4-6-21

Investigative powers of legislative body

Sec. 21. (a) The legislative body may investigate:

(1) the departments, officers, and employees of the city;

(2) any charges against a department, officer, or employee of the city; and

(3) the affairs of a person with whom the city has entered or is about to enter into a contract.

(b) When conducting an investigation under this section, the legislative body:

(1) is entitled to access to all records pertaining to the investigation; and

(2) may compel the attendance of witnesses and the production of evidence by subpoena and attachment served and executed in the county in which the city is located.

(c) If a person refuses to testify or produce evidence at an investigation conducted under this section, the legislative body may order its clerk to immediately present to the circuit court of the county a written report of the facts relating to the refusal. The court shall hear all questions relating to the refusal to testify or produce evidence, and shall also hear any new evidence not included in the clerk's report. If the court finds that the testimony or evidence sought should be given or produced, it shall order the person to testify or produce the evidence, or both.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.9; Acts 1981, P.L.11, SEC.163.

IC 36-4-6-22

Repealed

(*Repealed by Acts 1980, P.L.73, SEC.23.)*

IC 36-4-6-23

Repealed

(*Repealed by Acts 1980, P.L.73, SEC.23.)*

IC 36-4-6-24

Attorneys and legal research assistants

Sec. 24. (a) The legislative body may hire or contract with competent attorneys and legal research assistants on terms it considers appropriate.

(b) Employment of an attorney under this section does not affect

the city department of law established under IC 36-4-9.

(c) Appropriations for salaries of attorneys and legal research assistants employed under this section may not exceed the appropriations for similar salaries in the budget of the city department of law.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-7

Chapter 7. City Budget Procedures and Compensation of Officers and Employees

IC 36-4-7-1

Application of chapter

Sec. 1. This chapter applies to second and third class cities.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.45.

IC 36-4-7-2

Elected city officers; fixing of annual compensation

Sec. 2. (a) As used in this section, "compensation" means the total of all money paid to an elected city officer for performing duties as a city officer, regardless of the source of funds from which the money is paid.

(b) The city legislative body shall, by ordinance, fix the annual compensation of all elected city officers.

(c) The compensation of an elected city officer may not be changed in the year for which it is fixed nor may it be reduced below the amount fixed for the previous year.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.21; P.L.15-1993, SEC.3; P.L.141-2009, SEC.9.

IC 36-4-7-3

Appointive officers, deputies, and other employees; compensation

Sec. 3. (a) This section does not apply to compensation paid by a city to members of its police and fire departments.

(b) Subject to the approval of the city legislative body, the city executive shall fix the compensation of each appointive officer, deputy, and other employee of the city. The legislative body may reduce but may not increase any compensation fixed by the executive. Compensation must be fixed under this section not later than November 1 of each year for the ensuing budget year.

(c) Compensation fixed under this section may be increased or decreased by the executive during the budget year for which it is fixed.

(d) Notwithstanding subsection (b), the city clerk may, with the approval of the legislative body, fix the salaries of deputies and employees appointed under IC 36-4-11-4.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.44-1991, SEC.5; P.L.35-1999, SEC.5; P.L.89-2001, SEC.7; P.L.169-2006, SEC.54; P.L.118-2012, SEC.1.

IC 36-4-7-4

City officers and employees connected with operation of municipally owned utility or function; additional compensation

Sec. 4. (a) Subject to the approval of the city legislative body, the city executive may provide that city officers and employees receive additional compensation for services that:

(1) are performed for the city;
(2) are not governmental in nature; and
(3) are connected with the operation of a municipally owned utility or function.

(b) Subject to the approval of the executive and legislative body, the administrative agency operating the utility or function shall fix the amount of the additional compensation, which shall be paid from the revenues of the utility or function.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-7-5

Salary schedule

Sec. 5. Salaries of city officers and employees shall be scheduled as provided in the budget classification prescribed by the state board of accounts.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-7-6

Budget estimates; formulation procedure

Sec. 6. Before the publication of notice of budget estimates required by IC 6-1.1-17-3, each city shall formulate a budget estimate for the ensuing budget year in the following manner:

(1) Each department head shall prepare for his department an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure he anticipates.
(2) The city fiscal officer shall prepare an itemized estimate of revenues available for the ensuing budget year, and shall prepare an itemized estimate of expenditures for other purposes above the money proposed to be used by the departments.
(3) The city executive shall meet with the department heads and the fiscal officer to review and revise their various estimates.
(4) After the executive's review and revision, the fiscal officer shall prepare for the executive a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-7-7

Report of estimates; ordinance fixing taxation rate; appropriation

Sec. 7. (a) The fiscal officer shall present the report of budget estimates to the city legislative body under IC 6-1.1-17. After reviewing the report, the legislative body shall prepare an ordinance fixing the rate of taxation for the ensuing budget year and an ordinance making appropriations for the estimated department budgets and other city purposes during the ensuing budget year. The legislative body, in the appropriation ordinance, may reduce any estimated item from the figure submitted in the report of the fiscal officer, but it may increase an item only if the executive recommends an increase. The legislative body shall promptly act on the

appropriation ordinance.

(b) In preparing the ordinances described in subsection (a) the legislative body shall make an allowance for the cost of fire protection to annexed territory described in IC 36-4-3-7(d), for the year fire protection is first offered to that territory.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.341-1987, SEC.2; P.L.5-1989, SEC.104.

IC 36-4-7-8

Ordinances; additional appropriations or decrease

Sec. 8. After the passage of the appropriation ordinance, the city legislative body may, on the recommendation of the city executive, make further or additional appropriations by ordinance, unless their result is to increase the tax levy set under IC 6-1.1-17. The legislative body may, by ordinance, decrease any appropriation. The executive may, by executive order, decrease the appropriation made for any executive department.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.10.

IC 36-4-7-9

Appropriation ordinance; items

Sec. 9. An appropriation ordinance must specify, by items, the amount of each appropriation and the department for which it is made.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-7-10

Preparation of budgets; contents; submission to legislative body

Sec. 10. The department budgets prepared under section 6 of this chapter must include the compensation of department heads and must be submitted to the city legislative body under section 7 of this chapter.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982, P.L.33, SEC.25.

IC 36-4-7-11

Failure to pass tax rate and appropriation ordinances; continuation

Sec. 11. If the city legislative body does not pass the ordinance required by section 7 of this chapter before November 2 of each year, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.176-2002, SEC.9; P.L.169-2006, SEC.55; P.L.113-2010, SEC.122.

IC 36-4-8

Chapter 8. Miscellaneous City Fiscal and Administrative Provisions

IC 36-4-8-1

Application of chapter

Sec. 1. This chapter applies to all cities.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-8-2

Warrants; conditions and purposes of issuance

Sec. 2. Money may be paid out of the city treasury only on warrant of the city fiscal officer. Unless a statute provides otherwise, the fiscal officer may draw a warrant against a fund of the city only if:

(1) an appropriation has been made for that purpose and the appropriation is not exhausted;

(2) the warrant is for a salary fixed by statute or ordinance;

(3) the warrant is for a claim allowed under section 5 of this chapter;

(4) he is ordered to issue the warrant under section 3 of this chapter;

(5) the warrant is for payment of a judgment that the city must pay; or

(6) the warrant is for interest due on city bonds.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982, P.L.33, SEC.26.

IC 36-4-8-3

Warrants; issuance; order

Sec. 3. (a) A city board or legislative body may order the issuance of warrants for payment of money by the city only at a meeting of the board or legislative body.

(b) A city officer who violates this section forfeits his office.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-8-4

Claims against city; audit; refusal to pay

Sec. 4. (a) The city fiscal officer may audit a claim against the city by examining under oath any officer, agent, or employee of the city or any other person. When acting under this section, the fiscal officer has the same powers as the city legislative body in summoning and examining witnesses.

(b) If the fiscal officer finds that:

(1) the claim includes an item for which no appropriation has been made;

(2) there is not a sufficient balance for payment of the claim in the proper fund; or

(3) the claim should not be approved for any reason;

he may not issue warrants to pay the claim and he shall notify the

proper department of the reasons for his refusal to pay the claim.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-8-5
Claims against city; allowance; violation

Sec. 5. (a) Except as provided in section 14 of this chapter, a city board or legislative body may allow a claim:

(1) only at a meeting of the board or legislative body; and

(2) only if the claim was filed in the manner prescribed by IC 5-11-10-2 at least five (5) days before the meeting.

(b) A city officer who violates this section forfeits his office.
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.32-1992, SEC.2.

IC 36-4-8-6
Repealed

(*Repealed by Acts 1980, P.L.73, SEC.23.)*

IC 36-4-8-7
Claims against city; issuance of warrant; requirements; certification

Sec. 7. (a) As used in this section, "claim" means a bill or an invoice submitted for goods or services.

(b) Except as provided in section 14 of this chapter, a warrant for payment of a claim against a city may be issued only if the claim is:

(1) supported by a fully itemized invoice or bill under IC 5-11-10-1.6;

(2) approved by the officer or person receiving the goods or services;

(3) filed with the city fiscal officer;

(4) audited and certified by the fiscal officer before payment that each invoice is true and correct; and

(5) allowed by the city legislative body or the city board having jurisdiction over allowance of the claim.

(c) The certification by the fiscal officer under subsection (b)(4) must be on a form prescribed by the state board of accounts.
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.32-1992, SEC.3; P.L.71-1995, SEC.4; P.L.69-1995, SEC.6.

IC 36-4-8-8
Compensation for city officers and employees; restrictions

Sec. 8. (a) The compensation fixed for city officers and employees under this title is in full for all governmental services and in lieu of all:

(1) fees;

(2) penalties;

(3) fines;

(4) interest;

(5) costs;

(6) forfeitures;

(7) commissions; and
(8) percentages;

which shall be paid into the city treasury each week.

(b) An officer or employee is entitled to his salary only after he presents the city fiscal officer with:

(1) a detailed, verified statement of the monies he has received since his most recent statement; and
(2) a receipt showing payment of those monies to the fiscal officer.

The fiscal officer may prescribe the form of the statement, require officers and employees to submit the statement, and examine persons in regard to the statement.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-8-8.1
Repealed

(*Repealed by P.L.2-1997, SEC.92.)*

IC 36-4-8-9
Vacation leave; compensation

Sec. 9. (a) One (1) to three (3) days before the vacation leave period of a city officer or employee begins, the city may pay him the amount of compensation he will earn while he is on vacation leave.

(b) Compensation for services paid to a salaried city officer or employee pursuant to a fixed schedule set forth in a written contract or salary ordinance shall not be construed as having been paid in advance. Under such an arrangement, the city shall maintain records to verify that actual work is performed for all salary paid.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.37-1986, SEC.2.

IC 36-4-8-10
Repealed

(*Repealed by Acts 1981, P.L.57, SEC.45.)*

IC 36-4-8-11
Repealed

(*Repealed by Acts 1980, P.L.73, SEC.23.)*

IC 36-4-8-12
City works board; long term contracts; bond issuance by a department; void obligations

Sec. 12. (a) This section does not prohibit:

(1) the city works board from making long term contracts for utility services under IC 36-9; or
(2) a department from issuing bonds or other obligations authorized by law.

(b) Except as provided in subsection (c), a city department, officer, or employee may not obligate the city to any extent beyond the amount of money appropriated for that department, officer, or

employee. An obligation made in violation of this section is void.

(c) A city department, officer, or employee may obligate the city beyond the amount of money appropriated for that department, officer, or employee if:

(1) the obligation is made under a multi-year interlocal cooperation agreement entered into by the city and one (1) or more political subdivisions or governmental entities under IC 36-1-7; and

(2) the agreement described in subdivision (1) is approved by the fiscal body of the city.

(d) An obligation described in subsection (c) may be terminated:

(1) if the city provides notice of the termination of the obligation at least one (1) year before the termination of the obligation; or

(2) the city and the political subdivisions or governmental entities that have entered into the interlocal cooperation agreement otherwise agree to the termination.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.30-2012, SEC.2.

IC 36-4-8-13
Violations by city official; offense; liability

Sec. 13. A city official who recklessly:

(1) issues a bond, certificate, or warrant for the payment of money in excess of an appropriation; or

(2) enters into an obligation prohibited by section 12 of this chapter;

commits a Class B misdemeanor and is liable on his official bond to any person injured by his actions.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-8-14
Preapproved payments of claims

Sec. 14. (a) A city legislative body may adopt an ordinance allowing money to be disbursed for lawful city purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the city fiscal officer may make claim payments in advance of board allowance for the following kinds of expenses if the city legislative body has adopted an ordinance under subsection (a):

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance or service agreements.
(8) Leases or rental agreements.
(9) Bond or coupon payments.
(10) Payroll.
(11) State, federal, or county taxes.
(12) Expenses that must be paid because of emergency circumstances.
(13) Expenses described in an ordinance.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the fiscal officer.

(d) The city legislative body or the city board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

As added by P.L.32-1992, SEC.4. Amended by P.L.69-1995, SEC.7; P.L.40-1996, SEC.10.

IC 36-4-8-15
Filing copies of agency financial records

Sec. 15. Each city agency, board, commission, district, or other city entity shall file one (1) copy of that agency's, board's, commission's, district's, or entity's financial records with the city fiscal officer.

As added by P.L.98-2000, SEC.22.

IC 36-4-8-15.5
City or county agreement for school construction or renovation

Sec. 15.5. (a) This section applies to:

(1) a city or county in which a riverboat (as defined in IC 4-33-2-17) is docked or located or gambling games (as defined in IC 4-35-2-5) are located; and
(2) a school corporation that is located in any part in a county described in subdivision (1) or in a county in which a city described in subdivision (1) is located.

(b) A city or county may do any of the following:

(1) Enter into one (1) or more agreements or leases with the school corporation or another public or private entity to provide for the construction or renovation of a school building that will be used by the school corporation. The agreements and leases may provide for the financing of the construction or renovation of the school building.
(2) A school building constructed or renovated as provided in subdivision (1) may be donated, sold, or leased to the school corporation under the conditions determined by the school corporation and the city or county.
(3) The city or county may use any revenues (including any gaming revenues) to pay for the construction or renovation of the school building or to finance the construction or renovation of the school building.

As added by P.L.182-2009(ss), SEC.403.

IC 36-4-9

Chapter 9. City Departments, Boards, and Appointed Officers

IC 36-4-9-1

Application of chapter

Sec. 1. This chapter applies to second and third class cities.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.46.

IC 36-4-9-2

Appointment of department heads; approval by certain boards and commissions; eligibility

Sec. 2. (a) Notwithstanding any other law, the city executive shall appoint the head of each department established under section 4 of this chapter. However, the executive's appointment of the head of the department is subject to the approval of any statutory board or commission established in the department, including and limited to:

(1) the works board, if a department of public works is established;

(2) the safety board, if a department of public safety is established;

(3) the board of parks and recreation, if a department of parks and recreation is established;

(4) the city plan commission, if a planning department is established;

(5) the economic development commission, if a department of economic development is established;

(6) the redevelopment commission, if a department of redevelopment is established;

(7) the board of sanitary commissioners, if a department of public sanitation is established;

(8) the board of flood control commissioners, if a department of flood control is established;

(9) the utility service board, if a department of utilities is established;

(10) the waterworks board of trustees, if a department of waterworks is established; and

(11) the board of aviation commissioners, if a department of aviation is established.

(b) Each department head appointed under subsection (a) must have the qualifications required by statute for that department.

(c) To be eligible to be appointed as a member of a city board established under section 5 of this chapter, a person must be a resident of the city.

(d) This section does not apply to departments, boards, or commissions established by interlocal cooperation agreements under IC 36-1-7 or to other joint entities established by law.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.22; P.L.185-1988, SEC.2.

IC 36-4-9-3
Repealed
(*Repealed by Acts 1981, P.L.17, SEC.29(b).*)

IC 36-4-9-4
Executive departments; establishment by city legislative body; administrative functions; termination; transfer of powers, duties, functins, or obligations
Sec. 4. (a) The city legislative body shall, by ordinance passed upon the recommendation of the city executive, establish the executive departments that it considers necessary to efficiently perform the administrative functions required to fulfill the needs of the city's citizens.
(b) The head of each city department or agency is under the jurisdiction of the executive.
(c) The following departments may be established:
(1) Department of finance or administration.
(2) Department of law.
(3) Department of public works.
(4) Department of public safety.
(5) Department of parks and recreation.
(6) Department of human resources and economic development.
(7) Any other department considered necessary.
These departments shall perform the administrative functions assigned by statute and ordinance.
(d) The city legislative body may, by ordinance passed upon the recommendation of the city executive:
(1) terminate departments established under subsection (c); and
(2) transfer to or from those departments any powers, duties, functions, or obligations.
As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.23.

IC 36-4-9-5
Board of public works and safety; establishment
Sec. 5. (a) A board of public works and safety is established in each city.
(b) Notwithstanding subsection (a), the legislative body of a second class city may by ordinance establish as separate boards:
(1) a board of public works; and
(2) a board of public safety;
to perform the functions of the board of public works and safety.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-9-6
Second class cities; appointment of officers, employees, boards, and commissions; notice of change in membership of public works or safety board
Sec. 6. (a) This section applies only to second class cities.
(b) The city executive shall appoint:

(1) a city controller;
(2) a city civil engineer;
(3) a corporation counsel;
(4) a chief of the fire department;
(5) a chief of the police department; and
(6) other officers, employees, boards, and commissions required by statute.

(c) The board of public works and safety may be composed of three (3) members or five (5) members appointed by the executive. A member may hold other appointive positions in city government during the member's tenure. IC 36-4-11-2 applies to board member appointments under this section. The executive shall appoint a clerk for the board.

(d) If the board of public works and board of public safety are established as separate boards, each board may be composed of three (3) members or five (5) members who are appointed by the executive. A member may hold other appointive positions in city government during the member's tenure. The executive shall appoint a clerk for each board.

(e) If the executive:
(1) increases the number of members of a board of public works and safety, a board of public works, or a board of public safety from three (3) to five (5) members; or
(2) decreases the number of members of a board of public works and safety, a board of public works, or a board of public safety from five (5) to three (3) members;

the city shall publish notice under IC 5-3-1 of the increase or decrease in members and state the total number of members appointed to the board.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.47; P.L.317-1995, SEC.1; P.L.68-1996, SEC.5; P.L.141-2009, SEC.10.

IC 36-4-9-7
Ordinance establishing position of deputy mayor

Sec. 7. The city legislative body may by ordinance establish the position of deputy mayor, who serves as the city executive's deputy. The ordinance must:
(1) provide that the deputy is appointed by and serves at the pleasure of the executive; and
(2) set forth all the powers of the deputy, which may not exceed the powers of the executive.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.24.

IC 36-4-9-8
Third class cities; appointment of officers, employees, boards, and commissions; notice of change in membership of public works and safety board

Sec. 8. (a) This section applies only to third class cities.

(b) The city executive shall appoint:

(1) a city civil engineer;

(2) a city attorney;

(3) a chief of the fire department;

(4) a chief of the police department; and

(5) other officers, employees, boards, and commissions required by statute.

(c) The board of public works and safety consists of three (3) or five (5) members (as determined by the city executive). The members of the board of public works and safety are:

(1) the city executive; and

(2) two (2) or four (4) persons appointed by the executive.

If the executive increases the number of board members from three (3) to five (5) members or decreases the number of board members from five (5) to three (3) members, the city shall publish notice under IC 5-3-1 of the increase or decrease in members and state the total number of members appointed to the board. IC 36-4-4-2 notwithstanding, a member may hold other appointive or elective positions in city government during the member's tenure. IC 36-4-11-2 applies to board member appointments under this section. The city clerk is the clerk of the board.

(d) If the city legislative body adopts an ordinance under IC 36-4-12 to employ a city manager, the executive may appoint the city manager to a position on the board of public works and safety in place of the executive.

(e) The city executive may appoint a public safety director to:

(1) serve as the chief administrative officer of; and

(2) oversee the operations of;

the police department and fire department. The city executive shall determine the qualifications of the public safety director.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.48; P.L.350-1983, SEC.1; P.L.68-1996, SEC.6; P.L.10-1997, SEC.31; P.L.141-2009, SEC.11; P.L.33-2010, SEC.1.

IC 36-4-9-9
Repealed

(*Repealed by Acts 1981, P.L.44, SEC.61.)*

IC 36-4-9-10
Repealed

(*Repealed by Acts 1981, P.L.44, SEC.61.)*

IC 36-4-9-11
Head of department of law; city attorney and assistant city attorney; eligibility for appointment

Sec. 11. (a) In a second class city, the corporation counsel is the head of the department of law. The corporation counsel's first deputy is the city attorney, and the corporation counsel's second deputy is the assistant city attorney.

(b) In a third class city, the city attorney is the head of the

department of law.

(c) To be eligible to be appointed as the head of the department of law, a person must meet the following requirements:

(1) Be admitted to the practice of law in Indiana.

(2) Except as provided in subdivision (3), be a resident of the county in which the city is located.

(3) For a third class city located in a county having a population of less than seven thousand (7,000), be a resident of Indiana.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.49; P.L.220-1991, SEC.1; P.L.12-1992, SEC.159; P.L.119-2012, SEC.190.

IC 36-4-9-12

Head of department of law; powers and duties

Sec. 12. The head of the department of law shall:

(1) manage the legal affairs of the city;

(2) prosecute violators of city ordinances;

(3) give legal advice to the officers, departments, boards, commissions, and other agencies of the city;

(4) draft ordinances or other legal papers for the city and its departments, boards, commissions, and other agencies when requested by the proper officer;

(5) maintain custody of the records of his office and turn them over to his successor in office;

(6) make all title searches and examine all abstracts required in public work of any kind, including opening, widening, or changing a street, alley, or public place;

(7) promptly commence all proceedings necessary or advisable for the protection or enforcement of the rights of the city or the public;

(8) use all diligence to collect costs, fees, and recoveries within the scope of his duties;

(9) report, in writing, to the city executive all matters that he considers important; and

(10) report, in writing, to the city fiscal officer all judgments for which the city is liable.

Officers, departments, boards, commissions, and other agencies of the city may not employ attorneys without the authorization of the head of the department of law.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.25.

IC 36-4-10
Chapter 10. City Clerk and Fiscal Officer

IC 36-4-10-1
Application of chapter

Sec. 1. This chapter applies to second and third class cities.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.50.

IC 36-4-10-2
City clerk or city clerk-treasurer; election; fiscal officer; term of office; immunity

Sec. 2. (a) A city clerk shall be elected under IC 3-10-6 by the voters of each second class city, and a city clerk-treasurer shall be elected under IC 3-10-6 by the voters of each third class city.

(b) The city clerk or clerk-treasurer is the clerk of each city.

(c) The city controller appointed under IC 36-4-9-6 is the fiscal officer of each second class city, and the city clerk-treasurer is the fiscal officer of each third class city.

(d) The city controller of a second class city is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the city controller's duty as fiscal officer of the second class city, unless the act or omission constitutes gross negligence or an intentional disregard of the controller's duty.

(e) The term of office of a city clerk or clerk-treasurer is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.51; P.L.5-1986, SEC.52; P.L.67-2002, SEC.5.

IC 36-4-10-2.5
Office space provided

Sec. 2.5. If office space exists in a building owned or leased by the city, the city executive and legislative body shall provide office space for:

(1) the clerk or clerk-treasurer; and

(2) the staff and records of the clerk or clerk-treasurer.

As added by P.L.69-1995, SEC.8.

IC 36-4-10-3
Clerk; eligibility; residence

Sec. 3. (a) A person is eligible to be the clerk only if the person meets the qualifications prescribed by IC 3-8-1-28.

(b) Residency in territory that is annexed by the city before the election is considered residency for the purposes of subsection (a), even if the annexation takes effect less than one (1) year before the election.

(c) The clerk must reside within the city as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The clerk forfeits office if the clerk ceases to be a resident of the city.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.11, SEC.164; P.L.5-1986, SEC.53; P.L.3-1987, SEC.558.

IC 36-4-10-4
Clerk; duties

Sec. 4. The clerk shall do the following:

(1) Serve as clerk of the city legislative body under IC 36-4-6-9 and maintain custody of its records.

(2) Maintain all records required by law.

(3) Keep the city seal.

(4) As soon as a successor is elected and qualified, deliver to the successor all the records and property of the clerk's office.

(5) Perform other duties prescribed by law.

(6) Administer oaths when necessary in the discharge of the clerk's duties, without charging a fee.

(7) Take depositions, without charging a fee.

(8) Take acknowledgement of instruments that are required by statute to be acknowledged, without charging a fee.

(9) Serve as clerk of the city court under IC 33-35-3-2, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under IC 33-35-3-1.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.36-1986, SEC.3; P.L.189-1988, SEC.1; P.L.33-1998, SEC.9; P.L.98-2004, SEC.160.

IC 36-4-10-4.5
Third class cities; fiscal officer; duties

Sec. 4.5. (a) This section applies to third class cities.

(b) The fiscal officer is the head of the city department of finance. The fiscal officer shall do the following:

(1) Receive and care for all city money and pay the money out only on order of the approving body.

(2) Keep accounts showing when and from what sources the fiscal officer has received city money and when and to whom the fiscal officer has paid out city money.

(3) Prescribe payroll and account forms for all city offices.

(4) Prescribe the manner in which creditors, officers, and employees shall be paid.

(5) Manage the finances and accounts of the city and make investments of city money.

(6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.

(7) Issue all licenses authorized by statute and collect the fees fixed by ordinance.

(8) Serve as clerk of the board of public works by attending meetings, preparing agendas, and recording proceedings.

(9) Perform all other duties prescribed by statute.

(c) A fiscal officer is not liable in an individual capacity for an act or omission occurring in connection with the performance of the

duties prescribed by subsection (b), unless the act or omission constitutes gross negligence or an intentional disregard of the fiscal officer's duties.

As added by P.L.189-1988, SEC.2. Amended by P.L.35-1999, SEC.6.

IC 36-4-10-5

Second class cities; fiscal officer; duties

Sec. 5. (a) This section applies to second class cities.

(b) The fiscal officer is the head of the city department of finance. The fiscal officer shall do the following:

(1) Prescribe the form of reports and accounts to be submitted to the department.

(2) Sign and issue all warrants on the city treasury.

(3) Audit and revise all accounts and trusts in which the city is concerned.

(4) Keep separate accounts for each item of appropriation made for each city department, including a statement showing the amount drawn on each appropriation, the unpaid contracts charged against it, and the balance remaining.

(5) At the end of each fiscal year, submit under oath to the city legislative body a report of the accounts of the city published in pamphlet form and showing revenues, receipts, expenditures, and the sources of revenues.

(6) Maintain custody of the records of the department and turn them over to the fiscal officer's successor in office.

(7) Perform duties prescribed by statute concerning the negotiation of city bonds, notes, and warrants.

(8) Keep a register of bonds of the city and of transfers of those bonds.

(9) Manage the finances and accounts of the city and make investments of city money, subject to the ordinances of the legislative body.

(10) Issue city licenses on payment of the license fee.

(11) Collect fees as fixed by ordinance.

(12) Pay into the city treasury, once each week, all fees and other city money collected by the department during the preceding week, specifying the source of each item.

(13) Prescribe payroll and account forms for all city offices.

(14) Prescribe the manner in which salaries shall be drawn.

(15) Prescribe the manner in which creditors, officers, and employees shall be paid.

(16) Provide that all salaries are payable monthly, unless the legislative body establishes more frequent payments.

(17) Notify the city executive of the failure of any city officer to collect money due the city or to pay city money into the city treasury.

(18) Draw warrants on the city treasury for miscellaneous city expenditures not made under the direction of a department and not specifically fixed by statute.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.189-1988,

SEC.3.

IC 36-4-10-5.5
Employment of attorneys or legal research assistants

Sec. 5.5. (a) A clerk or clerk-treasurer may hire or contract with competent attorneys or legal research assistants on terms the clerk or clerk-treasurer considers appropriate.

(b) Employment of an attorney under this section does not affect a city department of law established under IC 36-4-9-4.

(c) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget and must be allocated to the clerk or clerk-treasurer for the payment of attorney's and legal research assistant's salaries.
As added by P.L.69-1995, SEC.9. Amended by P.L.34-1999, SEC.2.

IC 36-4-10-6
Repealed

(*Repealed by P.L.173-2003, SEC.41.)*

IC 36-4-10-7
Third class cities; clerk's deputies and employees

Sec. 7. (a) This section applies to third class cities.

(b) The clerk shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the city legislative body. The clerk's deputies and employees serve at the clerk's pleasure.

(c) If a city owns a utility and the clerk is directly responsible for the billing and collection of that utility's rates and charges, the clerk shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk's pleasure.

(d) Whenever the city court judge does not serve as clerk of the city court or appoint a clerk to serve as clerk of the city court under IC 33-35-3-1, the clerk shall serve as clerk of the city court.
As added by P.L.189-1988, SEC.4. Amended by P.L.33-1998, SEC.10; P.L.98-2004, SEC.161.

IC 36-4-11

Chapter 11. City Deputies and Employees

IC 36-4-11-1

Application of chapter

Sec. 1. This chapter applies to second and third class cities.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.52.

IC 36-4-11-2

Appointments by city executive; exceptions; suspension or removal; appointees serving remainder of unexpired term

Sec. 2. (a) The city executive shall make the appointments prescribed by law. If an emergency requires additional employees for a city office, board, commission, department, institution, or utility, the executive may also appoint those employees.

(b) This subsection does not apply to appointments made under IC 20. An executive may not make an appointment between midnight December 31 and noon January 1 of the last year of the executive's final term of office.

(c) This subsection does not apply to appointments made under IC 20. The executive may remove from office a board or commission member appointed by a prior executive if the appointment was made on or after the date of the general election and:

(1) the prior executive was a candidate for nomination as a party's candidate for election to the office of executive at the primary election held during the last year of the prior executive's term of office and the prior executive was not nominated at that election; or

(2) the prior executive was a candidate for another term of office as executive at the general election held during the last year of the prior executive's term of office and the prior executive was not elected to another term of office at that election;

and if the executive notifies the appointee of the removal and sends a written statement of the reasons for the removal to the city legislative body.

(d) The executive may suspend or remove from office any officers, deputies, or other employees of the city appointed by the executive or a prior executive, by notifying them to that effect and sending a written statement of the reasons for the suspension or removal to the city legislative body.

(e) A person appointed by the executive to fill a vacancy caused by a removal under subsection (c) serves the remainder of the unexpired term of the appointee removed from office under subsection (c).

(f) Notwithstanding any other law, if the term of a member of a board who was appointed by the executive expires and the executive does not make an appointment to fill the vacancy, the member may continue to serve on the board for only sixty (60) days after the

expiration date of the member's term.
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.185-1988, SEC.3; P.L.68-1996, SEC.7.

IC 36-4-11-3
Departments; appointment of deputies and other employees; dismissal

Sec. 3. A department may appoint deputies and other employees at its pleasure, unless a statute provides otherwise. A department may dismiss deputies and other employees, but if thirty (30) days have passed since the department head was appointed, he must file with the city clerk a written statement of the reasons for dismissing any employee other than:

(1) a deputy; or

(2) a foreman, inspector, or laborer temporarily employed by the department of public works.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-11-4
City clerk; appointment of deputies and employees

Sec. 4. The city clerk may appoint the number of deputies and employees authorized by the city legislative body. The clerk's deputies and employees serve at his pleasure.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-11-5
Second class cities; city fiscal officer; appointment of deputy

Sec. 5. (a) This section applies only to second class cities.

(b) The city legislative body may, by ordinance, authorize the city fiscal officer to appoint a deputy. The fiscal officer is responsible for the official acts of his deputy.
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-12

Chapter 12. City Managers for Third Class Cities

IC 36-4-12-1

Application of chapter

Sec. 1. This chapter applies only to third class cities.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-2

Creation of city manager position

Sec. 2. (a) A third class city may employ a nonpartisan city manager to be the administrative head of the city government. To employ a city manager, the executive must initiate an ordinance and the city legislative body must adopt an ordinance creating the city manager position. An ordinance creating the city manager position must state the powers and duties to be assumed by the city manager.

(b) If the city legislative body adopts an ordinance under this chapter to employ a city manager, the city legislative body may adopt an ordinance to permit the executive to perform the duties of the executive on a part-time basis.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-3

Terms of employment and compensation

Sec. 3. The city manager may be employed to serve at the pleasure of the executive who may submit to the city legislative body for approval under IC 36-4-7-3 the city manager's compensation and terms of employment.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-4

Legislative body members barred from position

Sec. 4. The city legislative body may not employ a member of the legislative body as the city manager. A former member of the city legislative body may not be employed as the city manager for a period of two (2) years after leaving office.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-5

Qualifications

Sec. 5. A city may hire a city manager solely on the basis of the applicant's administrative and educational qualifications. The city shall give special deference to actual experience in or knowledge of accepted practices in the field of municipal management.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-6

Political activity

Sec. 6. A city manager may not campaign for or against a candidate for the city legislative body and may not participate in

partisan political activities that would impair the city manager's performance as a professional administrator.
As added by P.L.10-1997, SEC.32.

IC 36-4-12-7
Joint employment by cities

Sec. 7. Two (2) or more cities may employ the same person as the city manager of their respective cities.
As added by P.L.10-1997, SEC.32.

IC 36-4-12-8
Performance bond

Sec. 8. The city manager shall execute a bond for the faithful performance of the city manager's duties in the manner prescribed by IC 5-4-1.
As added by P.L.10-1997, SEC.32.

IC 36-4-12-9
Acting manager

Sec. 9. The executive may appoint a qualified person to perform the duties of the city manager whenever the city manager is absent or unable to perform the city manager's duties.
As added by P.L.10-1997, SEC.32.

IC 36-4-12-10
Powers and duties

Sec. 10. The city manager, under the direction of the executive, is responsible for the administrative duties of the city. The powers and duties of the city manager must be stated in the ordinance creating the city manager position. The city manager's powers and duties may include:

(1) attending the meetings of the legislative body and recommending actions the city manager considers advisable;
(2) hiring city employees according to the pay schedules and standards fixed by the legislative body or by statute;
(3) suspending, discharging, removing, or transferring city employees;
(4) delegating any of the city manager's powers to an employee responsible to the city manager;
(5) administering and enforcing all ordinances, orders, and resolutions of the legislative body;
(6) ensuring that all statutes that are required to be administered by the legislative body or a city employee subject to the control of the legislative body are faithfully administered;
(7) preparing budget estimates and submitting them to the legislative body when required;
(8) executing contracts on behalf of the city for materials, supplies, services, or improvements after the completion of the appropriations, notice, and competitive bidding required by statute;

(9) receiving service of summons on behalf of the city;
(10) administering the city's economic development plans and projects;
(11) advising the executive, city legislative body, and public on the conduct of city affairs;
(12) making recommendations on policy formulation;
(13) recommending and executing city improvements;
(14) serving on the board of public works and safety; and
(15) other powers and duties determined to be advisable by the executive and legislative body.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-11
Police and fire disciplinary body membership barred

Sec. 11. The city manager may not serve as a member of any body that hears disciplinary charges against:
(1) the city police chief;
(2) a member of the city police department;
(3) the city fire chief; or
(4) a member of the city fire department.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-12
Bonds, notes, or warrants; prohibition

Sec. 12. The city legislative body may not authorize the city manager to issue or execute bonds, notes, or warrants of the city.

As added by P.L.10-1997, SEC.32.

IC 36-4-13

Chapter 13. Legislative Body Youth Adviser

IC 36-4-13-1

Appointment of youth adviser

Sec. 1. The presiding officer of the legislative body of a municipality may appoint an individual who is not more than eighteen (18) years of age to serve as an adviser to the legislative body on matters affecting youth in the community.

As added by P.L.69-2008, SEC.2.

IC 36-4-13-2

Youth adviser not a member

Sec. 2. An individual appointed under section 1 of this chapter is not a member of the legislative body.

As added by P.L.69-2008, SEC.2.

IC 36-5

ARTICLE 5. GOVERNMENT OF TOWNS

IC 36-5-1

Chapter 1. Incorporation; Dissolution

IC 36-5-1-1

Application of chapter

Sec. 1. This chapter applies to all towns except an included town (as defined in IC 36-3-1-7).

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.5-1989, SEC.105.

IC 36-5-1-2

Proceedings to incorporate; petition; contents; signatures; number of petitioners

Sec. 2. (a) Proceedings to incorporate a town may be instituted by filing a petition in quadruplicate with the executive of each county in which a part of the territory sought to be incorporated is located. The petition must be signed by at least fifty (50) owners of land in the territory and must state that:

(1) the territory is used or will, in the reasonably foreseeable future, be used generally for commercial, industrial, residential, or similar purposes;

(2) the territory is reasonably compact and contiguous;

(3) there is enough undeveloped land in the territory to permit reasonable growth of the town; and

(4) incorporation is in the best interests of the citizens of the territory.

(b) The signatures of the petitioners must be verified, and the verification must include a statement that the petitioners are owners of land in the territory sought to be incorporated.

(c) In determining the number of petitioners, not more than one (1) person having an interest in a single parcel of land may be counted, and a person owning more than one (1) parcel of land in the area may be counted only once.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.195-1984, SEC.1; P.L.86-1999, SEC.1.

IC 36-5-1-3

Items to accompany petition

Sec. 3. A petition for incorporation must be accompanied by the following items, to be supplied at the expense of the petitioners:

(1) A survey, certified by a surveyor registered under IC 25-21.5, showing the boundaries of and quantity of land contained in the territory sought to be incorporated.

(2) An enumeration of the territory's residents and landowners and their mailing addresses, completed not more than thirty (30) days before the time of filing of the petition and verified by the persons supplying it.

(3) A statement of the assessed valuation of all real property within the territory, certified by the township assessor of the township in which the territory is located, or the county assessor if there is no township assessor for the township.

(4) A statement of the services to be provided to the residents of the proposed town and the approximate times at which they are to be established.

(5) A statement of the estimated cost of the services to be provided and the proposed tax rate for the town.

(6) The name to be given to the proposed town.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.241-1999, SEC.3; P.L.219-2007, SEC.115; P.L.146-2008, SEC.707.

IC 36-5-1-4

Filing of petition; requirements; forwarding of copies; investigation; recommendations

Sec. 4. (a) On receipt of a petition for incorporation, the county executive shall examine it to see that it meets the requirements of sections 2 and 3 of this chapter. If the petition is in order, the executive shall mark it with the date of filing and immediately forward one (1) copy to the plan commission, if any, having jurisdiction.

(b) The commission shall investigate the proposed incorporation and report their recommendations of approval or disapproval to the county executive at least ten (10) days before the hearing required by section 5 of this chapter. In making their investigations, they may use the services of any state or local government agency, and in making their report and recommendations, they shall be guided by the requirements for incorporation set out in section 8 of this chapter.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.24-1995, SEC.25.

IC 36-5-1-5

Public hearing on petition; notice

Sec. 5. The county executive shall hold a public hearing on a petition for incorporation not less than sixty (60) nor more than ninety (90) days after the date of the filing of the petition, and shall require the petitioners to send notice of the hearing by certified mail to:

(1) the residents and landowners of the territory as listed in the petition;

(2) the legislative body of each municipality having any corporate boundary within three (3) miles of the perimeter of the proposed new town;

(3) the executive of any other county in which a part of the proposed new town is located; and

(4) the executive of a township in which all or a part of the proposed new town is located.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-1-6
Parties entitled to be heard; remonstrance; dismissal of petition

Sec. 6. The recipients of the notice required by section 5 of this chapter are parties to and are entitled to be heard at the public hearing. The petition for incorporation shall be dismissed if at any time during the incorporation proceedings, including an appeal, the county executive or a court hearing an appeal is presented with a verified remonstrance against incorporation, signed by at least:

(1) fifty-one percent (51%) of the owners of a fee simple interest in real property in the affected territory; or

(2) the owners of seventy-five percent (75%), in assessed valuation, of the real property in the affected territory.

The executive or court may determine the validity of the remonstrance by submitting it to the county auditor for verification.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-1-7
Incorporating town within certain distance of city corporate boundaries; consent by city ordinance; application

Sec. 7. (a) The county executive must obtain the consent by ordinance of the legislative body of a consolidated city before incorporating a town if any part of the proposed town is within four (4) miles of the corporate boundaries of the city.

(b) The county executive must obtain the consent by ordinance of the legislative body of a second or third class city before incorporating a town if any part of the proposed town is within three (3) miles of the corporate boundaries of the city.

(c) Subsection (b) does not apply to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
As added by Acts 1980, P.L.212, SEC.4. Amended by Acts 1982, P.L.1, SEC.58; P.L.195-1984, SEC.2; P.L.5-1988, SEC.212; P.L.12-1992, SEC.161.

IC 36-5-1-7.1
County executive of certain counties; exemption from consent requirements

Sec. 7.1. The executive of a county having a population of more than seventy thousand (70,000) but less than seventy thousand fifty (70,050) is exempt from:

(1) the requirements of section 7(a) of this chapter; and

(2) the requirements of section 7(b) of this chapter if the second or third class city is within a county containing a consolidated city.

As added by Acts 1982, P.L.210, SEC.1. Amended by P.L.12-1992, SEC.162; P.L.170-2002, SEC.145; P.L.119-2012, SEC.191.

IC 36-5-1-8
Approval of petition; required findings

Sec. 8. The county executive may approve a petition for

incorporation only if it finds all of the following:

(1) That the proposed town is used or will, in the reasonably foreseeable future, be used generally for commercial, industrial, residential, or similar purposes.

(2) That the proposed town is reasonably compact and contiguous.

(3) That the proposed town includes enough territory to allow for reasonable growth in the foreseeable future.

(4) That a substantial majority of the property owners in the proposed town have agreed that at least six (6) of the following municipal services should be provided on an adequate basis:

(A) Police protection.

(B) Fire protection.

(C) Street construction, maintenance, and lighting.

(D) Sanitary sewers.

(E) Storm sewers.

(F) Health protection.

(G) Parks and recreation.

(H) Schools and education.

(I) Planning, zoning, and subdivision control.

(J) One (1) or more utility services.

(K) Stream pollution control or water conservation.

(5) That the proposed town could finance the proposed municipal services with a reasonable tax rate, using the current assessed valuation of properties as a basis for calculation.

(6) That incorporation is in the best interest of the territory involved. This finding must include a consideration of:

(A) the expected growth and governmental needs of the area surrounding the proposed town;

(B) the extent to which another unit can more adequately and economically provide essential services and functions; and

(C) the extent to which the incorporators are willing to enter into agreements under IC 36-1-7 with the largest neighboring municipality, if that municipality has proposed such agreements.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.195-1984, SEC.3.

IC 36-5-1-9
Denied petition; resubmittal

Sec. 9. A petition for incorporation that is denied may not be resubmitted within one (1) year after the date of final denial.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-1-10
Repealed

(*Repealed by Acts 1980, P.L.2, SEC.20.)*

IC 36-5-1-10.1
Adoption of ordinance incorporating town; required provisions to

conduct elections; territory not included in any district or in more than one district; effective date of ordinance

Sec. 10.1. (a) Except as provided in subsection (g), if the county executive makes the findings required by section 8 of this chapter, it may adopt an ordinance incorporating the town. The ordinance must:

(1) provide that:

(A) all members of the town legislative body are to be elected at large (if the town would have a population of less than three thousand five hundred (3,500); or

(B) divide the town into not less than three (3) nor more than seven (7) districts; and

(2) direct the county election board to conduct an election in the town on the date of the next general or municipal election to be held in any precincts in the county.

An election conducted under this section must comply with IC 3 concerning town elections. If, on the date that an ordinance was adopted under this section, absentee ballots for a general or municipal election have been delivered under IC 3-11-4-15 for voters within a precinct in the town, the election must be conducted on the date of the next general or municipal election held in any precincts in the county after the election for which absentee balloting is being conducted. However, a primary election may not be conducted before an election conducted under this section, regardless of the population of the town.

(b) Districts established by an ordinance adopted under this section must comply with IC 3-11-1.5.

(c) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(d) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(e) Except as provided in subsection (f), an ordinance adopted under this section becomes effective when filed with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of each county in which the town is located.

(f) An ordinance incorporating a town under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance under this section that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January

1 of the year in which a federal decennial census is conducted.

(g) Proceedings to incorporate a town across county boundaries must have the approval of the county executive of each county that contains a part of the proposed town. Each county that contains a part of the proposed town must adopt identical ordinances providing for the incorporation of the town.

(h) Notwithstanding subsection (f) as that subsection existed on December 31, 2009, an ordinance that took effect January 2, 2010, because of the application of subsection (f), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without the adoption of an ordinance or an amended ordinance or any other additional action being required.

As added by Acts 1980, P.L.2, SEC.16. Amended by P.L.5-1983, SEC.12; P.L.5-1986, SEC.54; P.L.13-1988, SEC.19; P.L.5-1989, SEC.106; P.L.7-1990, SEC.61; P.L.3-1993, SEC.268; P.L.3-1997, SEC.457; P.L.86-1999, SEC.2; P.L.123-2000, SEC.5; P.L.113-2010, SEC.123.

IC 36-5-1-11

Liability for existing indebtedness or other obligations; payment to township

Sec. 11. (a) If the township in which a new town is incorporated is indebted or has outstanding unpaid bonds or other obligations at the time of the incorporation, the town is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the town bears to the assessed valuation of all property in the township, as shown by the most recent assessment for taxation before the incorporation, unless the assessed property within the town is already liable for the indebtedness.

(b) The town shall pay its indebtedness under this section to the township executive. If the indebtedness consists of outstanding unpaid bonds or notes of the township, the payments to the township executive shall be made as the principal or interest on the bonds or notes becomes due.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-1-11.5

Localities considered towns for all purposes

Sec. 11.5. A locality that:

(1) has elected town officers and has governed itself as a town for at least ten (10) years preceding September 1, 1988; or

(2) has been incorporated under this chapter after August 31, 1988;

is a town for all purposes unless the town has been dissolved under this chapter or IC 36-5-1.1.

As added by P.L.1-1989, SEC.69.

IC 36-5-1-12

Proceedings to dissolve or change name; petition, signatures, and reasons; census

Sec. 12. (a) Proceedings to dissolve a town may be instituted under either this section or IC 36-5-1.1.

(b) A proceeding under this section may be instituted to either dissolve the town or change its name. The proceeding is instituted by filing a petition with the town clerk. The petition must be signed by at least the number of the voters of the town required to place a candidate on the ballot under IC 3-8-6-3, must be verified by at least one (1) of the petitioners, and must include the reasons for the dissolution or change of name.

(c) A census of all the voters of the town, taken within ten (10) days before the filing of the petition, must be filed with the petition. The person who prepared the census must, by affidavit attached to the census, verify that the census is correct.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.342-1987, SEC.1; P.L.12-1995, SEC.129.

IC 36-5-1-13

Bond for costs and expenses

Sec. 13. A petition and census filed under section 12 of this chapter must be accompanied by a bond for costs and expenses, payable to and approved by the town legislative body. The petitioners shall pay all costs and expenses incurred under this chapter, including the expenses of an election, if their petition is not successful.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-1-14

Notice of filing of petition, census, and day of hearing

Sec. 14. When a petition and census are filed under section 12 of this chapter, the town clerk shall give notice of the filing and of the day of a hearing on the petition and census, in the manner prescribed by IC 5-3-1.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-1-15

Hearing; withdrawal of petitioner's name; decision

Sec. 15. (a) On the date named in the notice given under section 14 of this chapter, the town legislative body shall hear and consider:

(1) the petition and census; and

(2) all statements presented in favor of or in opposition to granting the petition.

The legislative body shall then decide whether there is sufficient cause to submit the question of dissolving the town or changing its name to the voters of the town.

(b) A petitioner who wants to withdraw his name from the petition must do so before the legislative body makes its decision. The legislative body may not count names withdrawn from the petition as part of the total required by section 12 of this chapter.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-1-16
Dissolution or change of name; date of election; notice

Sec. 16. If the town legislative body decides to submit the question of dissolving the town or changing its name to the voters of the town, it shall certify the question to the county election board. The election board shall fix the date of an election for that purpose. The town clerk shall give notice of the election in the manner prescribed by IC 5-3-1.

As added by Acts 1980, P.L.212, SEC.4. Amended by Acts 1981, P.L.45, SEC.15; P.L.3-1987, SEC.559.

IC 36-5-1-17
Election; ballots; clerk's statement of votes cast

Sec. 17. (a) An election under section 16 of this chapter shall be held in the town. The voters shall, by ballot, vote on the question submitted to them. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the town of _____ dissolve?" or "Shall the town of _____ change its name to _____?".

(b) Within four (4) days after the canvass of the vote by the county election board, the town clerk shall prepare and attest a statement of all the votes cast at the election, to be signed by the members of the county election board and filed with:

(1) the clerk of the county in which the greatest percentage of the population of the town is located; and

(2) the office of the secretary of state.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.3-1987, SEC.560; P.L.5-1989, SEC.107; P.L.3-1997, SEC.458; P.L.123-2000, SEC.6.

IC 36-5-1-18
Number of votes and voters required; effective dates of change of name and dissolution; disposition of property; validity of contracts

Sec. 18. (a) If at least two-thirds (2/3) of the votes cast in an election under section 16 of this chapter are affirmative, and at least four-fifths (4/5) of all the voters listed in the census voted in the election, the dissolution or change of name takes effect in the manner prescribed by this section.

(b) A change of name takes effect thirty (30) days after the filing of the statement required by section 17 of this chapter.

(c) Except as provided in subsection (d), a dissolution takes effect six (6) months after the filing of the statement required by section 17 of this chapter. The property owned by the town after payment of debts and liabilities shall be disposed of in the manner chosen by a majority of the voters of the town at a special election for that purpose. Dissolution of a town does not affect the validity of a contract to which the town is a party.

(d) A dissolution under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution that would otherwise take effect during the

year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(e) Notwithstanding subsection (d) as that subsection existed on December 31, 2009, a dissolution that took effect January 2, 2010, because of the application of subsection (d), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.5-1989, SEC.108; P.L.113-2010, SEC.124.

IC 36-5-1-19

Aggrieved persons; appeal; procedure

Sec. 19. (a) A person aggrieved by a decision made by the town legislative body under section 15 of this chapter or by the result of an election under section 16 of this chapter may, within thirty (30) days, appeal that decision or result to the circuit court for the county in which the town is located. The appeal is instituted by giving written notice to the town legislative body and filing with the town clerk a bond in the sum of five hundred dollars ($500), with surety approved by the legislative body. The bond must provide that the appeal will be duly prosecuted and that the appellants will pay all costs if the appeal is decided against them.

(b) When an appeal is instituted, the town clerk shall file with the clerk of the circuit court a transcript of all proceedings in the case, together with all papers filed in the case. The town legislative body may not take further action in the case until the appeal is heard and determined.

(c) An appeal under this section shall be heard by the circuit court without a jury. Change of venue from the judge may be granted, but change of venue from the county may not be granted.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-1-20

Towns not functioning for ten years; hearing; findings; adoption of ordinance or ordering dissolution

Sec. 20. (a) This section does not apply to a town described by IC 36-5-1-11.5.

(b) A town subject to this chapter may be dissolved if the county election board of the county in which the greatest percentage of population of the town is located conducts a public hearing and finds that the town has not elected town officers or had a functioning town government during the preceding ten (10) years.

(c) The county election board shall certify the board's findings to the county executive, who may adopt an ordinance or (in a county subject to IC 36-2-3.5) issue an order to dissolve the town.

As added by P.L.3-1993, SEC.269.

IC 36-5-1-21

Approvals of proceedings to incorporate town across county

boundaries commenced before July 1, 1999

Sec. 21. Notwithstanding sections 2 and 10.1 of this chapter, as in effect July 1, 1999, proceedings commenced before July 1, 1999, to incorporate a town across county boundaries is only required to have the approval of the county executive of the county that contains all or a major part of the territory sought to be incorporated.

As added by P.L.220-2011, SEC.653.

IC 36-5-1.1

Chapter 1.1. Dissolution of Small Towns

IC 36-5-1.1-1

Application of chapter

Sec. 1. This chapter applies to:

(1) towns having a population of less than five hundred (500); and

(2) included towns (as defined in IC 36-3-1-7).

As added by P.L.342-1987, SEC.2. Amended by P.L.5-1989, SEC.109.

IC 36-5-1.1-2

Institution of proceedings

Sec. 2. (a) Proceedings to dissolve a town may be instituted under section 10.5 or 10.6 of this chapter or by filing with the executive of the county containing more than fifty percent (50%) in assessed valuation of the land in the town:

(1) a resolution adopted by the town legislative body requesting dissolution; or

(2) a petition signed by at least twenty-five percent (25%) of the town's voters registered at the last general election.

(b) On receipt of a petition or resolution for dissolution, the county executive shall mark the petition or resolution with the date of filing.

As added by P.L.342-1987, SEC.2. Amended by P.L.5-1989, SEC.110; P.L.4-1991, SEC.143.

IC 36-5-1.1-3

Public hearing; notice

Sec. 3. The county executive shall hold a public hearing on a petition or resolution for dissolution filed under section 2 of this chapter not less than sixty (60) nor more than ninety (90) days after the date of the filing of the petition or resolution. The county executive shall publish notice of the hearing in accordance with IC 5-3-1.

As added by P.L.342-1987, SEC.2.

IC 36-5-1.1-4

Recommendations of plan commission

Sec. 4. (a) The county executive shall forward one (1) copy of the resolution or petition filed under section 2 of this chapter to the plan commission, if any, having jurisdiction.

(b) The plan commission shall submit their written recommendations for approval or disapproval of dissolution to the county executive at least ten (10) days before the hearing required by section 3 of this chapter.

As added by P.L.342-1987, SEC.2. Amended by P.L.24-1995, SEC.26.

IC 36-5-1.1-5
Parties; remonstrance against dissolution; dismissal of petition

Sec. 5. The recipients of the notice required by section 3 of this chapter are parties to and are entitled to be heard at the public hearing. The petition for dissolution shall be dismissed if at any time during the dissolution proceedings, including an appeal, the county executive or a court hearing an appeal is presented with a verified remonstrance against dissolution, signed by at least twenty-five percent (25%) of the town's voters registered at the last general election. The executive or court may determine the validity of the remonstrance by submitting it to the clerk of the circuit court for the county where the voter resides for verification.
As added by P.L.342-1987, SEC.2.

IC 36-5-1.1-6
Decision of county executive

Sec. 6. The county executive shall, on the date fixed under section 3 of this chapter, hear and determine the petition or resolution and render a decision on the question of dissolution.
As added by P.L.342-1987, SEC.2.

IC 36-5-1.1-7
Evidentiary considerations

Sec. 7. At the hearing the county executive shall approve dissolution unless the evidence establishes that:

(1) the petition requesting dissolution has not been signed by at least twenty-five percent (25%) of the voters;

(2) there are enough invalid signatures on the petition requesting dissolution to reduce the number of valid signatures to below twenty-five percent (25%) of the voters;

(3) at least twenty-five percent (25%) of the town's voters have signed a petition under section 5 of this chapter remonstrating against the dissolution; or

(4) the town legislative body has passed a resolution opposing dissolution.

As added by P.L.342-1987, SEC.2.

IC 36-5-1.1-8
Residents' challenge to sufficiency or validity of petition

Sec. 8. The county executive shall permit the residents of the town to submit evidence challenging the sufficiency or the validity of either:

(1) a petition or resolution for dissolution; or

(2) a petition opposed to dissolution.

As added by P.L.342-1987, SEC.2.

IC 36-5-1.1-9
Appeal; notice; bond; transcript; change of venue; effective date of dissolution

Sec. 9. (a) A person aggrieved by a decision made by the county

executive under section 6 of this chapter may, within thirty (30) days, appeal that decision or result to the circuit court for the county containing more than fifty percent (50%) in assessed valuation of the land in the town. The appeal is instituted by giving written notice to the clerk of the circuit court and filing with the county executive a bond for five hundred dollars ($500), with surety approved by the county executive. The bond must provide:

(1) that the appeal will be duly prosecuted; and

(2) that the appellants will pay all costs if the appeal is decided against them.

(b) When an appeal is instituted, the county executive shall file with the clerk of the circuit court a transcript of all proceedings in the case, together with all papers filed in the case. The county executive may not take further action in the case until the appeal is heard and determined.

(c) An appeal under this section shall be heard by the circuit court without a jury. Change of venue from the judge may be granted, but change of venue from the county may not be granted. If the court orders the dissolution to take place, the circuit court clerk shall, immediately after the judgment of the court, certify the judgment of the circuit court to:

(1) the clerk of the municipality;

(2) the circuit court clerk of any other county in which the town is located; and

(3) the office of the secretary of state.

(d) Except as provided in subsection (e), the dissolution takes effect sixty (60) days after the order is certified.

(e) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding the year in which the federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(f) Notwithstanding subsection (e) as that subsection existed on December 31, 2009, a dissolution that took effect January 2, 2010, because of the application of subsection (e), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

As added by P.L.342-1987, SEC.2. Amended by P.L.5-1989, SEC.111; P.L.3-1997, SEC.459; P.L.123-2000, SEC.7; P.L.113-2010, SEC.125.

IC 36-5-1.1-10

Dissolution ordinance; effective date; disposition of property; validity of contracts; records

Sec. 10. (a) If the county executive approves dissolution under section 6 of this chapter, the county executive shall adopt:

(1) an ordinance; or

(2) an order in a county having a consolidated city;

dissolving the town.

(b) Except as provided in subsection (e), a dissolution takes effect:

(1) at least sixty (60) days after the ordinance or order under subsection (a) is adopted; and

(2) when the county auditor files a copy of the ordinance or order with:

(A) the circuit court clerk of each county in which the town is located; and

(B) the office of the secretary of state.

(c) The property owned by the town after payment of debts and liabilities shall be disposed of by the county executive. Any proceeds remaining shall be deposited in the county general fund. Dissolution of a town does not affect the validity of a contract to which the town is a party.

(d) After dissolution, the books and records of the town become the property of the county executive for safekeeping.

(e) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(f) Notwithstanding subsection (e) as that subsection existed on December 31, 2009, a dissolution that took effect January 2, 2010, because of the application of subsection (e), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

As added by P.L.342-1987, SEC.2. Amended by P.L.5-1989, SEC.112; P.L.10-1992, SEC.29; P.L.3-1997, SEC.460; P.L.123-2000, SEC.8; P.L.113-2010, SEC.126.

IC 36-5-1.1-10.5

Dissolution of town; requisites of resolution; notice; hearing; adoption of ordinance; effective date of dissolution; validity of town contracts

Sec. 10.5. (a) This section applies to the dissolution of an included town.

(b) The town legislative body may adopt a resolution to consider dissolution of the town under this section. The resolution must state the following:

(1) That the town legislative body conduct a public hearing at a stated date, place, and time concerning the dissolution of the town.

(2) That the town legislative body will hear all statements presented in favor of or in opposition to dissolution.

(3) That the town legislative body may adopt an ordinance to dissolve the town at the conclusion of the public hearing.

(c) The town clerk shall publish a notice of the public hearing in accordance with IC 5-3-1.

(d) The town legislative body may continue a public hearing

under this section. If a hearing is continued, the clerk is not required to publish an additional notice under subsection (c).

(e) The town legislative body may adopt an ordinance following the conclusion of the public hearing under subsection (b). The town clerk shall file a copy of the ordinance with:

(1) the circuit court clerk of the county; and

(2) the office of the secretary of state.

(f) Except as provided in subsection (g), the ordinance dissolving the town takes effect:

(1) at least sixty (60) days after adoption; and

(2) when the ordinance is filed under subsection (e).

(g) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding a year in which the federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(h) When an ordinance dissolving a town becomes effective:

(1) the territory included within the town when the ordinance was adopted becomes a part of the consolidated city;

(2) the books and records of the town become the property of the county executive;

(3) the property owned by the town after payment of debts and liabilities shall be disposed of by the county executive; and

(4) the county executive shall deposit any proceeds remaining after payment of debts and liabilities into the county general fund.

(i) The dissolution of a town under this section does not affect the validity of a contract to which the town is a party.

(j) Notwithstanding subsection (g) as that subsection existed on December 31, 2009, a dissolution that took effect January 2, 2010, because of the application of subsection (g), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

As added by P.L.5-1989, SEC.113. Amended by P.L.3-1997, SEC.461; P.L.123-2000, SEC.9; P.L.113-2010, SEC.127.

IC 36-5-1.1-10.6

Included towns; petition; ballot question; filing certification; time of dissolution; year preceding census year; results of dissolution; contracts

Sec. 10.6. (a) This section applies to included towns.

(b) The dissolution of a town under this section may be instituted by filing a petition with the county board of registration. The petition must be signed by at least the number of the registered voters of the town required to place a candidate on the ballot under IC 3-8-6-3. The petition must be filed not later than June 1 of a year in which a general or municipal election will be held.

(c) If a petition meets the criteria set forth in subsection (b), the county board of registration shall certify the public question to the

county election board under IC 3-10-9-3. The county election board shall place the question of dissolution on the ballot provided for voters in the included town at the first general or municipal election following certification. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the town of _____ dissolve?".

(d) If the public question is approved by a majority of the voters voting on the question, the county election board shall file a copy of the certification prepared under IC 3-12-4-9 concerning the public question described by this section with the following:

(1) The circuit court clerk of the county.

(2) The office of the secretary of state.

(e) Except as provided in subsection (f), dissolution occurs:

(1) at least sixty (60) days after certification under IC 3-12-4-9; and

(2) when the certification is filed under subsection (d).

(f) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding a year in which the federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(g) When a town is dissolved under this section:

(1) the territory included within the town when the ordinance was adopted becomes a part of the consolidated city;

(2) the books and records of the town become the property of the county executive;

(3) the property owned by the town after payment of debts and liabilities shall be disposed of by the county executive; and

(4) the county executive shall deposit any proceeds remaining after payment of debts and liabilities into the county general fund.

(h) The dissolution of a town under this section does not affect the validity of a contract to which the town is a party.

(i) Notwithstanding subsection (f) as that subsection existed on December 31, 2009, a dissolution that took effect January 2, 2010, because of the application of subsection (f), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

As added by P.L.4-1991, SEC.144. Amended by P.L.3-1993, SEC.270; P.L.12-1995, SEC.130; P.L.3-1997, SEC.462; P.L.123-2000, SEC.10; P.L.113-2010, SEC.128.

IC 36-5-1.1-11

Limitation

Sec. 11. If a dissolution proceeding under this chapter is unsuccessful, the person seeking dissolution may not attempt a new proceeding under this chapter or IC 36-5-1 for at least one (1) year following the hearing under section 3 or 10.5 of this chapter or the election under section 10.6 of this chapter.

As added by P.L.342-1987, SEC.2. Amended by P.L.5-1989, SEC.114; P.L.4-1991, SEC.145.

IC 36-5-1.1-12
Towns not functioning for ten years; hearing; findings; adoption of ordinance or ordering dissolution

Sec. 12. (a) This section does not apply to a town described by IC 36-5-1-11.5.

(b) A town subject to this chapter may be dissolved if the county election board of the county in which the greatest percentage of population of the town is located conducts a public hearing and finds that the town has not elected town officers or had a functioning town government during the preceding ten (10) years.

(c) The county election board shall certify the board's findings to the county executive, who may adopt an ordinance or (in a county having a consolidated city or subject to IC 36-2-3.5) issue an order to dissolve the town.

As added by P.L.3-1993, SEC.271.

IC 36-5-1.2

Chapter 1.2. Change of Name of a Small Town

IC 36-5-1.2-1

Applicability of chapter; other applicable provisions

Sec. 1. (a) This chapter applies to towns having a population of less than five hundred (500).

(b) A town may change the town's name under this chapter or IC 36-5-1.

As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-2

Petition to change name; conditions; bond

Sec. 2. A proceeding to change the name of a town may be instituted under this chapter by filing with the town clerk-treasurer a petition that meets the following conditions:

(1) The petition must be signed by a majority of the registered voters of the town.

(2) The petition must be verified by at least one (1) of the petitioners.

(3) The petition must contain a statement of the proposed new name of the town and the reasons to change the town's name.

(4) The petitioners agree to pay all costs and expenses incurred by the town if the petition is unsuccessful.

(5) The petition must be accompanied by a bond that meets the following conditions:

(A) The bond is payable to the town.

(B) The bond is for costs and expenses incurred under this chapter if the petitioners do not pay the costs and expenses.

(C) The bond is satisfactory to the town legislative body.

As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-3

Withdrawal from petition

Sec. 3. (a) A petitioner may withdraw from the petition before the town legislative body makes a decision on the petition under section 6 of this chapter.

(b) In determining whether a sufficient number of registered voters have signed the petition, the legislative body may not consider names withdrawn from the petition under this section.

As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-4

Notice of petition filing and hearing

Sec. 4. If a petition is filed under section 2 of this chapter, the town clerk-treasurer shall give notice under IC 5-3-1 of the following:

(1) The filing of the petition.

(2) The day, time, and place of a hearing on the petition.

As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-5
Hearing to consider petition

Sec. 5. On the day and time set in the notice given under section 4 of this chapter, the town legislative body shall hear and consider the petition.

As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-6
Adoption of resolution for name change

Sec. 6. If after the hearing held under section 5 of this chapter, the town legislative body decides to change the name of the town as requested by the petition, the legislative body must, by a majority vote, adopt a resolution to change the name of the town.

As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-7
Appeal of decision; standing

Sec. 7. A person aggrieved by a decision made by the town legislative body under section 6 of this chapter may appeal the decision to the circuit court with jurisdiction in the county in which the town is located.

As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-8
Appeal of decision; notice and bond

Sec. 8. To begin an appeal under section 7 of this chapter, a person must do the following not more than thirty (30) days after adoption of the resolution by the town legislative body:

(1) Give written notice of the appeal to the legislative body.

(2) File a bond with the town clerk-treasurer that meets the following conditions:

(A) Is in the amount of five hundred dollars ($500).

(B) Has surety on the bond approved by the legislative body.

(C) Provides the following:

(i) The appeal will be duly prosecuted.

(ii) The appellants will pay all costs of the appeal if the appeal is decided against the appellants.

As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-9
Appeal of decision; clerk of court filings

Sec. 9. If section 8 of this chapter is satisfied, the town clerk-treasurer shall file the following with the clerk of the circuit court:

(1) A transcript of all proceedings in the case.

(2) All papers filed in the case.

As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-10
Stay of name change

Sec. 10. The town legislative body may not take further action in the case until the appeal is heard and determined.
As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-11
Determination of appeal without jury; change of venue

Sec. 11. (a) The circuit court shall hear an appeal under this chapter without a jury.

(b) Change of venue from the judge may be granted, but change of venue from the county may not be granted.
As added by P.L.258-1993, SEC.1.

IC 36-5-1.2-12
Certification of resolution not appealed

Sec. 12. If an appeal has not been filed, not later than thirty (30) days after adoption of the resolution by the town legislative body, the town clerk-treasurer shall send a certified copy of the resolution to each of the following:

(1) The clerk of the circuit court of each county in which the town is located.

(2) The plan commission having jurisdiction, if any.

(3) The office of the secretary of state.

As added by P.L.258-1993, SEC.1. Amended by P.L.24-1995, SEC.27; P.L.3-1997, SEC.463; P.L.123-2000, SEC.11.

IC 36-5-1.2-13
Effective date of name change

Sec. 13. A change of the town's name takes effect thirty (30) days after the later of the following:

(1) Adoption of the resolution by the town legislative body under section 6 of this chapter.

(2) Any appeals under this chapter are determined.

As added by P.L.258-1993, SEC.1.

IC 36-5-2

Chapter 2. Town Legislative Body and Executive

IC 36-5-2-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 9.8 and 10 of this chapter by P.L.335-1985 do not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.335-1985 had not been enacted.

As added by P.L.220-2011, SEC.654.

IC 36-5-2-1

Application of chapter

Sec. 1. This chapter applies to all towns.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-2-2

Town council; president

Sec. 2. The town council elected under IC 3-10-6 or IC 3-10-7 is the town legislative body. The president of the town council selected under section 7 of this chapter is the town executive.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.5-1986, SEC.55; P.L.8-1989, SEC.97.

IC 36-5-2-3

Term of office of members

Sec. 3. (a) Except as provided in subsection (b), (c), (d), (e), or (f), the term of office of a member of the legislative body is four (4) years, beginning at noon January 1 after the member's election and continuing until the member's successor is elected and qualified.

(b) The term of office of a member of the legislative body appointed to fill a vacancy resulting from an increase in the number of town legislative body members under section 4.2 of this chapter:

(1) begins when the ordinance increasing the number of legislative body members takes effect, or when the member is appointed under IC 3-13-9-4, if the appointment is made after the ordinance takes effect; and

(2) continues until noon January 1 following the next municipal election scheduled under IC 3-10-6-5 or IC 3-10-7-6 and until the member's successor is elected and qualified.

(c) The term of office of a member of the legislative body elected under IC 36-5-1-10.1 following the incorporation of the town:

(1) begins at noon November 30 following the election; and

(2) continues until noon January 1 following the next municipal election scheduled under IC 3-10-6-5 or IC 3-10-7-6 and until the member's successor is elected and qualified.

(d) The term of office of a member of the legislative body subject

to IC 3-10-6-2.5(d)(1) is three (3) years, beginning at noon January 1 after the member's election and continuing until the member's successor is elected and qualified.

(e) The term of office of a member of a legislative body subject to an ordinance described by IC 3-10-6-2.6 is one (1) year, beginning at noon January 1 after the member's election and continuing until the member's successor is elected and qualified.

(f) The term of office of a member of a legislative body subject to an ordinance described by IC 3-10-7-2.7 is:

(1) three (3) years if the member is elected at the next municipal election not conducted in a general election year; and

(2) four (4) years for the successors of a member of a legislative body described in subdivision (1);

beginning noon January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.3-1993, SEC.272; P.L.4-1996, SEC.103.

IC 36-5-2-4
Repealed

(*Repealed by Acts 1980, P.L.2, SEC.20.)*

IC 36-5-2-4.1
Town legislative body districts; standards; crossing precinct boundaries; appeal; when division to be made; towns of less than 3,500 abolishing districts; ordinances

Sec. 4.1. (a) The legislative body may, by ordinance, divide the town into districts for the purpose of conducting elections of town officers.

(b) A town legislative body district must comply with the following standards:

(1) The district must be composed of contiguous territory, except for territory that is not contiguous to any other part of the town.

(2) The district must be reasonably compact.

(3) The district must contain, as nearly as is possible, equal population.

(4) The district may not cross a census block boundary except when following a precinct boundary line or unless the ordinance specifies that the census block has no population and is not likely to ever have population.

(5) The district may not cross precinct lines, except as provided in subsection (c).

(c) The boundary of a town legislative body district established under subsection (a) may cross a precinct boundary line if:

(1) the legislative body provides by ordinance under section 5 of this chapter that all legislative body members are to be elected at large by the voters of the whole town; or

(2) the district would not otherwise contain, as nearly as is possible, equal population.

(d) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(e) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(f) The ordinance may be appealed in the manner prescribed by IC 34-13-6. If the town is located in two (2) or more counties, the appeal may be filed in the circuit or superior court of any of those counties.

(g) This subsection does not apply to a town with an ordinance described by subsection (h). The division permitted by subsection (a) shall be made:

(1) during the second year after a year in which a federal decennial census is conducted, subject to IC 3-11-1.5-32; and

(2) when required to assign annexed territory to a municipal legislative body district.

The division may also be made in any other year.

(h) This subsection applies to a town having a population of less than three thousand five hundred (3,500). The town legislative body may adopt an ordinance providing that:

(1) town legislative body districts are abolished; and

(2) all members of the legislative body are elected at large.

(i) An ordinance described by subsection (h):

(1) may not be adopted or repealed during a year in which a municipal election is scheduled to be conducted in the town under IC 3-10-6 or IC 3-10-7; and

(2) is effective upon passage.

(j) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the town not later than thirty (30) days after the ordinance is adopted.

As added by Acts 1980, P.L.2, SEC.17. Amended by P.L.13-1988, SEC.20; P.L.5-1989, SEC.115; P.L.7-1990, SEC.62; P.L.4-1991, SEC.146; P.L.3-1993, SEC.273; P.L.2-1995, SEC.130; P.L.3-1997, SEC.464; P.L.1-1998, SEC.205; P.L.230-2005, SEC.88.

IC 36-5-2-4.2

Change in number of members in legislative body; resolution; implementation

Sec. 4.2. (a) This section applies to the alteration of the number of members of a legislative body.

(b) The legislative body may adopt a resolution to submit a public question on the number of legislative body members to the voters of the town. The resolution must state the following:

(1) The proposed number of legislative body members, which must be at least three (3) and not more than seven (7).

(2) The date of the general, municipal, or special election at which the public question will appear on the ballot.

(3) That the following question will be placed on the ballot in the form provided by IC 3-10-9-4:

"Shall the number of town council members be increased (or decreased, if applicable) from _____ (insert the current number of members provided for) to _____ (insert the number of members proposed in the resolution)?".

(c) IC 3 applies to an election conducted under subsection (b). If the county election board will conduct the election at which the public question will be submitted, the question must be certified to the board under IC 3-10-9-3.

(d) If a majority of the votes cast on the question under subsection (b) are in the negative, the legislative body may not adopt a resolution under subsection (b) for at least one (1) year following the date the prior resolution was adopted.

(e) If a majority of votes cast on the question under subsection (b) are in the affirmative, the legislative body shall adopt an ordinance at its next regular meeting following the election altering the number of legislative body members to the number specified in the public question. The legislative body may also alter existing districts and establish new districts in the manner prescribed by IC 36-5-1-10.1. An ordinance adopted under this subsection becomes effective January 1 following its adoption.

(f) If the number of legislative body members is increased, the legislative body shall fill any resulting vacancy under IC 3-13-9-4. The legislative body may fill the vacancy before the ordinance described in subsection (e) takes effect. However, a town legislative body member appointed under this subsection does not assume office until the beginning of the term specified in section 3 of this chapter.
As added by P.L.11-1988, SEC.12. Amended by P.L.8-1989, SEC.98; P.L.1-1990, SEC.359; P.L.3-1993, SEC.274.

IC 36-5-2-4.5
Adoption of ordinances; elections

Sec. 4.5. (a) This section applies to a town if both of the following apply:

(1) The town has a population of more than ten thousand (10,000).

(2) The town legislative body adopts an ordinance adopting the provisions of this section. A town may not adopt an ordinance under this section during a year in which municipal elections are held under IC 3-10-6-5.

(b) A town legislative body has the following members:

(1) Five (5) members, each elected by the voters of a district.

The districts are established by ordinance by the town legislative body as provided in this chapter.

(2) Two (2) members elected at large by all the voters of the town.

(c) An ordinance adopted under this section must provide for the following:

(1) Four (4) members of the legislative body are elected during a year that municipal elections are held under IC 3-10-6-5.

(2) Three (3) members of the legislative body are elected either:

(A) during the year before the year described in subdivision (1); or

(B) during the year after the year described in subdivision (1).

The year for elections under this subdivision must be chosen so that during the elections held for the town legislative body under subdivision (4), a member of the town legislative body does not serve a term of more than four (4) years.

(3) The members of the legislative body elected at large may not be elected at the same time.

(4) At the first two (2) elections after the ordinance is adopted, members are elected to serve the following terms:

(A) Two (2) members elected under subdivision (1) are elected to a four (4) year term and two (2) members elected under subdivision (1) are elected to a three (3) year term.

(B) Two (2) members elected under subdivision (2) are elected to a four (4) year term and one (1) member elected under subdivision (2) is elected to a three (3) year term.

The ordinance must provide a random procedure to determine which members serve four (4) year terms and which members serve three (3) year terms.

(5) A member of the town council elected after the elections described in subdivision (4) serves a term of four (4) years.

(6) The term of office of a member begins at noon January 1 after the member's election.

(d) An ordinance adopted under this section may provide that before the first election after adoption of the ordinance, members of the town legislative body added to the legislative body by the ordinance may be appointed to the legislative body by a vote of the current members of the legislative body.

(e) After the first two (2) elections held as described in subsection (c)(4), the town legislative body may adopt an ordinance to do the following:

(1) Divide the town into seven (7) districts.

(2) Provide that the members elected at large are each elected from a district.

An ordinance adopted under this subsection must comply with this chapter in establishing the districts and provide details to provide a transition from electing two (2) members at large to electing all members from districts.

(f) Subject to this section, members of the town legislative body

are elected as provided in IC 3-10-6-4.5.
As added by P.L.38-1999, SEC.72. Amended by P.L.14-2000, SEC.81.

IC 36-5-2-5
Representation by district, at large, or both

Sec. 5. (a) The legislative body has:

(1) one (1) member for each district established under:

(A) IC 36-5-1-10.1; or

(B) section 4.1 or 4.2 of this chapter; or

(2) the number of members provided for when the town adopted an ordinance under section 4.1 of this chapter abolishing town legislative body districts.

(b) The legislative body shall provide by ordinance that its members:

(1) are to be elected by the voters of the district in which they reside;

(2) are to be elected at large by the voters of the whole town; or

(3) are to be elected both by districts and at-large.

(c) If a town legislative body adopts an ordinance under this section providing that its members are to be elected both by districts and at-large, the ordinance must:

(1) specify which seats on the legislative body are elected by the voters of a district and which are elected by the voters of the whole town; and

(2) provide that the ordinance is effective on January 1 following its adoption.

As added by Acts 1980, P.L.212, SEC.4. Amended by Acts 1982, P.L.33, SEC.27; P.L.11-1988, SEC.13; P.L.7-1990, SEC.63.

IC 36-5-2-6
Residency requirement

Sec. 6. (a) A member of the legislative body must reside within:

(1) the town as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) the district from which the member was elected, if applicable.

(b) A member of the legislative body who is elected by the voters of a district forfeits office if the member ceases to be a resident of the district.

(c) A member of the legislative body who is elected by the voters of the entire town but is elected or selected as a candidate from a district forfeits office if the member ceases to be a resident of the district.

(d) An at-large member of the legislative body forfeits office if the member ceases to be a resident of the town.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.3-1987, SEC.561; P.L.3-1993, SEC.275.

IC 36-5-2-6.5

Circumstances creating a vacancy on the town council

Sec. 6.5. A vacancy on the legislative body is created whenever any of the following circumstances occur:

(1) A member resigns.

(2) A member dies.

(3) A member ceases to be a resident of the town or district as set forth in section 6 of this chapter.

As added by P.L.174-2002, SEC.5.

IC 36-5-2-7

President of legislative body; selection; term

Sec. 7. The legislative body shall select one (1) of its members to be its president for a definite term, which may not exceed his term of office as a member of the legislative body.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-2-8

Town clerk-treasurer as clerk; ex officio member for casting tie breaking vote

Sec. 8. (a) The town clerk-treasurer is the clerk of the legislative body.

(b) The clerk-treasurer is an ex officio member for the purpose of casting the deciding vote to break a tie.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.34-1999, SEC.3.

IC 36-5-2-9

Powers of legislative body

Sec. 9. The legislative body may:

(1) adopt ordinances and resolutions for the performance of functions of the town;

(2) purchase, hold, and convey any interest in property, for the use of the town; and

(3) adopt and use a common seal.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-2-9.2

Quorum

Sec. 9.2. A majority of all the elected members of the legislative body constitutes a quorum.

As added by Acts 1980, P.L.73, SEC.14.

IC 36-5-2-9.4

Majority vote; two-thirds vote

Sec. 9.4. (a) A requirement that an ordinance, resolution, or other action of the legislative body be passed by a majority vote means at least a majority vote of all the elected members.

(b) A requirement that an ordinance, resolution, or other action of the legislative body be passed by a two-thirds (2/3) vote means at least a two-thirds (2/3) vote of all the elected members.

As added by Acts 1980, P.L.73, SEC.15.

IC 36-5-2-9.6
Majority vote to pass ordinance

Sec. 9.6. A majority vote of the legislative body is required to pass an ordinance, unless a greater vote is required by statute.
As added by Acts 1980, P.L.73, SEC.16.

IC 36-5-2-9.8
Two-thirds vote with unanimous consent of members present

Sec. 9.8. (a) A two-thirds (2/3) vote of all the elected members, after unanimous consent of the members present to consider the ordinance, is required to pass an ordinance of the legislative body on the same day or at the same meeting at which it is introduced.

(b) Subsection (a) does not apply to the following:

(1) A zoning ordinance or amendment to a zoning ordinance adopted under IC 36-7.

(2) An ordinance to increase the number of town legislative body members adopted under section 4.2 of this chapter, unless the ordinance also establishes new legislative body districts.

As added by Acts 1980, P.L.73, SEC.17. Amended by Acts 1982, P.L.33, SEC.28; P.L.335-1985, SEC.37; P.L.3-1993, SEC.276.

IC 36-5-2-10
Ordinance, order, or resolution adoption; requirements

Sec. 10. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is signed by the executive. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) it is published under IC 36-1-5; or

(2) it declares an emergency requiring its immediate effectiveness and is posted in:

(A) one (1) public place in each district in the town; or

(B) a number of public places in the town equal to the number of town legislative body members, if the town has abolished legislative body districts under section 4.1 of this chapter.

(c) This section (other than subsection (e)) does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(d) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1;

and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

(e) Subject to subsection (i), the legislative body shall:

(1) subject to subsection (f), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(2) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(f) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (e)(1).

(g) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (e).

(h) The failure of an environmental restrictive ordinance to comply with subsection (g) does not void the ordinance.

(i) The notice requirements of subsection (e) apply only if the municipal corporation received under IC 13-25-5-8.5(f) written notice that the department is relying on the environmental restrictive ordinance referred to in subsection (e) as part of a risk based remediation proposal:

(1) approved by the department; and

(2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.

As added by Acts 1980, P.L.212, SEC.4. Amended by Acts 1980, P.L.73, SEC.18; P.L.335-1985, SEC.38; P.L.7-1990, SEC.64; P.L.100-2003, SEC.3; P.L.78-2009, SEC.26; P.L.159-2011, SEC.47.

IC 36-5-2-10.2

Recording of adopted ordinance; presumptive evidence

Sec. 10.2. Within a reasonable time after an ordinance of the legislative body is adopted, the clerk-treasurer shall record it in a book kept for that purpose. The record must include:

(1) the signature of the executive;

(2) the attestation of the clerk-treasurer; and

(3) the date of each recorded item.

The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.

As added by Acts 1980, P.L.73, SEC.19.

IC 36-5-2-11

Bond issuance, purpose, payments, and procedure; short term loans

Sec. 11. (a) The legislative body may issue bonds for the purpose of procuring money to be used in the exercise of the powers of the town and for the payment of town debts. However, a town may not

issue bonds to procure money to pay current expenses.

(b) Bonds issued under this section are payable in the amounts and at the times determined by the legislative body.

(c) Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the following:

(1) The filing of a petition requesting the issuance of bonds and giving notice of the petition.

(2) The giving of notice of a hearing on the appropriation of the proceeds of bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(6) The sale of bonds at public sale for not less than their par value.

(d) The legislative body may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the town, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the town's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made as follows:

(1) The ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing five (5) years to provide for refunding the loans.

(2) The loans must be evidenced by notes of the town in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

(3) The interest accruing on the notes to the date of maturity may be added to and included in their face value or be made payable periodically, as provided in the ordinance.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.37-1988, SEC.24; P.L.90-2002, SEC.471; P.L.219-2007, SEC.116; P.L.146-2008, SEC.708.

IC 36-5-2-12

Loans and notes; procedures; actions to contest validity

Sec. 12. (a) The legislative body may, by ordinance, make loans and issue notes for the purpose of refunding those loans in anticipation of revenues of the town that are anticipated to be levied and collected during the term of the loans. The term of a loan made

under this subsection may not be more than five (5) years. Loans under this section shall be made in the same manner as loans made under section 11(b) and 11(c) of this chapter, except that:

(1) the ordinance authorizing the loans must appropriate and pledge to the payment of the loans a sufficient amount of the revenues in anticipation of which the loans are issued and out of which the loans are payable; and

(2) the loans must be evidenced by time warrants of the town in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which the loans are issued and out of which the loans are payable.

(b) An action to contest the validity of a loan made under this section must be brought within fifteen (15) days from the day on which the ordinance is adopted.

As added by P.L.35-1990, SEC.45. Amended by P.L.40-1996, SEC.11.

IC 36-5-2-13

Removal of town employee

Sec. 13. The town executive must have the approval of a majority of the town council before the executive may discharge, reduce in grade under IC 36-8-3-4, or remove a town employee.

As added by P.L.34-1999, SEC.4.

IC 36-5-3

Chapter 3. Town Budget Procedures and Compensation of Officers and Employees

IC 36-5-3-1

Application of chapter

Sec. 1. This chapter applies to all towns.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-3-2

Compensation for officers and employees

Sec. 2. (a) As used in this section, "compensation" means the total of all money paid to an elected town officer for performing duties as a town officer, regardless of the source of funds from which the money is paid.

(b) The town legislative body shall, by ordinance, fix the compensation of its own members, the town clerk-treasurer, and the town marshal. The legislative body shall provide reasonable compensation for other town officers and employees.

(c) The compensation of an elected town officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year.

(d) The legislative body may provide that town officers and employees receive additional compensation for services that:

(1) are performed for the town;

(2) are not governmental in nature; and

(3) are connected with the operation of a municipally owned utility or function.

Subject to the approval of the legislative body, the administrative agency operating the utility or function shall fix the amount of the additional compensation, which shall be paid from the revenues of the utility or function.

As added by Acts 1980, P.L.212, SEC.4. Amended by Acts 1981, P.L.17, SEC.26; P.L.351-1983, SEC.1; P.L.15-1993, SEC.4.

IC 36-5-3-3

Formulation of budget estimate

Sec. 3. Before the publication of notice of budget estimates required by IC 6-1.1-17-3, each town shall formulate a budget estimate for the ensuing budget year in the following manner, unless it provides by ordinance for a different manner:

(1) Each department head shall prepare for his department an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure he anticipates.

(2) The town fiscal officer shall prepare an itemized estimate of revenues available for the ensuing budget year, and shall prepare an itemized estimate of expenditures for other purposes above the money proposed to be used by the departments.

(3) The town executive shall meet with the department heads

and the fiscal officer to review and revise their various estimates.

(4) After the executive's review and revision, the fiscal officer shall prepare for the executive a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-3-4

Report of budget estimates; ordinances fixing tax rate and appropriations

Sec. 4. The town fiscal officer shall present the report of budget estimates to the town legislative body under IC 6-1.1-17. After reviewing the report, the legislative body shall prepare an ordinance fixing the rate of taxation for the ensuing budget year and an ordinance making appropriations for the estimated department budgets and other town purposes during the ensuing budget year. The legislative body, in the appropriation ordinance, may change any estimated item from the figure submitted in the report of the fiscal officer. The legislative body shall promptly act on the appropriation ordinance.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-3-5

Additional appropriations; decrease; ordinances

Sec. 5. After the passage of the appropriation ordinance, the town legislative body may make further or additional appropriations by ordinance, unless their result is to increase the tax levy set under IC 6-1.1-17. The legislative body may, by ordinance, decrease any appropriation set by ordinance.

As added by Acts 1980, P.L.212, SEC.4. Amended by Acts 1980, P.L.73, SEC.20.

IC 36-5-3-6

Waiver of compensation

Sec. 6. (a) As used in this section, "compensation" means the total of all money paid to an elected town officer for performing duties as a town officer, regardless of the source of funds from which the money is paid. The term includes all employee benefits paid to a town officer, including life insurance, health insurance, disability insurance, retirement benefits, and pension benefits.

(b) A town officer may waive the officer's compensation for any year by filing a notice that satisfies the following:

(1) The notice is in writing.

(2) The notice states in substance all of the following:

(A) The position held by the town officer.

(B) The calendar year covered by the notice.

(C) That the town officer waives compensation under this section.

(D) That the town officer understands that the notice is

irrevocable beginning January 1 of the year covered by the notice.

(3) The notice is signed by the town officer who wants to waive compensation.

(c) A town officer who wants to waive compensation under this section must file the notice with the town clerk-treasurer before January 1 of the year covered by the notice.

(d) A notice filed under this section is irrevocable beginning January 1 of the year covered by the notice.

(e) A town officer who files a notice under this section:

(1) is not entitled to compensation for duties performed in the year covered by the notice; and

(2) may not be paid compensation for duties performed in the year covered by the notice.

As added by P.L.67-2001, SEC.1.

IC 36-5-4

Chapter 4. Miscellaneous Town Fiscal and Administrative Provisions

IC 36-5-4-1

Application of chapter

Sec. 1. This chapter applies to all towns.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-4-2

Appropriations by ordinance

Sec. 2. Unless a statute provides otherwise, town monies may be disbursed only after an appropriation made by ordinance of the town legislative body and recorded in a book kept for that purpose by the legislative body. Each appropriation must be made from the fund against which the expenses arose.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-4-3

Issuance of warrants

Sec. 3. (a) The town legislative body or a board of the town may order the issuance of warrants for payment of money by the town only at a meeting of the legislative body or board.

(b) A town officer who violates this section forfeits his office.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-4-4

Claims against town; allowance; violation

Sec. 4. (a) Except as provided in section 12 of this chapter, the town legislative body or a board of the town may allow a claim:

(1) only at a meeting of the legislative body or board; and

(2) only if the claim was filed in the manner prescribed by IC 5-11-10-2 at least five (5) days before the meeting.

(b) A town officer who violates this section forfeits his office.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.32-1992, SEC.5.

IC 36-5-4-5

Repealed

(*Repealed by Acts 1980, P.L.73, SEC.23.)*

IC 36-5-4-6

Claim defined; issuance of warrant for payment

Sec. 6. (a) As used in this section, "claim" means a bill or an invoice submitted for goods or services.

(b) Except as provided in section 12 of this chapter, a warrant for payment of a claim against a town may be issued only if the claim is:

(1) supported by a fully itemized invoice or bill under IC 5-11-10-1.6;

(2) filed with the town fiscal officer;

(3) certified by the fiscal officer before payment that each invoice is true and correct; and

(4) allowed by the town legislative body or by the board of the town having jurisdiction over allowance of the payment of the claim.

(c) The certification by the fiscal officer under subsection (b)(3) must be on a form prescribed by the state board of accounts.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.32-1992, SEC.6; P.L.71-1995, SEC.5; P.L.69-1995, SEC.10.

IC 36-5-4-7

Vacation leave; compensation

Sec. 7. One (1) to three (3) days before the vacation leave period of a town officer or employee begins, the town may pay him the amount of compensation he will earn while he is on vacation leave.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-4-8

Repealed

(*Repealed by Acts 1981, P.L.57, SEC.45.)*

IC 36-5-4-9

Repealed

(*Repealed by Acts 1980, P.L.73, SEC.23.)*

IC 36-5-4-10

Delivery of records and property by town officer to successor

Sec. 10. Each town officer shall deliver town records and property in his custody to his successor in office when that successor qualifies.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-4-11

Licenses issued by town; revocation or suspension

Sec. 11. The town executive may revoke or suspend any license issued by the town if the person holding the license has violated the terms or conditions of the license or of the law under which it was issued.

As added by Acts 1981, P.L.11, SEC.165.

IC 36-5-4-12

Preapproved payments of claims

Sec. 12. (a) The legislative body of a town may adopt an ordinance allowing money to be disbursed under this section for lawful town purposes.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over allowance of the claim, a town fiscal officer may make claim payments in advance of a board allowance for the following types of expenses if the town legislative body has adopted an ordinance under subsection (a):

(1) Property or services purchased or leased from:
(A) the United States government; or
(B) an agency or a political subdivision of the United States government.
(2) License fees or permit fees.
(3) Insurance premiums.
(4) Utility payments or utility connection charges.
(5) Federal grant programs if:
(A) advance funding is not prohibited; and
(B) the contracting party provides sufficient security for the amount advanced.
(6) Grants of state funds authorized by statute.
(7) Maintenance agreements or service agreements.
(8) Lease agreements or rental agreements.
(9) Principal and interest payments on bonds.
(10) Payroll.
(11) State, federal, or county taxes.
(12) Expenses that must be paid because of emergency circumstances.
(13) Expenses described in an ordinance.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the fiscal officer.

(d) The town legislative body or the board having jurisdiction over the allowance of the claim shall review and allow the claim at the body's or board's next regular or special meeting following the preapproved payment of the expense.

As added by P.L.32-1992, SEC.7. Amended by P.L.69-1995, SEC.11.

IC 36-5-4-13
Transfer between funds

Sec. 13. (a) Except as provided in subsection (c), this subsection applies to a town with a population of five hundred (500) or less. Notwithstanding the provisions of any other statute, a town may transfer money from any town fund to another town fund after the passage of an ordinance or a resolution by the town legislative body specifying the:
(1) amount of the transfer;
(2) funds involved;
(3) date of the transfer; and
(4) general purpose of the transfer.

(b) Except as provided in subsection (c), this subsection applies to a town having a population of more than five hundred (500) but less than two thousand (2,000). Notwithstanding IC 8-14-1 and IC 8-14-2, a town may transfer money distributed to the town from:
(1) the motor vehicle highway account under IC 8-14-1;
(2) the local road and street account under IC 8-14-2; or
(3) the:
(A) motor vehicle highway account under IC 8-14-1; and
(B) local road and street account under IC 8-14-2;

to any other town fund after the passage of an ordinance or a resolution by the town legislative body that specifies the amount of the transfer, the funds involved, the date of the transfer, and the general purpose of the transfer. However, the total amount of all money transferred by a town under this subsection may not exceed forty thousand dollars ($40,000).

(c) A:

(1) municipality located in a county having a population of more than fifteen thousand (15,000) but less than fifteen thousand five hundred (15,500); and

(2) town:

(A) located in a county having a population of more than thirty-seven thousand one hundred twenty-five (37,125) but less than thirty-seven thousand five hundred (37,500); and

(B) having a population of less than one thousand (1,000);

may not transfer money under this section to or from a food and beverage tax receipts fund established under IC 6-9.

As added by P.L.17-1995, SEC.21. Amended by P.L.233-1996, SEC.1; P.L.170-2002, SEC.146; P.L.119-2012, SEC.192.

IC 36-5-4-14

Filing copies of agency financial records

Sec. 14. Each town agency, board, commission, district, or other town entity shall file one (1) copy of that agency's, board's, commission's, district's, or entity's financial records with the town fiscal officer.

As added by P.L.98-2000, SEC.23.

IC 36-5-5
Chapter 5. Town Manager

IC 36-5-5-1
Application of chapter
Sec. 1. This chapter applies to all towns.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-5-2
Employment; compensation; tenure
Sec. 2. The town legislative body may employ a town manager to be the administrative head of the town government and may fix his compensation and terms of employment. The manager may be employed to serve:
(1) at the pleasure of the legislative body; or
(2) for a definite tenure not to exceed the longest remaining term in office of a member of the legislative body, in which case he may be dismissed only for cause.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-5-3
Legislative body members barred
Sec. 3. The town legislative body may not employ one of its members as the manager.
As added by Acts 1980, P.L.212, SEC.4. Amended by Acts 1980, P.L.73, SEC.22.

IC 36-5-5-4
Joint employment
Sec. 4. The legislative bodies of two (2) or more towns may employ the same person as the manager of their respective towns.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-5-5
Performance bond
Sec. 5. The manager must, in the manner prescribed by IC 5-4-1, execute a bond for the faithful performance of his duties.
As added by Acts 1980, P.L.212, SEC.4. Amended by Acts 1981, P.L.47, SEC.23.

IC 36-5-5-6
Acting manager
Sec. 6. The town legislative body may appoint a qualified person to perform the duties of the manager whenever he is absent or unable to perform his duties.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-5-7
Bonds, notes, or warrants; prohibition
Sec. 7. The town legislative body may not authorize the manager

to issue or execute bonds, notes, or warrants of the town.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-5-8
Duties

Sec. 8. The manager, under the direction of the town legislative body, is responsible for the administrative duties of the legislative body. Unless a written order or ordinance of the legislative body provides otherwise, the manager:

(1) shall attend the meetings of the legislative body and recommend actions he considers advisable;
(2) shall hire town employees according to the pay schedules and standards fixed by the legislative body or by statute;
(3) shall suspend, discharge, remove, or transfer town employees, if necessary for the welfare of the town;
(4) may delegate any of his powers to an employee responsible to him;
(5) shall administer and enforce all ordinances, orders, and resolutions of the legislative body;
(6) shall see that all statutes that are required to be administered by the legislative body or a town officer subject to the control of the legislative body are faithfully administered;
(7) shall prepare budget estimates and submit them to the legislative body when required;
(8) shall execute contracts on behalf of the town for materials, supplies, services, or improvements, after the completion of the appropriations, notice, and competitive bidding required by statute; and
(9) may receive service of summons on behalf of the town.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-5-9
Police disciplinary body membership barred

Sec. 9. The manager may not serve as a member of any body that hears disciplinary charges against:

(1) the town marshal; or
(2) a member of the town police department.

As added by P.L.343-1987, SEC.1.

IC 36-5-6
Chapter 6. Town Clerk-Treasurer

IC 36-5-6-1
Application of chapter
Sec. 1. This chapter applies to all towns.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-6-2
Clerk and fiscal officer
Sec. 2. The clerk-treasurer elected under this chapter is both the town clerk and the town fiscal officer.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-6-3
Residency; term of office
Sec. 3. (a) The clerk-treasurer must reside within the town as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The clerk-treasurer forfeits office if the clerk-treasurer ceases to be a resident of the town.

(b) Except as provided in subsection (c) or (d), the term of office of the clerk-treasurer is four (4) years, beginning at noon January 1 after election and continuing until a successor is elected and qualified.

(c) The term of office of a clerk-treasurer elected under IC 36-5-1-10.1 following the incorporation of the town:

(1) begins at noon November 30 following the election; and
(2) continues until noon January 1 following the next municipal election scheduled under IC 3-10-6-5 or IC 3-10-7-6 and until the clerk-treasurer's successor is elected and qualified.

(d) The term of office of a clerk-treasurer subject to an ordinance described by IC 3-10-6-2.6 is:

(1) one (1) year if the clerk-treasurer is elected at the next municipal election not conducted in a general election year; and
(2) four (4) years for the successors of the clerk-treasurer described in subdivision (1);

beginning at noon January 1 after the clerk-treasurer's election and continuing until the clerk-treasurer's successor is elected and qualified.

(e) The term of office of a clerk-treasurer subject to an ordinance described by IC 3-10-7-2.7 is:

(1) three (3) years if the clerk-treasurer is elected at the next municipal election not conducted in a general election year; and
(2) four (4) years for the successors of the clerk-treasurer described in subdivision (1);

beginning noon January 1 after the clerk-treasurer's election and continuing until the clerk-treasurer's successor is elected and qualified.
As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.3-1987, SEC.562; P.L.3-1993, SEC.277; P.L.4-1996, SEC.104.

IC 36-5-6-4
Election

Sec. 4. The clerk-treasurer shall be elected under IC 3-10-6 or IC 3-10-7 by the voters of the whole town.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.5-1986, SEC.56.

IC 36-5-6-5
Oaths, depositions, and acknowledgments

Sec. 5. The clerk-treasurer may administer oaths, take depositions, and take acknowledgments of instruments required by statute to be acknowledged.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-6-5.1
Office space provided

Sec. 5.1. If office space exists in a building owned or leased by the town, the legislative body shall provide suitable office space for the:

(1) clerk-treasurer; and
(2) staff and records of the clerk-treasurer.

As added by P.L.69-1995, SEC.12.

IC 36-5-6-6
Powers and duties

Sec. 6. (a) The clerk-treasurer shall do the following:

(1) Receive and care for all town money and pay the money out only on order of the town legislative body.
(2) Keep accounts showing when and from what sources the clerk-treasurer has received town money and when and to whom the clerk-treasurer has paid out town money.
(3) Prescribe payroll and account forms for all town offices.
(4) Prescribe the manner in which creditors, officers, and employees shall be paid.
(5) Manage the finances and accounts of the town and make investments of town money.
(6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.
(7) Maintain custody of the town seal and the records of the legislative body.
(8) Issue all licenses authorized by statute and collect the fees fixed by ordinance.
(9) Serve as clerk of the legislative body by attending its meetings and recording its proceedings.
(10) Administer oaths, take depositions, and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee.
(11) Serve as clerk of the town court under IC 33-35-3-2, if the judge of the court does not serve as clerk of the court or appoint

a clerk of the court under IC 33-35-3-1.

(12) Perform all other duties prescribed by statute.

(b) A clerk-treasurer is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the requirements set forth in subsection (a), unless the act or omission constitutes gross negligence or an intentional disregard of the requirements.

As added by Acts 1980, P.L.212, SEC.4. Amended by Acts 1981, P.L.17, SEC.27; P.L.189-1988, SEC.5; P.L.10-1997, SEC.33; P.L.33-1998, SEC.11; P.L.98-2004, SEC.162.

IC 36-5-6-7

Deputies and employees

Sec. 7. (a) The clerk-treasurer shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the town legislative body. The clerk-treasurer's deputies and employees serve at the clerk-treasurer's pleasure.

(b) If a town owns a utility and the clerk-treasurer is directly responsible for the billing and collection of that utility's rates and charges, the clerk-treasurer shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk-treasurer's pleasure.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.189-1988, SEC.6.

IC 36-5-6-8

Employment of attorneys or legal research assistants

Sec. 8. (a) A clerk-treasurer may hire or contract with competent attorneys or legal research assistants on terms the clerk-treasurer considers appropriate.

(b) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget.

(c) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget and must be allocated to the clerk-treasurer for the payment of attorneys' and legal research assistants' salaries.

As added by P.L.69-1995, SEC.13. Amended by P.L.98-2000, SEC.24.

IC 36-5-7
Chapter 7. Town Marshal

IC 36-5-7-1
Application of chapter
Sec. 1. This chapter applies to all towns that have not abolished the office of town marshal.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-7-2
Appointment; compensation
Sec. 2. The town legislative body shall appoint a town marshal and fix his compensation.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-7-3
Tenure; termination or suspension; procedures
Sec. 3. The marshal serves at the pleasure of the town legislative body. However, before terminating or suspending a marshal who has been employed by the town for more than six (6) months after completing the minimum basic training requirements adopted by the law enforcement training board under IC 5-2-1-9, the legislative body must conduct the disciplinary removal and appeals procedure prescribed by IC 36-8 for city fire and police departments.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-7-4
Chief police officer; powers and duties
Sec. 4. The marshal is the chief police officer of the town and has the powers of other law enforcement officers in executing the orders of the legislative body and enforcing laws. The marshal or his deputy:

(1) shall serve all process directed to him by the town court or legislative body;
(2) shall arrest without process all persons who commit an offense within his view, take them before a court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;
(3) shall suppress breaches of the peace;
(4) may, if necessary, call the power of the town to his aid;
(5) may execute search warrants and arrest warrants; and
(6) may pursue and jail persons who commit an offense.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-7-5
Service as street commissioner, chief of fire department, or both
Sec. 5. The town legislative body may require the marshal to serve as street commissioner, chief of the fire department, or both.
As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-7-6

Deputy marshals; appointment; powers and liabilities; bond, compensation, and term; dismissal; procedure

Sec. 6. (a) The town legislative body shall by ordinance fix the number of deputy marshals. The town legislative body may by ordinance authorize the marshal to appoint deputy marshals. Deputy marshals have the powers and liabilities of the marshal in executing the orders of the legislative body or enforcing laws.

(b) One (1) deputy marshal may be designated as the town humane officer. He has the duties prescribed by IC 36-8 for city humane officers.

(c) The legislative body shall fix the amount of bond, compensation, and term of service of deputy marshals. The marshal may dismiss a deputy marshal at any time. However, a deputy marshal who has been employed by the town for more than six (6) months after completing the minimum basic training requirements adopted by the law enforcement training board under IC 5-2-1-9 may be dismissed only if the procedure prescribed by section 3 of this chapter is followed.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.51-1999, SEC.1.

IC 36-5-7-7

Body armor

Sec. 7. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).

(b) After December 31, 2010, a town shall provide the town marshal and active deputy marshals of the town with body armor for the torso. The town shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) The town marshal and active deputy marshals of the town may not be required to pay for maintenance of the body armor for the torso furnished under this section.

(d) Body armor for the torso provided by a town under this section remains the property of the town. The town may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the town.

As added by P.L.34-2010, SEC.5.

IC 36-6

ARTICLE 6. GOVERNMENT OF TOWNSHIPS

IC 36-6-1

Chapter 1. Division of County Into Townships

IC 36-6-1-1

Name of township; change of name

Sec. 1. (a) Each township is known as _____ Township of _____ County, according to the name of the township and the county in which it is located.

(b) The county executive may adopt an order to change the name of the townships in the county. A change of name under this section becomes effective when the county executive files a copy of the order with:

(1) the circuit court clerk; and

(2) the office of the secretary of state.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.5-1989, SEC.116; P.L.3-1997, SEC.465; P.L.123-2000, SEC.12.

IC 36-6-1-2

Boundaries; records

Sec. 2. Accurate descriptions of township boundaries shall be maintained in the records of the county executive.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-1-3

Alteration of boundaries; withdrawal of state or federally owned land from taxation; petition; effective date of alteration

Sec. 3. (a) When part of a township is owned by the state or the United States, devoted to a public use, and withdrawn from taxation for local purposes, and:

(1) less than eighteen (18) square miles of the township remains subject to taxation; or

(2) the township is divided into two (2) or more separate sections by the government owned part;

the county executive may issue an order to alter the boundaries of the township and adjoining townships on receipt of a petition signed by at least thirty-five percent (35%) of the resident freeholders of a part of the township adjoining another township.

(b) Except as provided in subsection (c), a boundary alteration under this section is effective when a copy of the order is filed with:

(1) the circuit court clerk; and

(2) the office of the secretary of state.

(c) A boundary alteration under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A boundary alteration that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(d) Notwithstanding subsection (c) as that subsection existed on December 31, 2009, a boundary alteration that took effect January 2, 2010, because of the application of subsection (c), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.
As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.5-1989, SEC.117; P.L.3-1997, SEC.466; P.L.123-2000, SEC.13; P.L.113-2010, SEC.129.

IC 36-6-1-4
Affidavit

Sec. 4. The fact that each person signing the petition described in section 3 of this chapter is a resident freeholder must be verified by affidavit.
As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-1-5
Abolition of township or alteration of boundaries; petition; effective date of abolition or alteration

Sec. 5. (a) Townships other than those described in section 3 of this chapter may be altered or abolished by the issuance of an order by the county executive on receipt of a petition signed by a majority of the freeholders of the affected township or townships. The alteration or abolition must conform to the terms of the petition.

(b) Except as provided in subsection (c), the alteration or abolition becomes effective when the county executive files a copy of the order with:

(1) the circuit court clerk; and

(2) the office of the secretary of state.

(c) The alteration or abolition of a township may not take effect during the year preceding a year in which a federal decennial census is conducted. An alteration or abolition that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.
As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.5-1989, SEC.118; P.L.3-1997, SEC.467; P.L.123-2000, SEC.14.

IC 36-6-1-5.5
Transfer of township area to abutting township; necessary conditions; effective date

Sec. 5.5. (a) This section applies to an area that meets the following conditions:

(1) Contains not more than seven hundred (700) acres.

(2) Has a river along at least twenty-five percent (25%) of the perimeter of the area.

(3) Abuts a different township from the township in which the area is situated.

(b) An area is transferred from the township in which the area is situated to the township that the area abuts if the following

conditions are met:

(1) The transfer results in a rectangular shape for the boundaries of both of the affected townships.

(2) A petition:

(A) containing a legal description of the area; and

(B) signed by at least fifty-one percent (51%) of the freeholders in the area;

is filed with the circuit court clerk and the office of the secretary of state.

(c) Section 5(c) of this chapter applies to the alteration of township boundaries under this section.

(d) Except as provided in subsection (e), if the conditions specified in this section are met, the transfer occurs when the filing requirements of subsection (b) are met.

(e) The transfer may not take effect during the year preceding a year in which a federal decennial census is conducted. A transfer that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

As added by P.L.259-1993, SEC.1. Amended by P.L.3-1997, SEC.468; P.L.123-2000, SEC.15.

IC 36-6-1-6

Surface area requirements

Sec. 6. After creation of a township or alteration of a township's boundaries, the township must have:

(1) a surface area of at least twelve (12) square miles and an assessed valuation of at least two million dollars ($2,000,000); or

(2) a surface area of at least twenty-four (24) square miles;

unless it was created or altered under section 3 of this chapter.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-1-7

Abolition of township or alteration of boundaries; taxing district for payment of existing indebtedness

Sec. 7. After abolition of a township or alteration of a township's boundaries, the former territory of the township comprises a taxing district for the payment of township indebtedness existing at the time of the abolition or alteration.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-1-8

Disannexation; existing indebtedness; fixing of tax rate

Sec. 8. When fixing the rate of taxation necessary to pay township indebtedness existing at the time of a disannexation, the township executive and the township legislative body shall fix the same rate for the disannexed territory as for territory remaining in the township. The township executive shall certify the tax rate for the disannexed territory to the county auditor, who shall place the tax

rate on the tax duplicate for the disannexed territory, collect the tax, and pay it over to the township executive.
As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-1-9
Annexed territory; liability for existing indebtedness

Sec. 9. Territory annexed to a township may not be taxed for payment of township indebtedness existing at the time of the annexation.
As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-1-10
Abolition of township; rate of taxation for existing indebtedness; payment

Sec. 10. After abolition of a township, the county auditor shall determine the rate of taxation necessary to pay the township indebtedness existing at the time the township was abolished. The auditor shall place the tax rate on the tax duplicate for the abolished township, collect the tax, and pay it over to the proper creditors.
As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-1-11
Appeal; certification of judgment; effective date of order

Sec. 11. (a) An action taken by a county executive under this chapter may be appealed to the circuit court of the county. The appeal shall be heard de novo on all questions presented.

(b) If the court orders the name change, alteration, or abolition of a township to take place, the circuit court clerk shall, immediately after the judgment of the court, certify the judgment of the circuit court to:

(1) the township executive; and
(2) the office of the secretary of state.

Except as provided in subsection (c), the order takes effect sixty (60) days after certification.

(c) The name change, alteration, or abolition of a township may not take effect during the year preceding a year in which a federal decennial census is conducted. An alteration or abolition that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.
As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.5-1989, SEC.119; P.L.3-1997, SEC.469; P.L.123-2000, SEC.16.

IC 36-6-1-12
Territory of county not included in township

Sec. 12. If any territory in a county is not included in one (1) of the townships established under this chapter, the territory is included in the township that:

(1) is contiguous to that territory; and
(2) contains the least population of all townships contiguous to

that territory.

As added by P.L.3-1993, SEC.278.

IC 36-6-1-13

Territory of county included in more than one township

Sec. 13. If any territory in a county is included in more than one (1) of the townships established under this chapter, the territory is included in the township that:

(1) is one (1) of the townships in which the territory is described under this chapter;

(2) is contiguous to that territory; and

(3) contains the least population of all townships contiguous to that territory.

As added by P.L.3-1993, SEC.279.

IC 36-6-1.1
Chapter 1.1. Township Boundaries

IC 36-6-1.1-1
Application of chapter

Sec. 1. This chapter applies to any township boundary line that was altered before 1900 but for which the county auditor's records were never updated to reflect the boundary alteration.
As added by P.L.220-2011, SEC.655.

IC 36-6-1.1-2
Townships boundary alteration not reflected in tax records; treatment of boundary line

Sec. 2. If the property tax records for the townships involved on December 31, 1984, did not reflect the boundary alteration, then the township boundary line shall be treated as if it had never been altered.
As added by P.L.220-2011, SEC.655.

IC 36-6-1.1-3
Legalization of certain actions occurring before April 3, 1985

Sec. 3. Any action occurring before April 3, 1985, that failed to recognize a township boundary alteration to which this chapter applies is legalized and validated.
As added by P.L.220-2011, SEC.655.

IC 36-6-1.5
Chapter 1.5. Merger of Township Governments

IC 36-6-1.5-1
Applicability
Sec. 1. This chapter does not apply to a township in a county containing a consolidated city.
As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-2
"Former township government"
Sec. 2. As used in this chapter, "former township government" means a township government that merges with at least one (1) other township government under this chapter.
As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-3
"New township government"
Sec. 3. As used in this chapter, "new township government" means the township government that results from the merger of at least two (2) township governments under this chapter.
As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-4
General requirements
Sec. 4. At least two (2) township governments may merge to form one (1) township government under this chapter, if:
(1) the township governments are entirely located within the same county;
(2) all the territory within the township governments is subject to the merger; and
(3) each township whose government is subject to the merger is contiguous to at least one (1) other township whose government is subject to the merger.
As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-5
Identical resolutions and county ordinance required
Sec. 5. (a) The township trustees, with the approval of a majority of the members of the township legislative body of each township that wants to merge township governments under this chapter must comply with this section.
(b) The township trustees must present identical resolutions approving the township government merger to the trustees' respective township legislative bodies. A township legislative body may adopt a resolution under this chapter only after the legislative body has held a public hearing concerning the proposed merger. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing

shall be published in accordance with IC 5-3-1.

(c) The township legislative bodies may adopt the identical resolutions approving the township government merger under this chapter not later than ninety (90) days after the legislative body has held the public hearing under subsection (b). The townships shall submit the resolutions to the county legislative body of the county within which the townships are located.

(d) The county legislative body of the county where the township governments are located must:

(1) adopt an ordinance ordering the merger; and

(2) file a copy of the ordinance with:

(A) the circuit court clerk; and

(B) the office of the secretary of state.

(e) The county legislative body may not adopt an ordinance ordering a merger after January 1 of a year in which:

(1) a general election is held; and

(2) a township trustee is elected.

(f) The county legislative body may not adopt an ordinance merging township governments less than one (1) year before the merger becomes effective.

(g) A merger under this chapter may not reduce the term of a township trustee of a former township government.

As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-6

Merger effective upon election and qualification of officers

Sec. 6. The merger becomes effective when the officers of the new township government are elected and qualified. An officer elected to represent the merged township government shall be considered to be a resident of the territory comprising the new township government unless the township merger is dissolved under IC 36-6-1.6.

As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-7

Election of officers

Sec. 7. If township governments merge under this chapter:

(1) IC 36-6-6 applies to the election of the township board; and

(2) IC 36-6-5-1 applies to the election of a township assessor;

of the new township government.

As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-8

Merger effective date; former township governments abolished; property, functions, and indebtedness transferred

Sec. 8. On the date a merger takes effect:

(1) the former township governments are abolished as separate entities;

(2) each township subject to the merger retains its geographical boundaries and its name;

(3) the territory of the new township government includes all the territory that comprised the territories of the former township governments before the merger;
(4) the agencies of the former township governments are abolished;
(5) the functions of the abolished agencies are assigned to agencies of the new township government;
(6) the:
(A) property;
(B) records;
(C) personnel;
(D) rights; and
(E) liabilities;
related to the functions of the abolished agencies are assigned to agencies of the new township government; and
(7) any bonds and other indebtedness of, or assumed by, the former township governments are transferred to the new township government.

As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-9
Provisions concerning state and federal licensing, rules, regulations, and governmental assistance

Sec. 9. Upon the corporate dissolution of a township government under this article, the following apply for purposes of all state and federal licensing and regulatory laws, statutory entitlements, gifts, grants-in-aid, governmental loans, or other governmental assistance under state or federal statutes, rules, or regulations:

(1) The entire geographic area and population of a new township government that is established under this chapter shall be used when calculating and determining the distribution basis for the following:
(A) State or federal government statutory entitlements.
(B) Gifts.
(C) Grants-in-aid.
(D) Loans.
(E) Any form of governmental assistance that is not listed in this subdivision.
(2) Following a public hearing for which notice is published in accordance with IC 5-3-1 at least thirty (30) days before the public hearing takes place, the executive of a new township government that is established under this chapter shall determine and designate to the appropriate state or federal agency the:
(A) geographic areas;
(B) parts of roads;
(C) segments of population; or
(D) combinations of the items listed in clauses (A) through (C);
that constitute rural or urban areas, roads, or populations, if this

designation was previously required of any township that merges under this chapter.

As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-10

Resolutions, rules, and bylaws of former township governments continue

Sec. 10. When a new township government is established under this chapter, the following occur:

(1) The resolutions, rules, and bylaws of each of the former township governments:

(A) remain in force within the territory to which they applied before the merger; and

(B) continue in force until amended or repealed by the legislative body or an administrative body of the new township government.

(2) Pending actions that involve any former township government shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the new township government without any change of the name of the plaintiff or defendant.

As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-11

Transfer of funds to new township government

Sec. 11. (a) On the date the formation of a new township government takes effect, all money in the funds of each of the former township governments is transferred to the new township government. The new township government:

(1) shall deposit the money in its funds that most closely correspond to the funds of the former township governments; and

(2) may use the money to pay its operational and capital costs for the balance of the calendar year.

(b) After the date the formation of a new township government takes effect, the new township government is entitled to receive all distributions of taxes and other revenue that would have been made to the former township governments if the merger had not occurred. The new township government shall deposit the money in its funds that correspond most closely to the funds of the former township governments into which the taxes or other revenue would have been deposited if the merger had not occurred.

As added by P.L.240-2005, SEC.3.

IC 36-6-1.5-12

Budget, levy, and tax rate of new township; savings; adjustments

Sec. 12. (a) Subject to subsection (b), the officers of the new township government shall:

(1) obtain from the department of local government finance approval under IC 6-1.1-18.5-7 of:

(A) a budget;
(B) an ad valorem property tax levy; and
(C) a property tax rate;
(2) fix the annual budget under IC 6-1.1-17;
(3) impose a property tax levy; and
(4) take any action necessary to ensure the collection of fees and other revenue;

for the new township government for the budget year following the year the officers take office.

(b) The department of local government finance shall establish criteria for making an adjustment to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 if the new township realizes through a merger under this chapter a:

(1) savings; or
(2) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the merger had not taken place.

(c) The adjustment under subsection (b) must permit the new township to continue to:

(1) include in the township's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses that occurs because of the merger; and
(2) impose part of a property tax levy that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses that occurs because of the merger.

(d) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b) may not exceed the result of:

(1) the savings or reduction in expenses realized in the first full year of operation after the merger is implemented, as determined by the department of local government finance; multiplied by
(2) a percentage determined as follows:
(A) Fifty percent (50%) in the first year of the adjustment.
(B) Fifty percent (50%) in the second year of the adjustment.
(C) Thirty percent (30%) in the third year of the adjustment.
(D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

The fiscal body of the new township shall determine and certify to the department of local government finance the amount of the adjustment that the new township wishes to accept under this section.

As added by P.L.240-2005, SEC.3. Amended by P.L.58-2011, SEC.4.

IC 36-6-1.6

Chapter 1.6. Dissolution of Township Government Merger

IC 36-6-1.6-1

"Merged township government"

Sec. 1. As used in this chapter, "merged township government" means the township government that results from the merger of at least two (2) township governments under IC 36-6-1.5.

As added by P.L.240-2005, SEC.4.

IC 36-6-1.6-2

"Reestablished township government"

Sec. 2. As used in this chapter, "reestablished township government" means a township government that:

(1) merged with at least one (1) other township government under IC 36-6-1.5; and

(2) is reestablished as a separate township government under this chapter.

As added by P.L.240-2005, SEC.4.

IC 36-6-1.6-3

Petition to reestablish township government

Sec. 3. (a) Freeholders may initiate proceedings to reestablish a township government by filing a petition in the office of the county auditor of the county where the freeholder's land is located. The petition must be signed by the lesser of:

(1) at least ten percent (10%) of; or

(2) at least fifty (50);

freeholders owning land within the proposed reestablished township. A petition may also be filed with the county auditor by a merged township government under a resolution adopted by the legislative body of the township government.

(b) A county legislative body may adopt an ordinance that:

(1) dissolves a merger of township governments that took effect under IC 36-6-1.5; and

(2) reestablishes the township governments that were subject to the merger.

(c) The county legislative body must file a copy of the ordinance with:

(1) the circuit court clerk; and

(2) the secretary of state.

As added by P.L.240-2005, SEC.4.

IC 36-6-1.6-4

Restrictions on dissolving merged township government

Sec. 4. (a) A county legislative body may not adopt an ordinance ordering a dissolution under section 3 of this chapter after January 1 of a year in which:

(1) a general election is held; and

(2) a township trustee is elected.

(b) The county legislative body may not adopt an ordinance ordering a dissolution under section 3 of this chapter less than one (1) year before the dissolution takes effect.

(c) A dissolution under this chapter may reduce the term of the township trustee of the merged township government.

As added by P.L.240-2005, SEC.4.

IC 36-6-1.6-5

Dissolution effective upon election and qualification of officers

Sec. 5. A dissolution under an ordinance adopted under section 3 of this chapter becomes effective when the officers of the reestablished township governments are elected and qualified as set forth in IC 36-6.

As added by P.L.240-2005, SEC.4.

IC 36-6-1.6-6

Dissolution effective date; former township governments reestablished; property, functions, and indebtedness transferred

Sec. 6. (a) On the date on which a dissolution under an ordinance adopted under section 3 of this chapter takes effect:

(1) the reestablished township governments are established as separate entities;

(2) the territory of the reestablished township government is the same as the territory that comprised the reestablished township government before the merger;

(3) the agencies of the merged township government are abolished and the agencies of the reestablished township governments are established;

(4) the functions of the abolished agencies are assigned to agencies of each reestablished township government;

(5) the:

(A) property;

(B) records;

(C) personnel;

(D) rights; and

(E) liabilities;

related to the functions of the abolished agencies are assigned to agencies of the reestablished township governments; and

(6) any bonds and other indebtedness of, or assumed by, the merged township government is the indebtedness of the reestablished township governments.

(b) The county legislative body shall determine the distribution of property, records, and personnel to the reestablished township governments under subsection (a)(5).

As added by P.L.240-2005, SEC.4.

IC 36-6-1.6-7

Provisions concerning state and federal licensing, rules, regulations, and governmental assistance

Sec. 7. Upon the corporate dissolution of a merged township

government under this article, the following apply for purposes of all state and federal licensing and regulatory laws, statutory entitlements, gifts, grants-in-aid, governmental loans, or other governmental assistance under state or federal statutes, rules, or regulations:

(1) The entire geographic area and population of a reestablished township government created under this chapter shall be used when calculating and determining the distribution basis for the following:

(A) State or federal government statutory entitlements.

(B) Gifts.

(C) Grants-in-aid.

(D) Loans.

(E) Any form of governmental assistance that is not listed in this subdivision.

(2) Following a public hearing for which notice is published in accordance with IC 5-3-1 at least thirty (30) days before the public hearing takes place, the executive of each reestablished township government that is created under this chapter shall determine and designate to the appropriate state or federal agency the:

(A) geographic areas;

(B) parts of roads;

(C) segments of population; or

(D) combinations of the items listed in clauses (A) through (C);

that constitute rural or urban areas, roads, or populations, if this designation was previously required of the merged township government.

As added by P.L.240-2005, SEC.4.

IC 36-6-1.6-8

Resolutions, rules, and bylaws of merged township continue

Sec. 8. When a reestablished township government is created under this chapter, the following occur:

(1) The resolutions, rules, and bylaws of the merged township government:

(A) remain in force in the reestablished township governments; and

(B) continue in force until amended or repealed by the legislative body or an administrative body of the reestablished township government.

(2) Pending actions that involve the merged township government shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the reestablished township governments without any change of the name of the plaintiff or defendant.

As added by P.L.240-2005, SEC.4.

IC 36-6-1.6-9
Transfer of funds to reestablished township governments

Sec. 9. (a) On the date on which the formation of a reestablished township government takes effect under this chapter, all money in the funds of the merged township government is transferred to the reestablished township governments. The county legislative body shall determine the allocation of the funds to the reestablished township governments. The reestablished township governments:

(1) shall deposit the money in the funds that most closely correspond to the funds of the merged township government; and

(2) may use the money to pay operational and capital costs for the balance of the calendar year.

(b) After the date on which the formation of a reestablished township government takes effect under this chapter, the reestablished township government is entitled to receive all distributions of taxes and other revenue that would have been made to the new township government if the merger had not occurred. The allocation of the distributions to the reestablished township governments shall be determined by the county legislative body. A reestablished township government shall deposit the money in its funds that correspond most closely to the funds of the merged township government into which the taxes or other revenue would have been deposited if the dissolution had not occurred.

As added by P.L.240-2005, SEC.4.

IC 36-6-1.6-10
Budget, levy, and tax rate of reestablished township government

Sec. 10. The officers of a new reestablished township government shall:

(1) obtain from the department of local government finance approval under IC 6-1.1-18.5-7 of:

(A) a budget;

(B) an ad valorem property tax levy; and

(C) a property tax rate;

(2) fix the annual budget under IC 6-1.1-17;

(3) impose a property tax levy; and

(4) take any action necessary to ensure the collection of fees and other revenue;

for the new township government for the budget year following the year the officers take office.

As added by P.L.240-2005, SEC.4.

IC 36-6-2
Repealed

(*Repealed by Acts 1980, P.L.125, SEC.32.)*

IC 36-6-3
Repealed

(*Repealed by P.L.251-1993, SEC.6.)*

IC 36-6-4

Chapter 4. Township Executive

IC 36-6-4-1

Application of chapter

Sec. 1. This chapter applies to all townships.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-2

Township trustee; residence; term of office

Sec. 2. (a) A township trustee shall be elected under IC 3-10-2-13 by the voters of each township. The trustee is the township executive.

(b) The township trustee must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The trustee forfeits office if the trustee ceases to be a resident of the township.

(c) The term of office of a township trustee is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.5-1986, SEC.57; P.L.3-1987, SEC.563; P.L.1-2004, SEC.62 and P.L.23-2004, SEC.64; P.L.88-2005, SEC.16.

IC 36-6-4-3

Duties

Sec. 3. The executive shall do the following:

(1) Keep a written record of official proceedings.

(2) Manage all township property interests.

(3) Keep township records open for public inspection.

(4) Attend all meetings of the township legislative body.

(5) Receive and pay out township funds.

(6) Examine and settle all accounts and demands chargeable against the township.

(7) Administer township assistance under IC 12-20 and IC 12-30-4.

(8) Perform the duties of fence viewer under IC 32-26.

(9) Provide and maintain cemeteries under IC 23-14.

(10) Provide fire protection under IC 36-8, except in a township that:

(A) is located in a county having a consolidated city; and

(B) consolidated the township's fire department under IC 36-3-1-6.1.

(11) File an annual personnel report under IC 5-11-13.

(12) Provide and maintain township parks and community centers under IC 36-10.

(13) Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-16-8.

(14) Provide insulin to the poor under IC 12-20-16.

(15) Perform other duties prescribed by statute.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.191-1987, SEC.14; P.L.2-1992, SEC.889; P.L.2-1993, SEC.203; P.L.51-1996, SEC.76; P.L.2-2002, SEC.108; P.L.227-2005, SEC.36; P.L.73-2005, SEC.173; P.L.1-2006, SEC.562; P.L.2-2008, SEC.82; P.L.146-2008, SEC.709; P.L.1-2009, SEC.163.

IC 36-6-4-4
Powers

Sec. 4. The executive may do the following:

(1) Administer oaths when necessary in the discharge of official duties.

(2) Appoint an attorney to represent the township in any proceeding in which the township is interested.

(3) Enter into certain oil and gas leases of township property under IC 36-9.

(4) Personally use a township vehicle for the performance of official duties, but only if the use is authorized by the township legislative body.

(5) Exercise other powers granted by statute.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.191-1987, SEC.15; P.L.302-1989, SEC.1.

IC 36-6-4-5
Records; maintenance

Sec. 5. The executive shall maintain:

(1) a general account showing the total of all township receipts and expenditures; and

(2) the financial and appropriation record of the township, which must include an itemized and accurate account of the township's financial affairs.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-6
Financial and appropriation record; requisites

Sec. 6. (a) For each sum of money received by the executive, the financial and appropriation record must show:

(1) the date it was received;

(2) from whom it was received; and

(3) to what account it was credited.

(b) For each sum of money paid by the executive, the financial and appropriation record must show:

(1) the date it was paid;

(2) to whom it was paid;

(3) from what account it was paid; and

(4) why it was paid.

(c) The state board of accounts shall prescribe the form of the financial and appropriation record.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-7

Purchases; written order; warrant; violation; liability

Sec. 7. (a) Each purchase for the township by the executive must be made on written order of the executive, certifying that sufficient funds have been appropriated to pay the full price of the purchase. The executive shall issue a warrant and pay for the purchase not later than receipt of the county treasurer's first semiannual distribution following the purchase.

(b) An executive who violates this section commits a Class C infraction and is liable on his official bond for the value of the purchase.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-8

Use of funds appropriated for community services; contracts for ambulance services; fees

Sec. 8. (a) The executive may use the township's share of state, county, and township tax revenues and federal revenue sharing funds for all categories of community services, if these funds are appropriated for these services by the township legislative body. The executive may use these funds for both operating and capital expenditures.

(b) With the consent of the township legislative body, the executive may contract with corporations for health and community services not specifically provided by another governmental entity.

(c) The executive may contract with a private person to provide regular or emergency ambulance service within the township. The contract may provide for the imposition and collection of fees for this service.

(d) The township legislative body may adopt a resolution to provide for the imposition and collection of fees for ambulance services provided by the township police or fire department.

As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1980, P.L.125, SEC.26; Acts 1981, P.L.11, SEC.166.

IC 36-6-4-9

Repealed

(*Repealed by Acts 1981, P.L.57, SEC.45.)*

IC 36-6-4-10

Verified statement of indebtedness; posting

Sec. 10. On the first Monday of each August the executive shall post, in a conspicuous place near his office, a verified statement showing the indebtedness of the township in detail and giving the number and total amount of outstanding orders, warrants, and accounts.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-11

Annual meeting; statement of estimated expenditures; forms; amounts

Sec. 11. (a) At the township legislative body's annual meeting under IC 36-6-6-11, the executive shall:

(1) present an itemized written statement of the estimated expenditures for which appropriations are requested, specifying:

(A) the number of teachers employed;

(B) the salary of each teacher employed;

(C) the property of the township (and supplies on hand);

(D) the estimated value of the property of the township (and supplies on hand);

(E) the supplies necessary for each school; and

(F) the need for township assistance in the township; and

(2) submit to questions from the legislative body or taxpayers concerning expenditures of the township.

(b) The written statement required under subsection (a)(1) must comply with forms prescribed by the state board of accounts and show the amount of each item to be charged against township funds. *As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.73-2005, SEC.174.*

IC 36-6-4-12

Annual meeting; report of receipts and expenditures of preceding calendar year; failure to file; penalty

Sec. 12. (a) At the annual meeting of the township legislative body under IC 36-6-6-9 the executive shall present a complete report of all receipts and expenditures of the preceding calendar year, including the balance to the credit of each fund controlled by the executive. If the executive controls any money that is not included in a particular fund, then the executive shall state all the facts concerning that money in the report.

(b) Each item of expenditure must be accompanied by the verified voucher of the person to whom the sum was paid, stating:

(1) why the payment was made;

(2) that the receipt is for the exact sum received;

(3) that no part of the sum has been retained by the executive; and

(4) that no part of the sum has been or is to be returned to the executive or any other person.

The executive may administer oaths to persons giving these receipts.

(c) The executive shall swear or affirm that:

(1) the report shows all sums received by him;

(2) the expenditures credited have been fully paid in the sums stated, without express or implied agreement that any part of the sums is to be retained by or returned to the executive or any other person; and

(3) the executive has received no money or other property in consideration of any contract entered into on behalf of the township.

(d) Within ten (10) days after the legislative body's action under IC 36-6-6-9, the executive shall file a copy of the report and its

accompanying vouchers, as adopted by the legislative body, in the county auditor's office. The legislative body may, for the benefit of the township, bring a civil action against the executive if the executive fails to file the report within ten (10) days after the legislative body's action. The legislative body may recover five dollars ($5) for each day beyond the time limit for filing the report, until the report is filed.
As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-13
Abstract of receipts and expenditures; publication; failure to comply; offense

Sec. 13. (a) When the executive prepares the annual report required by section 12 of this chapter, the executive shall also prepare, on forms prescribed by the state board of accounts, an abstract of receipts and expenditures:

(1) showing the sum of money in each fund of the township at the beginning of the year;
(2) showing the sum of money received in each fund of the township during the year;
(3) showing the sum of money paid from each fund of the township during the year;
(4) showing the sum of money remaining in each fund of the township at the end of the year.
(5) containing a statement of receipts, showing their source; and
(6) containing a statement of expenditures, showing the combined gross payment, according to classification of expense, to each person.

(b) Within four (4) weeks after the third Tuesday following the first Monday in January, the executive shall publish the abstract prescribed by subsection (a) in accordance with IC 5-3-1. The abstract must state that a complete and detailed annual report and the accompanying vouchers showing the names of persons paid money by the township have been filed with the county auditor, and that the chairman of the township legislative body has a copy of the report that is available for inspection by any taxpayer of the township.

(c) An executive who fails to comply with this section commits a Class C infraction.
As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1981, P.L.45, SEC.16; P.L.155-1987, SEC.3.

IC 36-6-4-14
Expiration of term; delivery of funds, property, and annual report; submission to inquiries at annual meeting

Sec. 14. When his term of office expires, the executive shall:

(1) immediately deliver to the new executive custody of all funds and property of the township, except records necessary in the preparation of his annual report;
(2) deliver to the new executive, not later than the second Monday in the next January, his annual report and any records

he has retained; and

(3) attend the annual meeting of the township legislative body held under IC 36-6-6-9 and submit to inquiries from the legislative body concerning the operation of the executive's office during the preceding calendar year.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.173-2003, SEC.27.

IC 36-6-4-15

Resignation or death; issuance of call for special meeting by new executive; annual report

Sec. 15. (a) If the executive resigns or dies, he or his personal representative shall immediately deliver to the new executive custody of all funds and property of the township. The new executive shall then issue a call for a special meeting of the township legislative body, to be held not more than fifteen (15) days later. At the special meeting the legislative body shall:

(1) examine the records of the township;

(2) inquire into the conduct of the executive's office; and

(3) approve in whole or in part the records, receipts, and expenditures of the township to the date of death or resignation of the former executive.

(b) In his annual report to the legislative body, the new executive shall distinguish between his transactions and those of the former executive. The legislative body need not, at its annual meeting under IC 36-6-6-9, review items in the report that were considered at the special meeting.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-16

Incapacity; petition; hearing; acting executive; salaries; restoration of capacity; resumption of duties

Sec. 16. (a) When twenty-five (25) or more resident freeholders of a township file a petition with the circuit court of the county, alleging that the township executive is incapable of performing his duties due to mental or physical incapacity, the clerk of the court shall issue a summons to be served on the executive. The summons is returnable not less than ten (10) days from its date of issue.

(b) Immediately following the return date set out on the summons, the circuit court shall hold a hearing on the matter alleged in the petition. After hearing the evidence and being fully advised, the court shall enter its findings and judgment.

(c) If the court finds the executive incapable of performing the duties of office, the clerk of the court shall certify a copy of the judgment to the county executive, which shall, within five (5) days, appoint a resident of the township as acting executive of the township during the incapacity of the executive.

(d) The acting executive shall execute and file a bond in an amount fixed by the county auditor. After taking the oath of office, the acting executive has all the powers and duties of the executive.

(e) The acting executive is entitled to the salary and benefits provided by this article for the executive.

(f) When an incapacitated executive files a petition with the circuit court of the county alleging that the executive is restored to mental or physical ability to perform the duties of office, the court shall immediately hold a hearing on the matters alleged. After hearing the evidence and being fully advised, the court shall enter its findings and judgment.

(g) If the court finds the executive capable of resuming duties, the clerk of the court shall certify a copy of the judgment to the county executive, which shall, within five (5) days, revoke the appointment of the acting executive.

(h) For purposes of this section, the board of county commissioners is considered the executive of a county having a consolidated city.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.1-2010, SEC.148.

IC 36-6-4-17

Failure to perform duty; liability; compensation; personal use of township funds

Sec. 17. (a) An executive who fails to perform a duty imposed by section 3(1), 3(2), 3(3), 3(4), 3(5), 3(7), 3(8), 5, or 14(1) of this chapter is liable to the township in a sum of not more than one hundred dollars ($100), to be recovered in a civil action brought in the name of the township.

(b) An executive is entitled to receive the following:

(1) The executive's salary.

(2) Reimbursement for expenses that are reasonably incurred by the executive for the following:

(A) The operation of the executive's office.

(B) Travel and meals while attending seminars or conferences on township matters.

(C) A sum for mileage as permitted under IC 36-6-8-3(b).

The executive may not make any other personal use of township funds without prior approval by the legislative body of the township.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.34-1992, SEC.3.

IC 36-6-4-18

Designation of alternate to perform executive's duties and functions

Sec. 18. (a) Within thirty (30) days after taking office, the executive shall designate a person who shall perform the executive's duties whenever the executive is incapable of performing the executive's functions because the executive:

(1) is absent from the township; or

(2) becomes incapacitated.

The executive shall give notice of the designation to the chairman of the township legislative body, the county sheriff, and any other

persons that the executive chooses. The designee shall have all the powers of the executive. The executive is responsible for all acts of the designee. The executive may change the designee under this section at any time.

(b) The designee shall perform the executive's duties until:

(1) the executive is no longer absent from the township; or

(2) an acting executive is appointed by the county executive under section 16 of this chapter.

As added by P.L.105-1986, SEC.3. Amended by P.L.21-2002, SEC.1.

IC 36-6-4-19

Use of funds for drug awareness programs

Sec. 19. The township executive may pay township funds for the purpose of supporting a drug awareness program that is implemented in schools.

As added by P.L.2-1997, SEC.83.

IC 36-6-5

Chapter 5. Township Assessor

IC 36-6-5-1

Certain townships; election of assessor; residence; term of office; county assessor performing assessment duties for certain townships

Sec. 1. (a) Subject to subsection (g), before 2009, a township assessor shall be elected under IC 3-10-2-13 by the voters of each township:

(1) having:

(A) a population of more than eight thousand (8,000); or

(B) an elected township assessor or the authority to elect a township assessor before January 1, 1979; and

(2) in which the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000).

(b) Subject to subsection (g), before 2009, a township assessor shall be elected under IC 3-10-2-14 (repealed effective July 1, 2008) in each township:

(1) having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if:

(A) the legislative body of the township, by resolution, declares that the office of township assessor is necessary; and

(B) the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2; and

(2) in which the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000).

(c) Subject to subsection (g), a township government that is created by merger under IC 36-6-1.5 shall elect only one (1) township assessor under this section.

(d) Subject to subsection (g), after 2008 a township assessor shall be elected under IC 3-10-2-13 only by the voters of each township in which:

(1) the number of parcels of real property on January 1, 2008, is at least fifteen thousand (15,000); and

(2) the transfer to the county assessor of the assessment duties prescribed by IC 6-1.1 is disapproved in the referendum under IC 36-2-15.

(e) The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township.

(f) The term of office of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

(g) A person who runs for the office of township assessor in an election after June 30, 2008, is subject to IC 3-8-1-23.6.

(h) After June 30, 2008, the county assessor shall perform the assessment duties prescribed by IC 6-1.1 in a township in which the number of parcels of real property on January 1, 2008, is less than fifteen thousand (15,000).

As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1982, P.L.1, SEC.59; P.L.14-1983, SEC.5; P.L.5-1986, SEC.58; P.L.3-1987, SEC.564; P.L.3-1997, SEC.470; P.L.1-2004, SEC.63 and P.L.23-2004, SEC.65; P.L.88-2005, SEC.17; P.L.240-2005, SEC.5; P.L.219-2007, SEC.117; P.L.3-2008, SEC.262; P.L.146-2008, SEC.710; P.L.1-2009, SEC.164.

IC 36-6-5-2
Repealed

(*Repealed by P.L.146-2008, SEC.818.)*

IC 36-6-5-3
Statutory duties

Sec. 3. (a) Except as provided in subsection (b), the assessor shall perform the duties prescribed by statute, including assessment duties prescribed by IC 6-1.1.

(b) Subsection (a) does not apply if the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24 or IC 36-2-15.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.162-2006, SEC.48; P.L.219-2007, SEC.119; P.L.146-2008, SEC.711.

IC 36-6-5-4
Certification level of employees of township assessor

Sec. 4. After June 30, 2009, an employee of a township assessor who performs real property assessing duties must have attained the level of certification under IC 6-1.1-35.5 that the township assessor is required to attain under IC 3-8-1-23.6.

As added by P.L.146-2008, SEC.712.

IC 36-6-6
Chapter 6. Township Legislative Body

IC 36-6-6-1
Application of chapter
Sec. 1. This chapter applies to all townships.
As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-6-2
Township board; election; term of office
Sec. 2. (a) Except as provided in subsection (b) and section 2.1 of this chapter, a three (3) member township board shall be elected under IC 3-10-2-13 by the voters of each township.
(b) The township board in a county containing a consolidated city shall consist of seven (7) members elected under IC 3-10-2-13 by the voters of each township.
(c) The township board is the township legislative body.
(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.
As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.5-1986, SEC.59; P.L.8-1987, SEC.83; P.L.6-1994, SEC.2; P.L.122-2000, SEC.22; P.L.170-2002, SEC.147; P.L.240-2005, SEC.6.

IC 36-6-6-2.1
Merged townships; township board; election; members
Sec. 2.1. (a) This section applies if township governments merge under IC 36-6-1.5.
(b) If two (2) township governments merge, the resulting merged township government shall elect a three (3) member township board. The voters of the resulting merged township government shall elect all the members of the township board. One (1) member must reside within the boundaries of each of the township governments that merged.
(c) If at least three (3) township governments merge, the resulting merged township government shall elect a township board that has the same number of members as the number of township governments that merged. The voters of the resulting merged township shall elect all the members of the township board. One (1) township board member must reside within the boundaries of each of the townships that merged.
As added by P.L.240-2005, SEC.7.

IC 36-6-6-2.2
Election of township board members; by voters of a district; by all township voters
Sec. 2.2. (a) This subsection applies to townships in a county containing a consolidated city. The voters of each legislative body district established under section 2.5 of this chapter shall elect one (1) member of the township board.

(b) This subsection applies to townships not included in subsection (a). The voters of each township shall elect all the members of the township board.

As added by P.L.6-1994, SEC.3. Amended by P.L.170-2002, SEC.148.

IC 36-6-6-2.5

Division of certain townships into legislative body districts

Sec. 2.5. (a) This section applies to townships in a county containing a consolidated city.

(b) The legislative body shall adopt a resolution that divides the township into legislative body districts that:

(1) are composed of contiguous territory;

(2) are reasonably compact;

(3) respect, as nearly as reasonably practicable, precinct boundary lines; and

(4) contain, as nearly as reasonably practicable, equal population.

(c) Before a legislative body may adopt a resolution that divides a township into legislative body districts, the secretary of the legislative body shall mail a written notice to the circuit court clerk. This notice must:

(1) state that the legislative body is considering the adoption of a resolution to divide the township into legislative body districts; and

(2) be mailed not later than ten (10) days before the legislative body adopts the resolution.

(d) The legislative body shall make a division into legislative body districts at the following times:

(1) During the second year after a year in which a federal decennial census is conducted.

(2) Subject to IC 3-11-1.5-32.5, whenever the boundary of the township changes.

(e) The legislative body may make the division under this section at any time, subject to IC 3-11-1.5-32.5.

As added by P.L.6-1994, SEC.4. Amended by P.L.318-1995, SEC.1; P.L.122-2000, SEC.23; P.L.170-2002, SEC.149; P.L.230-2005, SEC.89.

IC 36-6-6-3

Residency requirement of members

Sec. 3. (a) This subsection applies to townships in a county containing a consolidated city. One (1) member of the legislative body must reside within each legislative body district. If a member of the legislative body ceases to be a resident of the district from which the member was elected, the office becomes vacant.

(b) This subsection applies to townships not included in subsection (a) or (c). A member of the legislative body must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. If a member of the legislative

body ceases to be a resident of the township, the office becomes vacant.

(c) This subsection applies to a township government that:

(1) is created by a merger of township governments under IC 36-6-1.5; and

(2) elects a township board under section 2.1 of this chapter.

One (1) member of the legislative body must reside within the boundaries of each of the former townships that merged. If a member of the legislative body ceases to be a resident of that former township, the office becomes vacant.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.3-1987, SEC.565; P.L.6-1994, SEC.5; P.L.170-2002, SEC.150; P.L.240-2005, SEC.8.

IC 36-6-6-4

Quorum

Sec. 4. (a) Except as provided in subsections (b) and (c), two (2) members of the legislative body constitute a quorum.

(b) Four (4) members of the legislative body in a county containing a consolidated city constitute a quorum.

(c) This subsection applies to a township government that:

(1) is created by a merger of township governments under IC 36-6-1.5; and

(2) elects a township board under section 2.1 of this chapter.

A majority of the members of the legislative body constitute a quorum. If a township board has an even number of members, the township executive shall serve as an ex officio member of the township board for the purpose of casting the deciding vote to break a tie.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.6-1994, SEC.6; P.L.122-2000, SEC.24; P.L.170-2002, SEC.151; P.L.240-2005, SEC.9.

IC 36-6-6-5

Adjournment of meetings

Sec. 5. A meeting of the legislative body may be adjourned from day to day until its business is completed.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-6-6

Appearance at meetings by taxpayer

Sec. 6. A taxpayer of the township may appear at any meeting of the legislative body and be heard as to:

(1) an estimate of expenditures;

(2) a proposed levy of taxes;

(3) the approval of the executive's annual report; or

(4) any other matter being considered by the legislative body.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-6-7

Meetings; election of chairman and secretary; special meeting

Sec. 7. (a) The legislative body shall meet at the office of the executive on the first Tuesday after the first Monday in January of each year. At this meeting the legislative body shall elect one (1) member as chairman for that year and one (1) member as secretary for that year.

(b) If a newly elected legislative body holds a special meeting before the first Tuesday after the first Monday in the January following its election, it shall elect a chairman and a secretary before conducting any other business. The chairman and secretary elected at the special meeting retain those positions until the first Tuesday after the first Monday in January of the year following the special meeting.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-6-8

Record of proceedings

Sec. 8. The legislative body shall keep a permanent record of its proceedings in a book furnished by the executive. The secretary of the legislative body shall, under the direction of the legislative body, record the minutes of the proceedings of each meeting in full and shall provide copies of the minutes to each member of the legislative body before the next meeting is convened. After the minutes are approved by the legislative body, the secretary of the legislative body shall place the minutes in the permanent record book. The chairman of the legislative body shall retain the record in his custody.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.98-2000, SEC.25.

IC 36-6-6-9

Meeting; consideration and approval of annual report of executive; disposition of funds

Sec. 9. (a) The legislative body shall meet on or before the third Tuesday after the first Monday in January of each year. At this meeting it shall consider and approve, in whole or in part, the annual report of the executive presented under IC 36-6-4-12.

(b) The legislative body may send for persons, books, and papers necessary in the examination of the report. A member may administer oaths necessary in the examination of the report.

(c) Any sum in the control of the executive that remains unexpended and is subject to no liability shall be credited in favor of the fund for which it was appropriated.

(d) Any fund expended, in whole or in part, for a purpose for which it was not appropriated shall be considered unexpended and in the control of the executive, who is liable on his bond for such an expenditure.

(e) When its examination of the report is completed, the legislative body shall take action on the report, specifying the parts of the report that are altered or disallowed. The report remains under the control of the legislative body and in custody of its chairman,

who shall keep it open to inspection by taxpayers of the township.
As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.49-1996, SEC.9.

IC 36-6-6-10
Compensation of officers and employees

Sec. 10. (a) This section does not apply to the appropriation of money to pay a deputy or an employee of a township assessor with assessment duties or to an elected township assessor.

(b) The township legislative body shall fix the:

(1) salaries;
(2) wages;
(3) rates of hourly pay; and
(4) remuneration other than statutory allowances;

of all officers and employees of the township.

(c) Subject to subsection (d), the township legislative body may reduce the salary of an elected or appointed official. However, except as provided in subsection (h), the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(d) Except as provided in subsection (h), the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(e) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the township executive and assessor under this section, to take effect January 1 of the next year. However, the township legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(f) The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2.

(g) This subsection applies when a township executive dies or resigns from office. The person filling the vacancy of the township executive shall receive at least the same salary the previous township executive received for the remainder of the unexpired term of office of the township executive (as set forth in IC 36-6-4-2), unless the person consents to a reduction in salary.

(h) In a year in which there is not an election of members to the township legislative body, the township legislative body may by unanimous vote reduce the salaries of the members of the township legislative body by any amount.
As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1980, P.L.125, SEC.27; P.L.352-1983, SEC.1; P.L.196-1984, SEC.1; P.L.319-1995, SEC.1; P.L.21-2002, SEC.2; P.L.169-2006, SEC.56; P.L.146-2008, SEC.713.

IC 36-6-6-11
Meeting; adoption of annual budget; estimates; appropriation; taxation

Sec. 11. (a) The legislative body shall meet annually in accord with IC 6-1.1-17, to adopt the township's annual budget.

(b) The legislative body shall consider the estimates of expenditures made by the executive under IC 36-6-4-11, and may approve or reject all or part of any estimate or any item within an estimate. The legislative body may require the executive to further itemize an estimate not sufficiently itemized.

(c) The legislative body may not appropriate for any purpose an amount more than the executive's estimate of the amount required for that purpose.

(d) The legislative body shall include in the budget:

(1) provisions for the payment of existing debt of the township as it becomes due; and

(2) the salaries fixed under section 10 of this chapter.

(e) In making levies for the township general fund, the legislative body may include an amount not more than the amount necessary to compensate its members for their services during the year for which the levies are made.

(f) After the legislative body has taken action on the executive's estimates, it shall levy taxes for the township funds on property in the township and fix rates of taxation sufficient to provide that revenue during the next year.

(g) On the assessment date, as defined by IC 6-1.1-1-2, the rates of taxation adopted under this section become a levy and a lien on all taxable property in the township, including property in municipalities in the township. The levy constitutes an appropriation for the specific items in the executive's estimates.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-6-12
Membership of township in county, state, or national associations; appropriations; expenses

Sec. 12. (a) The legislative body may appropriate money for membership of the township in county, state, or national associations that:

(1) are of a civic, educational, or governmental nature; and

(2) have as a purpose the improvement of township governmental operations.

The township representatives may participate in the activities of these associations, and the legislative body may appropriate money to defray the expenses of township representatives in connection with these activities.

(b) Each representative of the township attending any meeting, conference, seminar, or convention approved by the township trustee shall be allowed reimbursement for all necessary and legitimate expenses incurred while representing the township. Expenses shall be paid to each representative in accordance with the township's

reimbursement policy, which may include an established per diem rate, as recommended by the township trustee and adopted by the township legislative body.
As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.303-1989, SEC.1; P.L.98-2000, SEC.26.

IC 36-6-6-13
Appropriation and transfer of money to county; interlocal agreements

Sec. 13. The legislative body may appropriate and transfer money to the county treasurer for use throughout the county under agreements made by the township and the county under IC 36-1-7.
As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1980, P.L.125, SEC.28.

IC 36-6-6-13.5
Special meeting by legislative body; notice

Sec. 13.5. (a) A special meeting may be held by the legislative body if the executive, the chairman of the legislative body, or a majority of the members of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the time, place, and purpose of the meeting.

(b) The legislative body may consider any matter at a special meeting. However, the only matters that may be acted on at the special meeting are the matters set forth in the notice.
As added by P.L.146-2008, SEC.714.

IC 36-6-6-14
Special meeting; determination of need for fire and emergency services

Sec. 14. (a) At any special meeting, if two (2) or more members give their consent, the legislative body may determine whether there is a need for fire and emergency services or other emergency requiring the expenditure of money not included in the township's budget estimates and levy.

(b) Subject to section 14.5 of this chapter, if the legislative body finds that a need for fire and emergency services or other emergency exists, it may issue a special order, entered and signed on the record, authorizing the executive to borrow a specified amount of money sufficient to meet the emergency.

(c) Notwithstanding IC 36-8-13-4(a), the legislative body may authorize the executive to borrow a specified sum from a township fund other than the township firefighting fund if the legislative body finds that the emergency requiring the expenditure of money is related to paying the operating expenses of a township fire department or a volunteer fire department. At its next annual session, the legislative body shall cover the debt created by making a levy to the credit of the fund for which the amount was borrowed under this subsection.

(d) In determining whether a fire and emergency services need

exists requiring the expenditure of money not included in the township's budget estimates and levy, the legislative body and any reviewing authority considering the approval of the additional borrowing shall consider the following factors:

(1) The current and projected certified and noncertified public safety payroll needs of the township.

(2) The current and projected need for fire and emergency services within the jurisdiction served by the township.

(3) Any applicable national standards or recommendations for the provision of fire protection and emergency services.

(4) Current and projected growth in the number of residents and other citizens served by the township, emergency service runs, certified and noncertified personnel, and other appropriate measures of public safety needs in the jurisdiction served by the township.

(5) Salary comparisons for certified and noncertified public safety personnel in the township and other surrounding or comparable jurisdictions.

(6) Prior annual expenditures for fire and emergency services, including all amounts budgeted under this chapter.

(7) Current and projected growth in the assessed value of property requiring protection in the jurisdiction served by the township.

(8) Other factors directly related to the provision of public safety within the jurisdiction served by the township.

(e) In the event the township received additional funds under this chapter in the immediately preceding budget year for an approved expenditure, any reviewing authority shall take into consideration the use of the funds in the immediately preceding budget year and the continued need for funding the services and operations to be funded with the proceeds of the loan.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.41-1993, SEC.48; P.L.50-1998, SEC.1; P.L.146-2008, SEC.715.

IC 36-6-6-14.5

Objection by taxpayers; department of local government finance hearing and action; appeal

Sec. 14.5. (a) If the legislative body issues a special order under section 14 of this chapter authorizing the executive to borrow money, not less than ten (10) taxpayers in the township who disagree with the special order may file a petition in the office of the county auditor not more than thirty (30) days after notice of the special order is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the special order to be unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of

the matter. The hearing shall be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the county where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the township and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing.

(e) A:

(1) taxpayer who signed a petition filed under subsection (a); or

(2) township against which a petition under subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

As added by P.L.41-1993, SEC.49. Amended by P.L.90-2002, SEC.472; P.L.256-2003, SEC.37.

IC 36-6-6-15

Temporary loans to meet current expenses; resolution; time warrants

Sec. 15. (a) If the legislative body finds that an emergency requires the borrowing of money to meet the township's current expenses, it may take out temporary loans in an amount not more than eighty percent (80%) of the total anticipated revenue for the remainder of the year in which the loans are taken out.

(b) The legislative body must authorize the temporary loans by a resolution:

(1) stating the nature of the consideration for the loans;

(2) stating the time the loans are payable;

(3) stating the place the loans are payable;

(4) stating a rate of interest;

(5) stating the anticipated revenues on which the loans are based and out of which they are payable; and

(6) appropriating a sufficient amount of the anticipated revenues on which the loans are based and out of which they are payable for the payment of the loans.

(c) The loans must be evidenced by time warrants of the township stating:

(1) the nature of the consideration;

(2) the time payable;

(3) the place payable; and

(4) the anticipated revenues on which they are based and out of which they are payable.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.146-2008, SEC.716.

IC 36-6-7

Chapter 7. Deputies and Assistants of Township Officers

IC 36-6-7-1

Application of chapter

Sec. 1. This chapter applies to all townships.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-7-2

Appointment; removal; responsibility

Sec. 2. An officer of a township may appoint and remove all deputies and other employees in his office, shall appoint deputies and other employees necessary for the proper discharge of his duties, and is responsible for the official acts of his deputies and other employees.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-7-3

Annual appropriations for offices; payments on vouchers

Sec. 3. The legislative body shall make annual appropriations for assistants in township offices. Payments shall be made to assistants on vouchers verified by the claimant and approved by the officer in whose office he is employed.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.173-2003, SEC.28.

IC 36-6-8

Chapter 8. Compensation and Expenses of Township Officers, Deputies, and Employees

IC 36-6-8-1

Application of chapter

Sec. 1. This chapter applies to all townships.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-8-2

Repealed

(*Repealed by Acts 1980, P.L.125, SEC.32.)*

IC 36-6-8-2.1

Executive; annual salary; clerical employees; annual appropriation

Sec. 2.1. A township executive is entitled to the annual salary and annual appropriation for clerical employees (other than those authorized under IC 12-20-4-2 through IC 12-20-4-11 and IC 12-20-4-14) fixed under IC 36-6-6-10.

As added by Acts 1980, P.L.125, SEC.29. Amended by P.L.2-1992, SEC.890.

IC 36-6-8-3

Executive; office expenses; mileage allowance; annual appropriations

Sec. 3. (a) The annual appropriations to a township executive for the expenses of renting an office and telephone and telegraph expenses must, as nearly as is possible, be equal to the actual cost of those items. If the township executive uses a part of the executive's residence for an office, the township legislative body shall appropriate a reasonable sum for that office space.

(b) The township executive is entitled to a sum for mileage in the performance of official duties equal to the sum per mile paid to state officers and employees. However, this subsection does not apply when the township executive uses a township vehicle in the performance of official duties.

As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1980, P.L.125, SEC.30; P.L.302-1989, SEC.2.

IC 36-6-8-4

Repealed

(*Repealed by Acts 1980, P.L.125, SEC.32.)*

IC 36-6-8-5 Version a

Assessor; real property reassessment duties; additional per diem compensation; county review

Note: This version of section effective until 1-1-2013. See also following version of this section, effective 1-1-2013.

Sec. 5. (a) When performing the real property reassessment duties prescribed by IC 6-1.1-4, a township assessor may receive per diem

compensation, in addition to salary, at a rate fixed by the county fiscal body, for each day that the assessor is engaged in reassessment activities.

(b) Subsection (a) applies regardless of whether professional assessing services are provided to a township under contract.

As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1980, P.L.125, SEC.31; Acts 1981, P.L.46, SEC.3; P.L.196-1984, SEC.3; P.L.74-1987, SEC.23; P.L.6-1997, SEC.207; P.L.198-2001, SEC.106; P.L.146-2008, SEC.717.

IC 36-6-8-5 Version b

Assessor; real property reassessment duties; additional per diem compensation; county review

Note: This version of section effective 1-1-2013. See also preceding version of this section, effective until 1-1-2013.

Sec. 5. (a) When performing the real property reassessment duties under IC 6-1.1-4-4 or a county's reassessment plan prepared under IC 6-1.1-4-4.2, a township assessor may receive per diem compensation, in addition to salary, at a rate fixed by the county fiscal body, for each day that the assessor is engaged in reassessment activities.

(b) Subsection (a) applies regardless of whether professional assessing services are provided to a township under contract.

As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1980, P.L.125, SEC.31; Acts 1981, P.L.46, SEC.3; P.L.196-1984, SEC.3; P.L.74-1987, SEC.23; P.L.6-1997, SEC.207; P.L.198-2001, SEC.106; P.L.146-2008, SEC.717; P.L.112-2012, SEC.53.

IC 36-6-8-6

Incremental payment based on certification

Sec. 6. (a) Subject to subsection (e), a township assessor who becomes a certified level two or level three Indiana assessor-appraiser is entitled to receive annually one thousand dollars ($1,000) after the assessor's certification under IC 6-1.1-35.5, which is in addition to and not part of the annual compensation of the township assessor.

(b) A certified level two or level three Indiana assessor-appraiser who replaces a township assessor who is not so certified is entitled to receive annually one thousand dollars ($1,000) more than the salary of the person's predecessor, which is in addition to and not part of the annual compensation of the township assessor.

(c) Subject to subsection (e), an employee of a township assessor who becomes a certified level two or level three Indiana assessor-appraiser is entitled to receive annually five hundred dollars ($500) after the employee's certification under IC 6-1.1-35.5, which is in addition to and not part of the annual compensation of the employee.

(d) A township assessor or employee who becomes entitled to receive an additional amount under this section is entitled to receive the additional amount for as long as the person serves in that position

and maintains the level two or level three certification.

(e) Subsections (a) and (c) apply regardless of whether the township assessor or employee of a township assessor becomes a certified level two assessor-appraiser:

(1) while:

(A) in office; or

(B) employed by the township assessor; or

(2) before:

(A) assuming office; or

(B) beginning employment by the township assessor.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.198-2001, SEC.107; P.L.219-2007, SEC.120.

IC 36-6-8-7
Repealed

(*Repealed by Acts 1980, P.L.125, SEC.32.)*

IC 36-6-8-8
Repealed

(*Repealed by Acts 1980, P.L.125, SEC.32.)*

IC 36-6-8-9
Assessor; mileage allowance

Sec. 9. If necessary in the performance of their duties:

(1) township assessors; or

(2) deputies and employees engaged in field work and authorized by the township assessor;

may use their own conveyances and are entitled to receive a mileage allowance equal to the sum per mile paid to state officers and employees. Only one (1) mileage may be allowed for each assessing team.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-8-10
Assessor; appropriations to pay salaries and per diems; preparation of budget estimates

Sec. 10. (a) The county fiscal body shall, in the manner prescribed by IC 36-2-5 or IC 36-2-6, fix and appropriate money to pay the per diem established under section 5 of this chapter and the salaries and per diems of the county's township assessors and any deputies or other employees that assist the elected township assessor.

(b) Each township assessor shall file the budget estimate required by IC 36-2-5-5 or IC 36-3-6-4. The budget estimate filed under this subsection must include all estimated expenses of the office, including costs incurred through litigation for the office.

(c) If the township executive is performing the duties of assessor, the county fiscal body shall appropriate money for the purposes of subsection (a) and other expenses of acting as assessor, including all costs incurred through litigation for the office. However, it may not provide a salary that is below the amount fixed for that salary for the

year 1984.
As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1981, P.L.46, SEC.4; P.L.196-1984, SEC.4; P.L.17-1985, SEC.25; P.L.219-1986, SEC.1; P.L.222-1997, SEC.3.

IC 36-6-8-11
Assessor; claims for compensation by deputies and employees

Sec. 11. (a) Deputies and other employees of a township assessor must file their claims for compensation, which must be verified by the township assessor. Claims for employment that is not on an annual basis must show the actual number of days employed. Deputies and other employees of a township assessor shall be paid out of the county treasury, on the warrant of the county auditor.

(b) Employees of the township assessor are entitled to no compensation other than that provided by this chapter.
As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.173-2003, SEC.29.

IC 36-6-8-12
Repealed

(*Repealed by Acts 1980, P.L.125, SEC.32.)*

IC 36-6-8-13
Member of legislative body in office for fraction of any year; proportionate salary

Sec. 13. (a) A member of the township legislative body who holds office for a fraction of any year is entitled to a proportionate fraction of the annual salary.

(b) A member of the township legislative body who holds office on December 31 of any year is entitled to his salary on that day.

(c) A member of the township legislative body who leaves office before December 31 of any year is entitled to his salary on the day he leaves office.
As added by Acts 1980, P.L.212, SEC.5.

IC 36-7

ARTICLE 7. PLANNING AND DEVELOPMENT

IC 36-7-1

Chapter 1. Definitions

IC 36-7-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 5 of this chapter by P.L.335-1985 do not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.335-1985 had not been enacted.

(2) The addition of section 22 of this chapter by P.L.335-1985 does not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.335-1985 had not been enacted.

(3) The amendments made to sections 20 and 22 of this chapter by P.L.220-1986 do not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.220-1986 had not been enacted.

As added by P.L.220-2011, SEC.656.

IC 36-7-1-1

Application of chapter

Sec. 1. The definitions in IC 36-1-2 and in this chapter apply throughout this article.

As added by Acts 1980, P.L.211, SEC.2. Amended by Acts 1981, P.L.309, SEC.1.

IC 36-7-1-2

"Advisory plan commission"

Sec. 2. "Advisory plan commission" means a municipal plan commission, a county plan commission, or a metropolitan plan commission.

As added by Acts 1981, P.L.309, SEC.2.

IC 36-7-1-3

"Area needing redevelopment"

Sec. 3. "Area needing redevelopment" means an area in which

normal development and occupancy are undesirable or impossible because of any of the following:

(1) Lack of development.
(2) Cessation of growth.
(3) Deteriorated or deteriorating improvements.
(4) Environmental contamination.
(5) Character of occupancy.
(6) Age.
(7) Obsolescence.
(8) Substandard buildings.
(9) Other factors that impair values or prevent a normal use or development of property.

As added by Acts 1981, P.L.309, SEC.3. Amended by P.L.185-2005, SEC.4; P.L.221-2007, SEC.27.

IC 36-7-1-4
"Board of zoning appeals"

Sec. 4. "Board of zoning appeals", unless preceded by a qualifying adjective, refers to a board of zoning appeals under either the advisory planning law, the area planning law, or the metropolitan development law.

As added by Acts 1981, P.L.309, SEC.4.

IC 36-7-1-5
"Comprehensive plan"

Sec. 5. "Comprehensive plan" means a composite of all materials prepared and approved under the 500 series of IC 36-7-4 or under prior law. It includes a master plan adopted under any prior law. The comprehensive plan is separate from any zoning ordinance as defined in section 22 of this chapter.

As added by Acts 1981, P.L.309, SEC.5. Amended by Acts 1981, P.L.310, SEC.1; P.L.192-1984, SEC.2; P.L.335-1985, SEC.1.

IC 36-7-1-6
"Development plan"

Sec. 6. "Development plan" means a specific plan for the development of real property that:

(1) requires approval by a plan commission under the 1400 series of IC 36-7-4;
(2) includes a site plan;
(3) satisfies the development requirements specified in the zoning ordinance regulating the development; and
(4) contains the plan documentation and supporting information required by the zoning ordinance.

As added by Acts 1981, P.L.309, SEC.6. Amended by Acts 1981, P.L.310, SEC.2; P.L.320-1995, SEC.1.

IC 36-7-1-7
"Housing authority"

Sec. 7. "Housing authority" refers to a housing authority

established under IC 36-7-18.
As added by Acts 1981, P.L.309, SEC.7.

IC 36-7-1-8
"Housing project"

Sec. 8. "Housing project" means any work or undertaking of a housing authority in planning improvements, acquiring property, demolishing structures, constructing, altering, and repairing improvements, and performing other acts necessary to:

(1) demolish, clear, or remove buildings from any area in which the majority of dwellings is detrimental to the public safety, health, and morals because of dilapidation, overcrowding, faulty design, lack of ventilation, light, or sanitary facilities, or a combination of these factors;

(2) provide decent, safe, and sanitary living accommodations; or

(3) accomplish a combination of these purposes.

As added by Acts 1981, P.L.309, SEC.8.

IC 36-7-1-9
Repealed

(*Repealed by P.L.213-1986, SEC.12.)*

IC 36-7-1-10
"Metropolitan development commission"

Sec. 10. "Metropolitan development commission" means the plan commission established by IC 36-7-4-202(c) for a county having a consolidated city. The term does not include a metropolitan plan commission established under IC 36-7-4-202(a).
As added by Acts 1981, P.L.309, SEC.10.

IC 36-7-1-11
"Metropolitan plan commission"

Sec. 11. "Metropolitan plan commission" means an advisory plan commission cooperatively established by a county and a second class city under IC 36-7-4-202(a). The term does not include the metropolitan development commission established by IC 36-7-4-202(c).
As added by Acts 1981, P.L.309, SEC.11.

IC 36-7-1-12
"Municipal plan commission"

Sec. 12. "Municipal plan commission" means a city plan commission or a town plan commission.
As added by Acts 1981, P.L.309, SEC.12.

IC 36-7-1-13
"Park board"

Sec. 13. "Park board" means board of parks and recreation or board of park commissioners.

As added by Acts 1981, P.L.309, SEC.13.

IC 36-7-1-14
"Plan commission"

Sec. 14. "Plan commission", unless preceded by a qualifying adjective, means an advisory plan commission, an area plan commission, or a metropolitan development commission. The term does not include a regional planning commission established under IC 36-7-7.

As added by Acts 1981, P.L.309, SEC.14.

IC 36-7-1-14.5
"Planned unit development"

Sec. 14.5. "Planned unit development" means development of real property:

(1) in the manner set forth by the legislative body in the zoning ordinance; and

(2) that meets the requirements of the 1500 series of IC 36-7-4.

As added by P.L.320-1995, SEC.2.

IC 36-7-1-15
"Planning department"

Sec. 15. "Planning department" refers to an area planning department under the area planning law.

As added by Acts 1981, P.L.309, SEC.15.

IC 36-7-1-16
"Public place"

Sec. 16. "Public place" includes any tract owned by the state or a political subdivision.

As added by Acts 1981, P.L.309, SEC.16.

IC 36-7-1-17
"Public way"

Sec. 17. "Public way" includes highway, street, avenue, boulevard, road, lane, or alley.

As added by Acts 1981, P.L.309, SEC.17.

IC 36-7-1-18
"Redevelopment"

Sec. 18. "Redevelopment" includes the following activities:

(1) Acquiring real property in areas needing redevelopment.

(2) Replatting and determining the proper use of real property acquired.

(3) Opening, closing, relocating, widening, and improving public ways.

(4) Relocating, constructing, and improving sewers, utility services, offstreet parking facilities, and levees.

(5) Laying out and constructing necessary public improvements, including parks, playgrounds, and other recreational facilities.

(6) Restricting the use of real property acquired according to law.
(7) Repairing and maintaining buildings acquired, if demolition of those buildings is not considered necessary to carry out the redevelopment plan.
(8) Rehabilitating real or personal property to carry out the redevelopment or urban renewal plan, regardless of whether the real or personal property is acquired by the unit.
(9) Investigating and remediating environmental contamination on real property to carry out the redevelopment or urban renewal plan, regardless of whether the real property is acquired by the unit.
(10) Disposing of property acquired on the terms and conditions and for the uses and purposes that best serve the interests of the units served by the redevelopment commission.
(11) Making payments required or authorized by IC 8-23-17.
(12) Performing all acts incident to the statutory powers and duties of a redevelopment commission.

As added by Acts 1981, P.L.309, SEC.18. Amended by Acts 1982, P.L.77, SEC.7; P.L.18-1990, SEC.291; P.L.185-2005, SEC.5; P.L.221-2007, SEC.28.

IC 36-7-1-18.5
"Remediation"

Sec. 18.5. "Remediation" has the meaning set forth in IC 13-11-2-186.

As added by P.L.221-2007, SEC.29.

IC 36-7-1-19
"Subdivision"

Sec. 19. "Subdivision" means the division of a parcel of land into lots, parcels, tracts, units, or interests in the manner defined and prescribed by a subdivision control ordinance adopted by the legislative body under IC 36-7-4.

As added by Acts 1981, P.L.309, SEC.19. Amended by Acts 1981, P.L.310, SEC.3; Acts 1982, P.L.211, SEC.1.

IC 36-7-1-20
"Thoroughfare"

Sec. 20. "Thoroughfare" means a public way or public place that is included in the thoroughfare plan of a unit. The term includes the entire right-of-way for public use of the thoroughfare and all surface and subsurface improvements on it such as sidewalks, curbs, shoulders, and utility lines and mains.

As added by Acts 1981, P.L.309, SEC.20. Amended by Acts 1981, P.L.310, SEC.4; P.L.220-1986, SEC.1.

IC 36-7-1-21
Repealed

(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-1-22
"Zoning ordinance"

Sec. 22. "Zoning ordinance" refers to an ordinance adopted under the 600 series of IC 36-7-4 or under prior law. The term includes:

(1) PUD district ordinances (as defined in IC 36-7-4-1503); and

(2) all zone maps incorporated by reference into the ordinance as provided in the 600 series of IC 36-7-4.

As added by P.L.335-1985, SEC.2. Amended by P.L.220-1986, SEC.2; P.L.320-1995, SEC.3.

IC 36-7-2

Chapter 2. General Powers Concerning Planning and Development

IC 36-7-2-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by Acts 1980, P.L.211, SEC.2.

IC 36-7-2-2

Planning and regulation of real property; access to solar energy

Sec. 2. A unit may plan for and regulate the use, improvement, and maintenance of real property and the location, condition, and maintenance of structures and other improvements. A unit may also regulate the platting and subdividing of real property and number the structures abutting public ways. In planning for and regulating the use of land or in regulating the platting or subdividing of real property, a unit may also regulate access to incident solar energy for all categories of land use.

As added by Acts 1980, P.L.211, SEC.2. Amended by Acts 1981, P.L.311, SEC.1.

IC 36-7-2-3

Inspection of structures or improvements

Sec. 3. A unit may inspect any structure or other improvement at any reasonable time.

As added by Acts 1980, P.L.211, SEC.2.

IC 36-7-2-4

Regulation of alteration and construction of structures and improvements; bonds

Sec. 4. A unit may regulate methods of, and use of materials in repair, alteration, and construction of structures and other improvements. The unit also may require the execution of a bond by any person repairing, altering, or constructing structures or other improvements.

As added by Acts 1980, P.L.211, SEC.2.

IC 36-7-2-5

Repair, alteration, or destruction of structures and improvements

Sec. 5. A unit may repair, alter, or destroy structures and other improvements if necessary.

As added by Acts 1980, P.L.211, SEC.2.

IC 36-7-2-5.5

Removal or alteration of a sign as a condition of issuing a permit, license, or variance

Sec. 5.5. A unit may not require that a lawfully erected sign be removed or altered as a condition of issuing:

(1) a permit;

(2) a license;
(3) a variance; or
(4) any other order concerning land use or development;
unless the owner of the sign is compensated in accordance with IC 32-24 or has waived the right to and receipt of damages in writing.
As added by P.L.163-2006, SEC.19.

IC 36-7-2-6
Regulation of movement or removal of earth below ground level
Sec. 6. A unit may regulate excavation, mining, drilling, and other movement or removal of earth below ground level.
As added by Acts 1980, P.L.211, SEC.2.

IC 36-7-2-7
Promotion of economic development and tourism
Sec. 7. A unit may promote economic development and tourism.
As added by Acts 1980, P.L.211, SEC.2.

IC 36-7-2-8
Solar energy systems; ordinances; reasonable restrictions
Sec. 8. (a) As used in this section, "solar energy system" means either of the following:
(1) any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, or for water heating; or
(2) any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of energy for space heating or cooling, or for water heating.
(b) A unit may not adopt any ordinance which has the effect of prohibiting or of unreasonably restricting the use of solar energy systems other than for the preservation or protection of the public health and safety.
(c) This section does not apply to ordinances which impose reasonable restrictions on solar energy systems. However, it is the policy of this state to promote and encourage the use of solar energy systems and to remove obstacles to their use. Reasonable restrictions on solar energy systems are those restrictions which:
(1) do not significantly increase the cost of the system or significantly decrease its efficiency; or
(2) allow for an alternative system of comparable cost and efficiency.
As added by Acts 1981, P.L.311, SEC.2.

IC 36-7-2-9
Compliance with code of building laws and orders
Sec. 9. Each unit shall require compliance with:
(1) the code of building laws and fire safety laws that is adopted in the rules of the fire prevention and building safety

commission under IC 22-13;

(2) orders issued under IC 22-13-2-11 that grant a variance to the code of building laws and fire safety laws described in subdivision (1);

(3) orders issued under IC 22-12-7 that apply the code of building laws described in subdivision (1);

(4) IC 22-15-3-7; and

(5) a written interpretation of a building law and fire safety law binding on the unit under IC 22-13-5-3 or IC 22-13-5-4.

As added by P.L.245-1987, SEC.19. Amended by P.L.71-1999, SEC.3; P.L.22-2005, SEC.50.

IC 36-7-2-10

Ordinance making forestry operation a nuisance or abating operation void; exceptions to valid ordinance

Sec. 10. (a) An ordinance adopted after March 31, 2005, by a unit of local government that:

(1) makes a forestry operation (as defined in IC 32-30-6-1.5) a nuisance; or

(2) provides for an abatement of a forestry operation as a:

(A) nuisance;

(B) trespass; or

(C) zoning violation;

under this chapter is void.

(b) If the owner of a property owned the property before the enactment of an ordinance that restricts forestry operations but that is not invalidated by subsection (a), the property is exempt from the ordinance if the forestry operations (as defined by IC 32-30-6-1.5) on the property:

(1) comply with generally accepted best management practices;

(2) comply with the practices established in the Indiana Logging and Forestry Best Management Practices BMP Field Guide, as published in September 1999, by the division of forestry of the department of natural resources; and

(3) have been in continuous operation on the property.

As added by P.L.82-2005, SEC.6.

IC 36-7-3
Chapter 3. Platting and Vacation of Real Property

IC 36-7-3-0.1
Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 1, 2, 10, 11, and 16 of this chapter by P.L.220-1986 do not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.220-1986 had not been enacted.

As added by P.L.220-2011, SEC.657.

IC 36-7-3-1
Application of chapter

Sec. 1. (a) Section 2 of this chapter applies only to areas subject to the jurisdiction of no plan commission under this article.

(b) Sections 3 through 9 of this chapter apply only to:

(1) areas subject to the jurisdiction of an advisory plan commission under this article; and

(2) areas subject to the jurisdiction of no plan commission under this article.

(c) Sections 10, 14, and 16 of this chapter apply to all areas of the state.

(d) Sections 12, 13, and 15 of this chapter apply to all areas of the state, except in a county having a consolidated city.

As added by Acts 1981, P.L.309, SEC.22. Amended by Acts 1981, P.L.46, SEC.5; P.L.220-1986, SEC.3; P.L.126-2011, SEC.2.

IC 36-7-3-2
Subdivision of lots or lands outside boundaries of municipality; requisites, approval, and recording of plat

Sec. 2. (a) A person who lays out a subdivision of lots or lands outside the corporate boundaries of any municipality shall record a correct plat of the subdivision in the office of the recorder of the county before selling any lots in the subdivision. The plat must show public places, public ways, and the length, width, and size of each lot. Lots shown on the plat must be regularly numbered.

(b) The certificate of a registered land surveyor certifying the correctness of the plat must be attached to the plat. This certificate must include a description, by metes and bounds, of the location of the plat.

(c) Before offering a plat for record under this section, a person must acknowledge it before an officer authorized by law to take and certify acknowledgments of deeds. The officer shall then attach to the plat a certificate of the acknowledgment, which must be recorded with the plat.

(d) Before offering a plat for recording under this section, a person must file a copy of the plat in the county auditor's office and

must submit the plat for the approval of the county executive. The county recorder may record the plat only if a certificate showing the approval of the county executive is attached to it. If the record of a plat is not executed and approved as required by this subsection, it is void.

(e) Except as provided in subsection (f), the county executive may approve or disapprove a subdivision plat only on the basis of whether the plat complies with the requirements set forth in subsections (a) through (c).

(f) The county executive may approve or disapprove a subdivision plat based upon whether the plat complies with standards for development of subdivisions within the county executive's jurisdiction. The standards shall be set by the county executive, shall be reasonable, and may include a minimum lot size. The county executive shall rely only upon the following criteria in establishing the standards for development:

(1) The standards must protect and provide for the public health, safety, and welfare of the county.

(2) The standards must ensure that public facilities and services are available to support the subdivision.

(g) The county executive may not approve or disapprove a subdivision plat based upon the standards for development until the county executive has had at least one (1) public hearing on the issue. The county executive shall publish notice of a hearing in accordance with IC 5-3-1. The notice must set forth the following information:

(1) A legal description of the property where the proposed subdivision will be located.

(2) The date, time, and location of the hearing.

(3) The name of the applicant submitting the plat for the approval of the county executive.

(4) A statement that the county executive will consider at the hearing whether to approve the plat based upon whether the plat is in accordance with the county's development standards.

(h) If, after a hearing, the county executive disapproves the plat, the county executive shall make written findings that set forth its reasons and a decision denying approval and shall provide the applicant with a copy.

As added by Acts 1981, P.L.309, SEC.22. Amended by P.L.104-1983, SEC.4; P.L.220-1986, SEC.4; P.L.23-1991, SEC.38; P.L.153-2003, SEC.1.

IC 36-7-3-3

Laying out of town, addition to municipality, or subdivision of lots or lands within boundaries of municipality; requisites, approval, and recording of plat; donations or grants to public

Sec. 3. (a) A person who lays out:

(1) a town;

(2) an addition to a municipality; or

(3) a subdivision of lots or lands within the corporate boundaries of a municipality;

shall record a correct plat of the town, addition, or subdivision in the office of the recorder of the county before selling any lots in the town, addition, or subdivision. The plat must show public grounds, public ways, and the length, width, and size of each lot. Lots shown on the plat must be regularly numbered.

(b) Every donation or grant to the public, or to any person, that is noted as such on the plat, is considered a general warranty to the donee or grantee named on the plat, for the purposes intended by the donor or grantor.

(c) Before offering a plat for record under this section, a person must acknowledge it before an officer authorized by law to take and certify acknowledgments of deeds. The plat may be recorded only if it is made and acknowledged in the manner prescribed by this section.

(d) Before a person offers a plat for recording under this section, he must submit it for the approval of:

(1) the advisory plan commission that has jurisdiction over the platted area under IC 36-7-4; or

(2) the municipal works board, if no advisory plan commission has jurisdiction over the platted area under IC 36-7-4.

The advisory plan commission or works board shall approve or disapprove the plat, and may require the public ways shown in the plat to be as wide as, and coterminous with, the public ways in contiguous parts of the municipality. The county recorder may record the plat only if a certificate showing the approval of the plan commission or works board is attached to it. If the record of a plat is not executed and approved as required by this subsection, it is void.

As added by Acts 1981, P.L.309, SEC.22.

IC 36-7-3-4

Survey and plat; order; adoption; resolutions; requisites

Sec. 4. (a) A municipality that does not have a sufficient survey and plat of its corporate territory may, by a resolution of its legislative body passed by a two-thirds (2/3) vote, order a survey and plat of the municipality. When the survey and plat have been made, the legislative body may adopt them by a resolution passed by three-fourths (3/4) vote (as described in IC 36-1-8-14). If a survey and plat of the municipality have already been made, without the order of the legislative body, it may adopt them by a resolution passed by a three-fourths (3/4) vote.

(b) The survey and plat are considered adopted by the municipality for all purposes if a certified copy of the resolution adopting the survey and plat is:

(1) signed by the municipal executive and clerk;

(2) attested by the seal of the municipality; and

(3) recorded with the survey and plat in the office of the recorder of the county in which the municipality is located.

The copy of the resolution must include a statement of the names of the persons voting for and against it.

As added by Acts 1981, P.L.309, SEC.22. Amended by P.L.125-2001,

SEC.4.

IC 36-7-3-5
Surveying, platting, and numbering of tracts of land in municipality; requisites, approval, and recording of plat; public ways

Sec. 5. (a) If there are five (5) or more specific tracts of land in a municipality that:

(1) approximate in size any of the platted lots in the municipality;
(2) are not platted or numbered; and
(3) are near or contiguous to each other;

the municipal legislative body may cause the tracts to be surveyed, platted, and given a specific number on the plat. If the survey and plat are approved by the legislative body and recorded in the platbook records of the county in which the municipality is located, they have the same legal effect as if they had been made by the owners of the tracts under section 3 of this chapter.

(b) Tracts surveyed under this section may be described and conveyed by the numbers assigned to them, in the same manner as other platted lots. However, a new public way may be laid out or opened only with the written consent of the owner of the real property to be affected.

As added by Acts 1981, P.L.309, SEC.22.

IC 36-7-3-6
Resolution declaring necessity of survey or plat; requisites; adoption procedures; direction to land surveyor

Sec. 6. (a) Before a survey of a municipality is made under this chapter, the municipal legislative body must declare, by resolution, the necessity for making the survey or plat. The resolution must describe and embrace all tracts to be included in the plat, with the description being by streets, alleys, corporate lines, other platted additions' lines, or any boundary line that can be definitely located. Notice of the adoption of the resolution must be given in accordance with IC 5-3-1. The notice must fix a time and a place where the persons owning the tracts may appear before the legislative body and object to any further steps being taken in the proceedings.

(b) If, after hearing any objections, the legislative body considers it necessary to proceed with the survey and plat, it shall direct the municipal civil engineer, if he is a land surveyor, or, if he is not, some suitable and competent land surveyor, to immediately make the survey and plat and report them to the legislative body.

As added by Acts 1981, P.L.309, SEC.22. Amended by Acts 1981, P.L.45, SEC.17.

IC 36-7-3-7
Land surveyor; completion of survey and plat; requirements; boundary line dispute procedures; subdivision of tracts; report; statement of costs and expenses; filing

Sec. 7. (a) In making a survey of a municipality under this chapter, a land surveyor shall adhere as nearly as possible to boundary lines between tracts. If the owners of adjacent tracts do not agree on the location of the boundary line between them, the land surveyor shall give all interested parties ten (10) days' notice that, at a specified time, he will establish the boundary line. The line established is the correct boundary line, but an aggrieved party may appeal from the survey in the same manner as is provided by IC 36-2-12-14 for an appeal from a survey made by a county surveyor. However, an appeal does not delay the completion of the survey and plat.

(b) All public ways shall be preserved and properly designated on the plat.

(c) Each specific description shall be platted as one (1) lot and given a distinct number on the plat, except that where a part of the specific description is cut off by a street or alley, the tract may be given two (2) or more distinct numbers, as required by the situation.

(d) If any part of the entire tract to be platted is cut up into blocks by streets or alleys, the tract shall be platted in lots extending from the street or alley in the front to the alley in the rear.

(e) If a lot embraces more than one (1) specific description, the memoranda attached to the plat must designate how much of the lot belongs to each of the part owners.

(f) A person owning a tract that is within the boundaries of the territory to be platted and is larger than an ordinary lot may have that tract subdivided into lots of convenient size in the making of the plat.

(g) The land surveyor shall show on the plat the exact size and shape, the number, and the name of the owner (as determined from the records of the county), of each lot platted, and shall attach to the plat, as a part of it, a brief memorandum of the tract description of each lot platted.

(h) The land surveyor shall sign the plat and acknowledge its execution before an officer authorized to take the acknowledgment of deeds. When the survey and plat are completed, the land surveyor shall file them with the municipal clerk. The land surveyor shall also file with his report of the survey and plat an itemized statement of all costs and expenses incident to the proceedings, and an apportionment of the expenses to the lots platted, as required by section 9 of this chapter.

As added by Acts 1981, P.L.309, SEC.22.

IC 36-7-3-8

Report of survey and plat; approval procedures; recording; legal effect of plat

Sec. 8. (a) When a plat is filed under section 7 of this chapter, the municipal clerk shall immediately give notice, in accordance with IC 5-3-1, that on a specified day, at an hour and place named in the notice, the municipal legislative body will meet to consider the land surveyor's report and plat, and to hear any objections to the report and plat by interested parties.

(b) If any errors or omissions are discovered, the legislative body shall require the surveyor to correct them. When the legislative body has approved the report of the survey and plat, it shall give the plat an appropriate name and have it, together with the resolution of approval, recorded in the proper records in the county recorder's office. When recorded, the plat has the same legal effect as if it had been done by the owners of the tracts platted.
As added by Acts 1981, P.L.309, SEC.22.

IC 36-7-3-9
Expenses of survey and plat; apportionment and assessment against property platted; lien; collection and disbursement

Sec. 9. (a) The expenses arising from a survey and plat in a municipality under this chapter shall be charged to the property platted, in the proportion the municipal legislative body considers just and equitable. When approving the land surveyor's report of the survey and plat, the legislative body shall, at the same time, assess an equitable part of the cost and expense against each tract platted.

(b) The assessment is a lien on the property from the time the assessment is made, and is due and payable as soon as the plat is recorded. If an assessment is not paid before the second day of January after it is made, a certified copy of the assessment shall be filed in the office of the auditor of the county in which the property is located, and the auditor shall place the amount claimed on the tax duplicate against the lands of the landowner. The amount shall be collected as taxes are collected, and, when collected, shall be disbursed to the general fund of the municipality.
As added by Acts 1981, P.L.309, SEC.22.

IC 36-7-3-10
Vacation of plat by owners; written instrument; filing and approval; recording; land outside municipal boundaries excepted from approval; effect; public ways

Sec. 10. (a) The owners of land in a plat may vacate all or part of that plat under:

(1) this section; or
(2) IC 36-7-4-711.

(b) In a case in which all the owners of land in a plat are in agreement regarding a proposed vacation, the owners may file a written instrument to vacate all or part of that plat. All the owners of land in the plat must declare the plat or part of the plat to be vacated in the written instrument. The instrument must be executed, acknowledged, and recorded in the same manner as a deed to land.

(c) Before offering the instrument for recording under this section, an owner must file a copy of the instrument in the county auditor's office and must submit the instrument vacating all or part of the plat for the approval of the plan commission that has jurisdiction over the platted area under IC 36-7-4 or the plat committee acting on behalf of the plan commission. If no plan commission has jurisdiction over the platted area under IC 36-7-4, the instrument must be submitted

for the approval of:

(1) the county executive, in the case of land located in an unincorporated area; or

(2) the municipal works board, in the case of land located inside the corporate boundaries of a municipality.

The instrument may be approved under this section without notice or a hearing. The provisions of IC 36-7-4 concerning notice and hearing do not apply to the approval of an instrument under this section.

(d) The county recorder may record the instrument only if a certificate showing the approval of the vacation by the plan commission, county executive, or municipal works board is attached to it. If the instrument is not executed and approved as required by this section, it is void.

(e) The owners of land in a plat that is located outside the corporate boundaries of any municipality may vacate all of the plat without the approval required by subsections (c) and (d) if no lots have been sold and no roads constructed in the plat, and all of the owners of land in the plat declare the plat to be vacated in a written instrument. The instrument must be executed, acknowledged, and recorded in the same manner as a deed to land.

(f) An instrument recorded under this section terminates the effect of the plat or part of the plat declared to be vacated, and it also terminates all public rights in the public ways and public places described in the plat or part of the plat. However, a public way that has been improved, or that is part of an improved plat, may be vacated only in accordance with section 12 of this chapter or with IC 36-7-4-712, whichever is applicable.

As added by Acts 1981, P.L.309, SEC.22. Amended by P.L.220-1986, SEC.5; P.L.126-2011, SEC.3.

IC 36-7-3-11
Repealed

(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-3-12
Vacation of public way or place; petition; notice; hearing; adoption of ordinance; appeals

Sec. 12. (a) Persons who:

(1) own or are interested in any lots or parts of lots; and

(2) want to vacate all or part of a public way or public place in or contiguous to those lots or parts of lots;

may file a petition for vacation with the legislative body of:

(A) a municipality, if all or any part of the public way or public place to be vacated is located within the corporate boundaries of that municipality; or

(B) the county, if all or the only part of the public way or public place to be vacated is located outside the corporate boundaries of a municipality.

(b) Notice of the petition must be given in the manner prescribed by subsection (c). The petition must:

(1) state the circumstances of the case;

(2) specifically describe the property proposed to be vacated; and

(3) give the names and addresses of all owners of land that abuts the property proposed to be vacated.

(c) The legislative body shall hold a hearing on the petition within thirty (30) days after it is received. The clerk of the legislative body shall give notice of the petition and of the time and place of the hearing:

(1) in the manner prescribed in IC 5-3-1; and

(2) by certified mail to each owner of land that abuts the property proposed to be vacated.

The petitioner shall pay the expense of providing this notice.

(d) The hearing on the petition is subject to IC 5-14-1.5. At the hearing, any person aggrieved by the proposed vacation may object to it as provided by section 13 of this chapter.

(e) After the hearing on the petition, the legislative body may, by ordinance, vacate the public way or public place. The clerk of the legislative body shall furnish a copy of each vacation ordinance to the county recorder for recording and to the county auditor.

(f) Within thirty (30) days after the adoption of a vacation ordinance, any aggrieved person may appeal the ordinance to the circuit court of the county. The court shall try the matter de novo and may award damages.

As added by Acts 1981, P.L.309, SEC.22. Amended by Acts 1981, P.L.46, SEC.6; Acts 1982, P.L.211, SEC.2.

IC 36-7-3-13

Vacation proceedings; filing of remonstrances and objections; grounds

Sec. 13. A remonstrance or objection permitted by section 12 of this chapter may be filed or raised by any person aggrieved by the proposed vacation, but only on one (1) or more of the following grounds:

(1) The vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.

(2) The vacation would make access to the lands of the aggrieved person by means of public way difficult or inconvenient.

(3) The vacation would hinder the public's access to a church, school, or other public building or place.

(4) The vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

As added by Acts 1981, P.L.309, SEC.22. Amended by Acts 1981, P.L.46, SEC.7; Acts 1982, P.L.211, SEC.3; P.L.353-1983, SEC.1; P.L.126-2011, SEC.4.

IC 36-7-3-14

Vacation of platted land; descriptions of lots and parcels in plat

preserved; exceptions

Sec. 14. (a) If any platted land is vacated, the descriptions of the lots and parcels of that land shall be preserved as set forth in the plat, with the proportionate parts of vacated streets and alleys added as provided by law, unless all the owners of land in the vacated area consent in writing to the description of the area by:

(1) the method used before the plat was made;

(2) metes and bounds; or

(3) other appropriate description.

(b) Notwithstanding subsection (a), a vacated tract of five (5) acres or more that is owned by one (1) person, or jointly by two (2) or more persons, need not be described by lot number and may be described by metes and bounds or some other method.

As added by Acts 1981, P.L.309, SEC.22.

IC 36-7-3-15

Termination of vacation proceeding; limitation

Sec. 15. After the termination of a vacation proceeding under this chapter, a subsequent vacation proceeding affecting the same property and asking for the same relief may not be initiated for two (2) years.

As added by Acts 1981, P.L.309, SEC.22.

IC 36-7-3-16

Vacation of platted easements; public utility's use of public way or place notwithstanding vacation proceedings; waiver

Sec. 16. (a) Platted easements may be vacated in the same manner as public ways and public places, in accordance with section 12 of this chapter or with IC 36-7-4-712, whichever is applicable.

(b) Notwithstanding this article, vacation proceedings do not deprive a public utility of the use of all or part of a public way or public place to be vacated, if, at the time the proceedings are instituted, the utility is occupying and using all or part of that public way or public place for the location and operation of its facilities. However, the utility may waive its rights under this subsection by filing its written consent in the vacation proceedings.

As added by Acts 1981, P.L.309, SEC.22. Amended by P.L.220-1986, SEC.7.

IC 36-7-4

Chapter 4. Local Planning and Zoning

IC 36-7-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to sections 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, and 701 of this chapter by P.L.335-1985 do not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.335-1985 had not been enacted.

(2) The addition of sections 613 and 614 of this chapter by P.L.335-1985 does not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.335-1985 had not been enacted.

(3) The amendments made to sections 214, 503, 504, 506, 509, 510, 511, 601, 602, 603, 604, 605, 606, 610, 612, 711, 712, 801, 802, 1014, and 1020 of this chapter by P.L.220-1986 do not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.220-1986 had not been enacted.

As added by P.L.220-2011, SEC.658.

IC 36-7-4-0.3

Operation of certain area plan commissions; legalization of certain actions taken after June 30, 1997, and before January 1, 1999

Sec. 0.3. Notwithstanding the amendments made to section 207 of this chapter by P.L.225-1997, an area plan commission that existed before May 12, 1997, may continue to operate until January 1, 1999, under section 207 of this chapter as it existed before May 12, 1997. Any actions taken after June 30, 1997, and before January 1, 1999, by an area plan commission operating under this section that otherwise comply with the Area Planning Law are legalized and validated.

As added by P.L.220-2011, SEC.659.

IC 36-7-4-0.4

Legalization of acts of certain plan commissions taken after September 30, 1999, and before March 16, 2000

Sec. 0.4. (a) This section applies to a county plan commission that

did not have a township trustee appointed to the plan commission as a member in accordance with IC 36-7-4-208(a)(5) on or after October 1, 1999.

(b) The acts of the plan commission taken after September 30, 1999, and before March 16, 2000, are legalized.

As added by P.L.220-2011, SEC.660.

IC 36-7-4-100

100 Series—Applicability and rules of construction

Sec. 100. This series (sections 100 through 199 of this chapter) may be cited as follows: 100 SERIES–APPLICABILITY AND RULES OF CONSTRUCTION.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-101

"Advisory planning law" defined

Sec. 101. The "advisory planning law" consists of those parts of this chapter that are applicable to advisory planning. Sections and subsections of this chapter with headings that include "ADVISORY" apply to advisory planning. In addition, sections and subsections of this chapter without headings apply to advisory planning as well as area planning and metropolitan development.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-102

"Area planning law" defined

Sec. 102. The "area planning law" consists of those parts of this chapter that are applicable to area planning. Sections and subsections of this chapter with headings that include "AREA" apply to area planning. In addition, sections and subsections of this chapter without headings apply to area planning as well as advisory planning and metropolitan development.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-103

"Metropolitan development law" defined

Sec. 103. The "metropolitan development law" consists of those parts of this chapter that are applicable to metropolitan development. Sections and subsections of this chapter with headings that include "METRO" apply to metropolitan development. In addition, sections and subsections of this chapter without headings apply to metropolitan development as well as area planning and advisory planning.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-104

"Series" defined

Sec. 104. A citation in this chapter to the term "series", preceded by a numerical designation and two (2) zeroes, shall be construed as a reference to all the sections of this chapter (including the advisory

planning law, the area planning law, and the metropolitan development law) that have that same numerical designation.
As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-105
Repealed
(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-4-106
Prior law construed
Sec. 106. If a provision of the prior advisory planning laws, area planning laws, township joinder laws, or metropolitan development laws has been replaced in the same form or in a restated form, by a provision of this chapter, then a citation to the provision of the prior law shall be construed as a citation to the corresponding provision of this chapter.
As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-200
200 Series—Establishment and membership of commission
Sec. 200. This series (sections 200 through 299 of this chapter) may be cited as follows: 200 SERIES–COMMISSION ESTABLISHMENT AND MEMBERSHIP.
As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-201
Purpose
Sec. 201. (a) For purposes of IC 36-1-3-6, a unit wanting to exercise planning and zoning powers in Indiana must do so in the manner provided by this chapter.

(b) The purpose of this chapter is to encourage units to improve the health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end:

(1) that highway systems be carefully planned;

(2) that new communities grow only with adequate public way, utility, health, educational, and recreational facilities;

(3) that the needs of agriculture, forestry, industry, and business be recognized in future growth;

(4) that residential areas provide healthful surroundings for family life; and

(5) that the growth of the community is commensurate with and promotive of the efficient and economical use of public funds.

(c) Furthermore, municipalities and counties may cooperatively establish single and unified planning and zoning entities to carry out the purpose of this chapter on a countywide basis.

(d) METRO. Expanding urbanization in each county having a consolidated city has created problems that have made the unification of planning and zoning functions a necessity to insure the health, safety, morals, economic development, and general welfare of the county. To accomplish this unification, a single planning and zoning

authority is established for the county.
As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.5; P.L.192-1984, SEC.3; P.L.82-2005, SEC.7.

IC 36-7-4-201.1
Zoning ordinances; satellite receiver antennas and other types of antennas

Sec. 201.1. A local zoning ordinance that addresses a satellite receiver antenna and another type of antenna is void unless the zoning ordinance:

(1) has a reasonable and clearly defined health, safety, or aesthetic objective;

(2) does not:

(A) impose an unreasonable restriction on or prevent the reception of satellite signals by satellite receiver antennas; or

(B) impose costs on the users of satellite receiver antennas that are excessive in comparison to the purchase and installation cost of the satellite receiver antennas; and

(3) does not prohibit installation of a satellite receiver antenna that is not more than two (2) feet in diameter.

As added by P.L.167-1994, SEC.1.

IC 36-7-4-202
Establishment; authorization

Sec. 202. (a) ADVISORY. The legislative body of a county or municipality may establish by ordinance an advisory plan commission. In addition, in a county having a population of:

(1) more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000); or

(2) more than one hundred fifteen thousand (115,000) but less than one hundred twenty-five thousand (125,000);

the legislative bodies of that county and of the city having the largest population in that county may establish by identical ordinances a metropolitan plan commission as a department of county government. These ordinances must specify the legal name of the commission for purposes of section 404(a) of this chapter.

(b) AREA. There may be established in each county an area planning department in the county government, having:

(1) an area plan commission;

(2) an area board of zoning appeals;

(3) an executive director; and

(4) such staff as the area plan commission considers necessary.

Each municipality and each county desiring to participate in the establishment of a planning department may adopt an ordinance adopting the area planning law, fix a date for the establishment of the planning department, and provide for the appointment of its representatives to the commission. When a municipality or a county adopts such an ordinance, it shall certify a copy of the ordinance to each legislative body within the county. When a county and at least

one (1) municipality within the county each adopt an ordinance adopting the area planning law and fix a date for the establishment of the department, the legislative body of the county shall establish the planning department.

(c) METRO. A metropolitan development commission is established in the department of metropolitan development of the consolidated city. The legislative body of the consolidated city may adopt ordinances to regulate the following:

(1) The time that the commission holds its meetings.

(2) The voting procedures of the commission.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.12-1992, SEC.163; P.L.164-1995, SEC.15; P.L.170-2002, SEC.152; P.L.119-2012, SEC.193.

IC 36-7-4-203

Establishment; exercise of planning and zoning authority

Sec. 203. (a) ADVISORY. After a metropolitan plan commission is established, it shall exercise exclusively the planning and zoning functions of the county and of the second class city, and the separate planning and zoning functions of the county plan commission and the city plan commission cease.

(b) AREA. After the planning department is established and the participating legislative bodies have adopted a zoning ordinance, the planning department shall exercise exclusively the planning and zoning functions of the county and of the participating municipalities, except as provided in section 901(i) of this chapter. Where other statutes confer planning and zoning authority on a participating municipality or a county, their plan commissions shall continue to exercise that authority until such time as the planning department is established and the participating legislative bodies adopt a zoning ordinance.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.6; P.L.126-2011, SEC.5.

IC 36-7-4-204

Establishment; participation by other municipalities within county

Sec. 204. AREA. After the planning department is established, other municipalities within the county may adopt ordinances adopting the area planning law and provide for the appointment of their representatives to the area plan commission. In such a case, the membership of the commission shall be increased according to the formula provided in sections 207, 208, 209, and 211 of this chapter and the authority of a municipal plan commission and municipal board of zoning appeals ceases, except as provided in section 901(i) of this chapter, as of the time specified in that ordinance. The composition of any such municipal board of zoning appeals, or of any such board later organized, under the advisory planning law, must conform with that law, except that those members of such a board to be appointed from the municipal plan commission shall instead be appointed from the area plan commission.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.126-2011, SEC.6.

IC 36-7-4-205

Establishment; extent of territorial authority of comprehensive plan; inclusion of contiguous unincorporated area; fire protection territories; incorporation of new towns in county

Sec. 205. (a) ADVISORY. A municipal plan commission shall adopt a comprehensive plan, as provided for under the 500 series of the advisory planning law, for the development of the municipality. For comprehensive plans adopted after July 1, 1999, if:

(1) the municipality provides municipal services to the contiguous unincorporated area; or

(2) the municipal plan commission obtains the approval of the county legislative body of each affected county;

the municipal plan commission may provide in the comprehensive plan for the development of the contiguous unincorporated area, designated by the commission, that is outside the corporate boundaries of the municipality, and that, in the judgment of the commission, bears reasonable relation to the development of the municipality. For purposes of this section, participation of a municipality in a fire protection territory established under IC 36-8-19 that includes unincorporated areas contiguous to the municipality may not be treated as providing municipal services to the contiguous unincorporated areas.

(b) ADVISORY. Except as limited by the boundaries of unincorporated areas subject to the jurisdiction of other municipal plan commissions, an area designated under this section may include any part of the contiguous unincorporated area within two (2) miles from the corporate boundaries of the municipality. If, however, the corporate boundaries of the municipality or the boundaries of that contiguous unincorporated area include any part of the public waters or shoreline of a lake (which lies wholly within Indiana), the designated area may also include:

(1) any part of those public waters and shoreline of the lake; and

(2) any land area within two thousand five hundred (2,500) feet from that shoreline.

(c) ADVISORY. Before exercising their rights, powers, and duties of the advisory planning law with respect to an area designated under this section, a municipal plan commission must file, with the recorder of the county in which the municipality is located, a description or map defining the limits of that area. If the commission revises the limits, it shall file, with the recorder, a revised description or map defining those revised limits.

(d) ADVISORY. If any part of the contiguous unincorporated area within the potential jurisdiction of a municipal plan commission is also within the potential jurisdiction of another municipal plan commission, the first municipal plan commission may exercise territorial jurisdiction over that part of the area within the potential

jurisdiction of both municipal plan commissions that equals the product obtained by multiplying a fraction, the numerator of which is the area within the corporate boundaries of that municipality and the denominator of which is the total area within the corporate boundaries of both municipalities times the area within the potential jurisdiction of both municipal plan commissions. Furthermore, this commission may exercise territorial jurisdiction within those boundaries, enclosing an area reasonably compact and regular in shape, that the municipal plan commission first acting designates.

(e) ADVISORY. If the legislative body of a county adopts a comprehensive plan and ordinance covering the unincorporated areas of the county, a municipal plan commission may not exercise jurisdiction, as provided in this section, over any part of that unincorporated area unless it is authorized by ordinance of the legislative body of the county. This ordinance may be initiated by the county legislative body or by petition duly signed and presented to the county auditor by:

(1) not less than fifty (50) property owners residing in the area involved in the petition;

(2) the county plan commission; or

(3) the municipal plan commission.

Before final action on the ordinance by the county legislative body, the county plan commission must hold an advertised public hearing as required for other actions of the county plan commission under the advisory planning law. Upon the passage of the ordinance by the county legislative body and the subsequent acceptance of jurisdiction by the municipal plan commission, the municipal plan commission shall exercise the same rights, powers, and duties conferred in this section exclusively with respect to the contiguous unincorporated area. The jurisdiction of a municipal plan commission, as authorized under this subsection, may be terminated by ordinance at the discretion of the legislative body of the county, but only if the county has adopted a comprehensive plan for that area that is as comprehensive in scope and subject matter as that in effect by municipal ordinance.

(f) ADVISORY. Each municipal plan commission in a municipality located in a county having:

(1) a population of less than ninety-five thousand (95,000); and

(2) a county plan commission that has adopted, in accord with the advisory planning law, a comprehensive plan and ordinance covering the unincorporated areas of the county;

may, at any time, after filing notice with the county recorder and the county plan commission, exercise or reject territorial jurisdiction over any part of the area within two (2) miles of the corporate boundaries of that municipality and within that county, whether or not that commission has previously exercised that jurisdiction, if the municipality is providing municipal services to the area. Within sixty (60) days after receipt of that notice, the county plan commission and the county legislative body shall have the county comprehensive plan and ordinance revised to reflect the decision of the municipal plan

commission exercising the option provided for in this subsection. If the municipality is not providing municipal services to the area, the municipal plan commission must obtain the approval of the county legislative body of each affected county before exercising jurisdiction.

(g) AREA. Wherever in the area planning law authority is conferred to establish a comprehensive plan or an ordinance for its enforcement, the authority applies everywhere:

(1) within the county that is outside the municipalities; and

(2) within each participating municipality.

(h) ADVISORY—AREA. Whenever a new town is incorporated in a county having a county plan commission or an area plan commission, that plan commission and its board of zoning appeals shall continue to exercise territorial jurisdiction within the town until the effective date of a town ordinance:

(1) establishing an advisory plan commission under section 202(a) of this chapter; or

(2) adopting the area planning law under section 202(b) or 204 of this chapter.

Beginning on that effective date, the planning and zoning functions of the town shall be exercised under the advisory planning law or area planning law, as the case may be.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1982, P.L.1, SEC.61; P.L.216-1999, SEC.1; P.L.172-2011, SEC.143.

IC 36-7-4-206

Establishment; extent of territorial authority of nonparticipating municipality

Sec. 206. AREA. After the planning department is established, a nonparticipating municipality may not exercise planning and zoning powers outside its corporate boundaries.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-207

Membership of commission; nonvoting adviser

Sec. 207. (a) ADVISORY. In a city having a park board and a city civil engineer, the city plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the city legislative body from its membership.

(2) One (1) member appointed by the park board from its membership.

(3) One (1) member or designated representative appointed by the city works board.

(4) The city civil engineer or a qualified assistant appointed by the city civil engineer.

(5) Five (5) citizen members, of whom no more than three (3) may be of the same political party, appointed by the city executive.

(b) ADVISORY. If a city lacks either a park board or a city civil

engineer, or both, subsection (a) does not apply. In such a city or in any town, the municipal plan commission consists of seven (7) members, as follows:

(1) The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.

(2) The municipal executive shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.

(c) AREA. To provide equitable representation of rural and urban populations, representation on the area plan commission is determined as follows:

(1) Seven (7) representatives from each city having a population of more than one hundred five thousand (105,000).

(2) Six (6) representatives from each city having a population of not less than seventy thousand (70,000) nor more than one hundred five thousand (105,000).

(3) Five (5) representatives from each city having a population of not less than thirty-five thousand (35,000) but less than seventy thousand (70,000).

(4) Four (4) representatives from each city having a population of not less than twenty thousand (20,000) but less than thirty-five thousand (35,000).

(5) Three (3) representatives from each city having a population of not less than ten thousand (10,000) but less than twenty thousand (20,000).

(6) Two (2) representatives from each city having a population of less than ten thousand (10,000).

(7) One (1) representative from each town having a population of more than two thousand one hundred (2,100), and one (1) representative from each town having a population of two thousand one hundred (2,100) or less that had a representative before January 1, 1979.

(8) Such representatives from towns having a population of not more than two thousand one hundred (2,100) as are provided for in section 210 of this chapter.

(9) Six (6) county representatives if the total number of municipal representatives in the county is an odd number, or five (5) county representatives if the total number of municipal representatives is an even number.

(d) METRO. The metropolitan development commission consists of nine (9) citizen members, as follows:

(1) Four (4) members, of whom no more than two (2) may be of the same political party, appointed by the executive of the consolidated city.

(2) Three (3) members, of whom no more than two (2) may be of the same political party, appointed by the legislative body of the consolidated city.

(3) Two (2) members, who must be of different political parties, appointed by the board of commissioners of the county.

(e) METRO. The legislative body of the consolidated city shall appoint an individual to serve as a nonvoting adviser to the metropolitan development commission when the commission is acting as the redevelopment commission of the consolidated city under IC 36-7-15.1. If the duties of the metropolitan development commission under IC 36-7-15.1 are transferred to another entity under IC 36-3-4-23, the individual appointed under this subsection shall serve as a nonvoting adviser to that entity. A nonvoting adviser appointed under this subsection:

(1) must also be a member of the school board of a school corporation that includes all or part of the territory of the consolidated city;

(2) is not considered a member of the metropolitan development commission for purposes of IC 36-7-15.1 but is entitled to attend and participate in the proceedings of all meetings of the metropolitan development commission (or any successor entity designated under IC 36-3-4-23) when it is acting as a redevelopment commission under IC 36-7-15.1;

(3) is not entitled to a salary, per diem, or reimbursement of expenses;

(4) serves for a term of two (2) years and until a successor is appointed; and

(5) serves at the pleasure of the legislative body of the consolidated city.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.44, SEC.53; Acts 1982, P.L.1, SEC.62; P.L.192-1984, SEC.4; P.L.336-1985, SEC.1; P.L.164-1995, SEC.16; P.L.225-1997, SEC.1; P.L.32-2004, SEC.1; P.L.146-2008, SEC.718.

IC 36-7-4-208

Membership of commission; county and metropolitan numbers

Sec. 208. (a) ADVISORY. The county plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county surveyor or the county surveyor's designee.

(4) The county agricultural extension educator. However, if the county does not have a county agricultural extension educator, the county extension board shall select a resident of the county who is a property owner with agricultural interest to serve on the commission under this subdivision for a period not to exceed one (1) year.

(5) Five (5) members appointed in accordance with one (1) of the following:

(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party. Each of the four (4) members must be:

(i) a resident of an unincorporated area of the county; or

(ii) a resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county;

appointed by the county executive. However, at least two (2) of the citizen members must be residents of the unincorporated area of the county. Also one (1) township trustee, who must be a resident of an unincorporated area of the county appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party. Each of the five (5) members must be:

(i) a resident of an unincorporated area of the county; or

(ii) a resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county;

appointed by the county executive. However at least three (3) members must be residents of the unincorporated area of the county.

If a county executive changes the plan commission from having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) ADVISORY. The metropolitan plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county legislative body from its membership.

(2) One (1) member appointed by the second class city legislative body from its membership.

(3) Three (3) citizen members who:

(A) reside in an unincorporated area of the county; or

(B) reside in the county and also own real property located in whole or in part in an unincorporated area of the county;

of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) AREA. When there are six (6) county representatives, they are as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.

(4) One (1) of the following appointed by the county executive:

(A) The county agricultural extension educator.

(B) The county surveyor or the county surveyor's designee.

(5) One (1) citizen member who is:

(A) a resident of the unincorporated area of the county; or

(B) a resident of the county who is also an owner of real property located in whole or in part in the unincorporated area of the county;

appointed by the county executive.

(6) One (1) citizen member who is:

(A) a resident of the unincorporated area of the county; or

(B) a resident of the county who is also an owner of real property located in whole or in part in the unincorporated area of the county;

appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6) and:

(1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.7; P.L.354-1983, SEC.1; P.L.40-1993, SEC.67; P.L.226-1997, SEC.1; P.L.216-1999, SEC.2; P.L.103-2000, SEC.1; P.L.276-2001, SEC.10; P.L.173-2003, SEC.30; P.L.32-2004, SEC.2; P.L.126-2011, SEC.7.

IC 36-7-4-209

Membership of commission; representatives for a municipality; numbers; appointments

Sec. 209. (a) AREA. When the number of representatives for a municipality is two (2), one (1) is a member of the municipal legislative body appointed by the legislative body and the other is a citizen member appointed by the municipal executive.

(b) AREA. When the number of representatives for a municipality is three (3), one (1) is a member of the legislative body appointed by the legislative body and two (2) are citizen members appointed by the executive.

(c) AREA. When the number of representatives for a municipality is four (4), one (1) is a member of the works board or the board of sanitary commissioners, appointed by the executive, one (1) is a member of the legislative body appointed by the legislative body, and two (2) are citizen members appointed by the executive.

(d) AREA. When the number of representatives for a municipality is five (5) or more, one (1) is a member of the works board or the board of sanitary commissioners, appointed by the executive, one (1) is a member of the legislative body appointed by the legislative body, and the remainder are citizen members appointed by the executive.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.226-1997, SEC.2; P.L.126-2011, SEC.8.

IC 36-7-4-210

Membership of commission; advisory council on town affairs

Sec. 210. (a) AREA. In a county where there are two (2) or more towns having a population of not more than two thousand one hundred (2,100) neither of which has a representative on the area plan commission under section 207(c)(7) of this chapter that are participating in an area planning department, there is established an advisory council on town affairs. Each participating legislative body of such a town shall select one (1) of its members as its representative on the advisory council. The advisory council shall meet as soon as possible after the establishment of the planning department. It shall meet in the town hall of the participating town having the largest population, on the call of the representative of that town, who shall act as chairman of the first meeting. Thereafter, the council shall elect its own chairman.

(b) AREA. The advisory council shall at its first meeting select from its membership an appropriate number of voting representatives to the area plan commission. If the advisory council is composed of five (5) or less, it is entitled to one (1) voting representative on the area plan commission. If the advisory council is composed of more than five (5), it is entitled to two (2) voting representatives on the area plan commission.

(c) AREA. The chairman and the representatives on the advisory council shall be elected for one (1) year terms, terminating at the end of the year.

(d) AREA. If there are not any cities located within a county, then the town having the largest population and participating in the planning department in the county shall select a citizen member to serve on the area plan commission. The legislative body of that town shall appoint that member as prescribed by section 218(e) of this chapter.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.8; Acts 1982, P.L.1, SEC.63.

IC 36-7-4-211

Membership of commission; changes

Sec. 211. (a) AREA. Notwithstanding any other provision of the

area planning law, the representation on any area plan commission may be changed by a similar ordinance adopted by the legislative body of each unit that is a participant in a planning department or by the legislative body of each unit that proposes to form a planning department.

(b) AREA. Each ordinance adopted under this section must provide for at least one (1) representative from each unit that is a participant in the planning department.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.9.

IC 36-7-4-212

Membership of commission; certification

Sec. 212. ADVISORY. The clerk of the municipal legislative body and the secretary of the park board shall certify members appointed by their respective bodies, and the executive shall certify his appointments. The certificates shall be sent to and made a part of the records of the municipal plan commission.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-213

Membership of commission; advisory members

Sec. 213. ADVISORY. If a municipality having a municipal plan commission is located in a county that has a county plan commission:

(1) a designated representative of the county plan commission shall serve as an advisory member of the municipal plan commission; and

(2) a designated representative of the municipal plan commission shall serve as an advisory member of the county plan commission.

Each advisory member has all the privileges of membership, except the right to vote.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-214

Membership of commission; additional members required for unincorporated jurisdictional area

Sec. 214. (a) ADVISORY. When a municipal plan commission exercises jurisdiction outside the incorporated area of the municipality as provided for in section 205 of the advisory planning law, the executive of the county in which the unincorporated area is located shall appoint two (2) additional citizen members to the municipal plan commission. The citizen members must:

(1) be residents of:

(A) the unincorporated area; or

(B) the county, and must also be owners of real property located in whole or in part within the unincorporated area; and

(2) not be of the same political party.

However, at least one (1) of the members must be a resident of the unincorporated area.

(b) ADVISORY. Initially, one (1) member under subsection (a) shall be appointed for a term of one (1) year and the other for a term of four (4) years. Thereafter, each appointment is for a term of four (4) years. The additional citizen members are entitled to participate and vote in all deliberations of the municipal plan commission.

(c) ADVISORY. If the unincorporated area referred to in subsection (a) lies in two (2) counties, the executive of each of those counties shall appoint one (1) of the additional citizen members. The executive of the county having the larger proportion of the unincorporated area shall appoint its member first, and the executive of the other county shall then appoint its member, who must not be of the same political party.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.7-1983, SEC.37; P.L.220-1986, SEC.8; P.L.126-2011, SEC.9; P.L.6-2012, SEC.242.

IC 36-7-4-215

Membership of commission; additional members allowed for unincorporated jurisdictional area

Sec. 215. ADVISORY. In addition to the requirements of section 214 of this chapter, the executive of the county may also appoint as members of a town plan commission additional representatives from the unincorporated jurisdictional area, if the executive believes the additional representation is justifiable. The number of appointments shall be determined as follows:

(1) Two (2) citizen members, if the population of the jurisdictional area appears to be at least fifty percent (50%) but not more than one hundred percent (100%) of the population of the town itself.

(2) Four (4) citizen members, if the population of the jurisdictional area appears to be greater than that of the town itself.

These additional members must have the same qualifications and are entitled to the same terms and privileges as prescribed for the additional members appointed under section 214 of this chapter.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.7-1983, SEC.38.

IC 36-7-4-216

Membership of commission; qualifications of citizen members

Sec. 216. (a) Each citizen member shall be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area.

(b) A citizen member may not hold:

(1) an elected office (as defined in IC 3-5-2-17); or

(2) any other appointed office in municipal, county, or state

government;

except for membership on the board of zoning appeals as required by section 902 of this chapter and, in the case of an area plan commission, membership on the body from which the member must be appointed under this series.

(c) Subject to subsection (d), a citizen member must meet one (1) of the following requirements:

(1) The member must be a resident of the jurisdictional area of the plan commission. The member may also be required by statute to reside within an unincorporated area of the jurisdictional area of the plan commission.

(2) The member must be a resident of the county and also an owner of real property located in whole or in part in the jurisdictional area of the plan commission. The member may also be required by statute to own real property within an unincorporated area of the jurisdictional area of the plan commission.

(d) At least a majority of the total number of citizen members appointed to a plan commission must be residents of the jurisdictional area of the plan commission. The commission shall determine whether a citizen member meets all applicable residency requirements for appointment in accordance with uniform rules prescribed by the commission.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.10; P.L.2-1989, SEC.25; P.L.126-2011, SEC.10.

IC 36-7-4-217

Membership of commission; term of certain appointees

Sec. 217. ADVISORY–AREA. The term of office of a member (who is appointed from the membership of a legislative body, a park board, or the advisory council on town affairs) is coextensive with the member's term of office on that body, board, or council, unless that body, board, or council appoints, at its first regular meeting in any year, another to serve as its representative.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-218

Membership of commission; terms and removal of citizen members

Sec. 218. (a) When an initial term of office of a citizen member expires, each new appointment of a citizen member is:

(1) for a term of four (4) years (in the case of a municipal, county, or area plan commission);

(2) for a term of three (3) years (in the case of a metropolitan plan commission); or

(3) for a term of one (1), two (2), or three (3) years, as designated by the appointing authority (in the case of the metropolitan development commission).

A member serves until his successor is appointed and qualified. A member is eligible for reappointment.

(b) ADVISORY. Upon the establishment of a nine (9) member

municipal plan commission, the citizen members shall initially be appointed for the following terms of office:

(1) One (1) for a term of two (2) years.

(2) Two (2) for a term of three (3) years.

(3) Two (2) for a term of four (4) years.

Upon the establishment of a seven (7) member municipal plan commission, two (2) citizen members shall initially be appointed for a term of three (3) years and two (2) shall initially be appointed for a term of four (4) years. Each member's term expires on the first Monday of January of the second, third, or fourth year, respectively, after the year of the member's appointment.

(c) ADVISORY. Upon the establishment of a county plan commission, the citizen members shall initially be appointed for the following terms of office:

(1) One (1) for a term of one (1) year.

(2) One (1) for a term of two (2) years.

(3) One (1) for a term of three (3) years.

(4) Two (2) for a term of four (4) years.

Each member's term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment.

(d) ADVISORY. Upon the establishment of a metropolitan plan commission, the citizen members shall initially be appointed for the following terms of office:

(1) Three (3) for a term of one (1) year, one (1) appointed by the county legislative body and two (2) by the city executive.

(2) Two (2) for a term of two (2) years, one (1) by each appointing authority.

(3) Two (2) for a term of three (3) years, one (1) by each appointing authority.

(e) AREA. If there is one (1) citizen member on the area plan commission, his initial term of office is one (1) year. If there are two (2) citizen members, one (1) shall be appointed for a term of one (1) year and one (1) for a term of two (2) years. If there are three (3) or more citizen members, one (1) shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and any remainder for a term of four (4) years. Each member's term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment.

(f) ADVISORY–AREA. The appointing authority may remove a member from the plan commission for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at his residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the circuit or superior court of the county. The court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

(g) METRO. The appointing authority may remove a citizen member from the metropolitan development commission. The

appointing authority must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his residence address. A member who is removed may not appeal the removal to a court or otherwise.
As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.11; P.L.192-1984, SEC.5.

IC 36-7-4-219
Repealed
(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-4-220
Membership of commission; vacancies; appointment of alternate members
Sec. 220. (a) If a vacancy occurs among the plan commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority may also appoint an alternate member to participate with the commission in a hearing or decision if the regular member appointed by the appointing authority has a disqualification under section 223(c) of this chapter. An alternate member has all the powers and duties of a regular member while participating in the hearing or decision.
(b) If a vacancy occurs in the office of the county surveyor while the county surveyor is serving on the plan commission, then the county engineer shall participate with the plan commission during the time the office of the county surveyor is vacant. The county engineer has all the powers and duties of a regular member while participating under this subsection.
(c) An appointed member who misses three (3) consecutive regular meetings of the plan commission may be treated as if the member had resigned, at the discretion of the appointing authority.
As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.12; P.L.23-1991, SEC.39; P.L.126-2011, SEC.11.

IC 36-7-4-221
Repealed
(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-4-222
Membership of commission; expenses
Sec. 222. If a plan commission determines that it is necessary or desirable for members or employees to join a professional organization or to attend a conference or interview dealing with planning or related problems, the commission may pay the applicable membership fees and all actual expenses of the members or employees, if that amount has been appropriated by the fiscal body of the unit.
As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.13; P.L.192-1984, SEC.6.

IC 36-7-4-222.5
Plan commission members belonging to county executive or fiscal bodies; mileage and compensation

Sec. 222.5. Notwithstanding IC 36-2-7-2, a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor who is also a member of a plan commission is entitled to receive the following:

(1) A sum for mileage for each mile necessarily traveled while performing the duties of a plan commission member in an amount determined by the county fiscal body.

(2) A sum for compensation for services as a member of the plan commission in an amount that the county fiscal body may determine for attendance at meetings of the plan commission.

As added by P.L.356-1989(ss), SEC.1. Amended by P.L.154-1993, SEC.3; P.L.10-1997, SEC.34.

IC 36-7-4-223
Membership of commission; conflict of interest; disqualification

Sec. 223. (a) This section does not apply to the preparation or adoption of a comprehensive plan under the 500 series of this chapter.

(b) A member of a plan commission or a legislative body is disqualified and may not participate as a member of the plan commission or legislative body in a hearing or recommendation of that commission or body concerning a legislative act as described in section 1016 of this chapter in which the member has a direct or indirect financial interest. The commission or body shall enter in its records the fact that its member has such a disqualification.

(c) A member of a plan commission is disqualified and may not participate in a hearing of that commission concerning a zoning decision as described in section 1016 of this chapter if:

(1) the member is biased or prejudiced or otherwise unable to be impartial; or

(2) the member has a direct or indirect financial interest in the outcome of the zoning decision.

(d) The plan commission shall enter in the plan commission's records:

(1) the fact that a regular member has a disqualification under subsection (c); and

(2) the name of the alternate member, if any, who participates in the hearing in place of the regular member.

(e) A member of a plan commission or a legislative body may not directly or personally represent another person in a hearing before that commission or body concerning a zoning decision or a legislative act.

(f) A member of a plan commission may not receive any mileage or compensation under section 222.5 of this chapter for attendance at a meeting if the member is disqualified under this section from participating in the entire meeting.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981,

P.L.310, SEC.14; P.L.154-1993, SEC.4; P.L.126-2011, SEC.12.

IC 36-7-4-300
300 Series—Organization of commission

Sec. 300. This series (sections 300 through 399 of this chapter) may be cited as follows: 300 SERIES–COMMISSION ORGANIZATION.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-301
Organization; quorum

Sec. 301. A quorum consists of a majority of the entire membership of the plan commission, who are qualified by this chapter to vote.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-302
Organization; official action

Sec. 302. (a) ADVISORY–AREA. Action of a plan commission is not official, unless it is authorized, at a regular or special meeting, by a majority of the entire membership of the plan commission.

(b) METRO. Action of the metropolitan development commission is not official, unless it is authorized, at a regular or special meeting, by:

(1) at least six (6) members, when at least ten (10) members are present at the meeting;

(2) at least five (5) members, when eight (8) or nine (9) members are present at the meeting; or

(3) at least four (4) members, when fewer than eight (8) members are present at the meeting.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1982, P.L.212, SEC.1; P.L.192-1984, SEC.7; P.L.164-1995, SEC.17.

IC 36-7-4-303
Organization; president and vice president

Sec. 303. At its first regular meeting in each year, the plan commission shall elect from its members a president and a vice president. The vice president may act as president of the plan commission during the absence or disability of the president.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-304
Organization; secretary

Sec. 304. The plan commission may appoint and fix the duties of a secretary, who is not required to be a member of the commission.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.15.

IC 36-7-4-305
Organization; offices and property

Sec. 305. (a) ADVISORY. The municipality or the county shall provide suitable offices for the holding of advisory plan commission meetings and for preserving the plans, maps, accounts, and other documents of the commission.

(b) AREA. After the establishment of the planning department, the county plan commission and participating municipal plan commissions shall transfer their property to the planning department.

(c) AREA. Except as may be necessary for the exercise of the powers reserved to municipal boards of zoning appeals by the 900 series of this chapter, all ordinances, maps, reports, minute books, documents, and correspondence of any municipal or county plan commission or board of zoning appeals within the jurisdiction of a planning department shall be made available to or transferred to the plan commission on its written request. The plan commission shall procure suitable offices for the conduct of its work and the work of the planning department.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.192-1984, SEC.8.

IC 36-7-4-306

Organization; regular meetings and minutes

Sec. 306. The plan commission shall fix the time for holding regular meetings each month or as necessary. The commission shall keep minutes of its meetings. The minutes of commission meetings and all records shall be filed in the office of the commission and are public records.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.16.

IC 36-7-4-307

Organization; special meetings

Sec. 307. Special meetings of a plan commission may be called by the president or by two (2) members of the commission upon written request to the secretary. The secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if:

(1) the date, time, and place of a special meeting are fixed in a regular meeting; and

(2) all members of the commission are present at that regular meeting.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.17.

IC 36-7-4-308

Organization; appropriations

Sec. 308. (a) ADVISORY. After a legislative body has adopted an ordinance establishing a municipal or county plan commission, the fiscal body of the municipality or the county, as the case may be, may make appropriations to carry out the duties of the commission.

(b) ADVISORY. After a metropolitan plan commission is established, the commission shall use all amounts previously appropriated to, but unexpended by, the county plan commission and the second class city plan commission without any further appropriation or transfer. Then the county fiscal body shall appropriate all necessary amounts for the use of the commission, but the city legislative body may appropriate additional amounts for the use of the commission. These amounts shall be deposited with the county treasurer in a fund to be known as the metropolitan planning fund.

(c) AREA. After the planning department is established, the county fiscal body shall appropriate and make available to the planning department an amount equal to three cents ($.03) per person per month for each person in the county's population. This amount is to finance the planning department's operation from its establishment until appropriations are available to it through regular county budget and appropriation procedures. The county fiscal body shall appropriate sufficient amounts to the planning department to insure the continued functioning of the planning department within the participating units. This appropriation shall be made in conformity with the fiscal body's policy regarding the operating budgets of the various divisions of county government.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-309

Organization; expenditures

Sec. 309. ADVISORY–AREA. Each plan commission may expend, in accord with applicable municipal or county fiscal procedures, all amounts appropriated to it for the purposes and activities authorized by this chapter. In the case of a metropolitan plan commission, at the end of each fiscal year, any unexpended part of the metropolitan planning fund appropriated by the county reverts to the county general fund, and any unexpended part appropriated by the second class city reverts to the city general fund.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-310

Organization; gifts and grants

Sec. 310. (a) A municipality (in the case of a municipal plan commission or the metropolitan development commission) or a county (in the case of a county plan commission, a metropolitan plan commission, or an area plan commission) may accept gifts, donations, and grants from private or governmental sources for advisory plan commission purposes or planning department purposes, as the case may be.

(b) Any money so accepted shall be deposited with the municipality or the county, as the case may be, in a special nonreverting plan commission fund to be available for expenditures by the plan commission for the purpose designated by the source. The fiscal officer of the municipality or the county shall draw

warrants against the special nonreverting fund only on vouchers signed by the president and secretary of the commission.
As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-311
Organization; staff and services; executive director; compensation

Sec. 311. (a) ADVISORY. The advisory plan commission may appoint, prescribe the duties, and fix the compensation of such employees as are necessary for the discharge of the duties of the commission. This compensation must be in conformity with salaries and compensation fixed up to that time by the fiscal body of the municipality or county, as the case may be. The commission may contract for special or temporary services and any professional counsel.

(b) AREA. The area plan commission shall appoint an executive director for the planning department and fix the director's compensation. To be qualified for the position, the executive director must have training and experience in the field of planning and zoning. The commission may not give any consideration to political affiliation in the appointment of the executive director.
As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.18; P.L.260-1993, SEC.1; P.L.165-2003, SEC.3.

IC 36-7-4-312
Organization; duties of executive director

Sec. 312. AREA. Under the direction of the area plan commission, the executive director shall:

(1) propose annually a plan for the operation of the planning department;
(2) administer the plan as approved by the commission;
(3) supervise the general administration of the planning department;
(4) keep the records of the planning department and be responsible for the custody and preservation of all papers and documents of the planning department;
(5) subject to the approval of the commission, appoint and remove the employees of the planning department, according to the standards and qualifications fixed by the commission and without regard to political affiliation;
(6) prepare and present to the commission an annual report; and
(7) perform such other duties as the commission may direct.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-400
400 Series—Duties and powers of commission

Sec. 400. This series (sections 400 through 499 of this chapter) may be cited as follows: 400 SERIES–COMMISSION DUTIES AND POWERS.
As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-401
Duties; advisory planning; area planning

Sec. 401. (a) Each plan commission shall:

(1) supervise, and make rules for, the administration of the affairs of the commission (in the case of an advisory plan commission) or of the planning department (in the case of an area plan commission or a metropolitan development commission);

(2) prescribe uniform rules pertaining to investigations and hearings;

(3) keep a complete record of all the departmental proceedings;

(4) record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the commission (in the case of an advisory plan commission) or of the planning department (in the case of an area plan commission or the metropolitan development commission);

(5) prepare, publish, and distribute reports, ordinances, and other material relating to the activities authorized under this chapter;

(6) adopt a seal; and

(7) certify to all official acts.

(b) ADVISORY–AREA. Each plan commission shall:

(1) supervise the fiscal affairs of the commission (in the case of an advisory plan commission) or of the planning department (in the case of an area plan commission); and

(2) prepare and submit an annual budget in the same manner as other departments of county or municipal government, as the case may be, and be limited in all expenditures to the provisions made for the expenditures by the fiscal body of the county or municipality.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-402
Duties; employees; hearings

Sec. 402. (a) ADVISORY. Each advisory plan commission shall prescribe the qualifications of, appoint, remove, and fix the compensation of the employees of the commission, which compensation must conform to salaries and compensations fixed before that time by the fiscal body of the county or municipality, as the case may be. The commission shall delegate authority to its employees to perform ministerial acts in all cases except where final action of the commission or a board of zoning appeals is required by law.

(b) AREA. Each area plan commission shall prescribe the qualifications of, and with the consent of the executive director, fix the compensation of the employees of the planning department, which compensation must conform to salaries and compensations fixed before that time by the county fiscal body. The commission shall delegate authority to its employees to perform ministerial acts

in all cases except where final action of the commission or a board of zoning appeals is required by law.

(c) METRO. The metropolitan development commission shall delegate authority to employees of the department of metropolitan development to perform ministerial acts in all cases except where final action of the commission or a board of zoning appeals is required by law.

(d) The plan commission may delegate to a hearing examiner or a committee of the commission the authority to conduct any public hearing required to be held by the commission or make any decision required to be made by the commission, or both. However, only a plat committee appointed under section 701(e) of this chapter may be delegated the authority to make decisions under the 700 series of this chapter. Such a hearing must be held upon the same notice and under the same rules as a hearing before the entire commission, and the examiner or committee shall report findings of fact and recommendations for decision to the commission or make the decision on behalf of the commission. A decision made under the authority of this subsection may not be a basis for judicial review, but it may be appealed to the plan commission. An interested person who wishes to appeal a decision made under the authority of this subsection must file the appeal not later than five (5) days after the date the decision is made, and the plan commission shall then hold the prescribed hearing and render its decision.

(e) METRO. The metropolitan development commission may designate a historic preservation commission created under IC 36-7-11.1-3 to conduct the public hearing required to be held by the metropolitan development commission under the 600 series of this chapter relative to the territory included in a historic area or historic zoning district created under IC 36-7-11.1-6. The hearing must be held upon the same notice and under the same rules as a hearing before the metropolitan development commission. The historic preservation commission shall report to the metropolitan development commission the historic preservation commission's findings of fact and recommendations for decision. The metropolitan development commission shall by rule provide reasonable opportunity for interested persons to file exceptions to the findings and recommendations. If an exception is filed in accordance with the rules, the metropolitan development commission shall hold the prescribed hearing. If an exception is not filed, the metropolitan development commission shall render a decision without further hearing. However, this subsection does not eliminate the need for a historic preservation commission to issue a certificate of appropriateness under IC 36-7-11.1-8(e) before the approval of a rezoning by the metropolitan development commission.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.19; P.L.321-1995, SEC.1; P.L.126-2011, SEC.13.

IC 36-7-4-403
Repealed

(*Repealed by P.L.12-1983, SEC.24.)*

IC 36-7-4-403.5
Duties; powers; combined hearing procedure

Sec. 403.5. (a) If authorized by a zoning ordinance, the plan commission may designate a hearing examiner or committee of the commission to conduct a combined hearing procedure relative to developments that require more than one (1) hearing under this chapter. In conducting the combined hearing procedure under this section, the hearing examiner or committee of the commission may exercise the following:

(1) Powers of the hearing examiner or committee under section 402(d) of this chapter in relation to the 600 series of this chapter.

(2) Powers of the plat committee under the 700 series of this chapter.

(3) Powers of a board of zoning appeals under the 900 series of this chapter.

(4) Powers of the plan commission staff or a hearing examiner or committee of the plan commission under the 1400 series of this chapter.

(b) Decisions of the hearing examiner or committee of the plan commission under the combined hearing procedure may be excepted to or appealed as follows:

(1) Decisions under the authority of section 402(d) of this chapter in relation to powers granted under the 600 series of this chapter shall be appealed to the plan commission in the same manner as decisions of the hearing examiner or committee under section 402(d) of this chapter may be appealed.

(2) Decisions under the authority of the 700 series of this chapter shall be appealed to the plan commission in the same manner as decisions of the plat committee may be appealed.

(3) Decisions under the authority of the 900 series of this chapter shall be appealed to the plan commission, within five (5) days after the decision is rendered, and the plan commission shall consider the petition in the same manner as the petition would be considered by a board of zoning appeals.

(c) The plan commission shall make rules governing the hearing of cases under the combined hearing procedure. The rules may not require a petitioner or an applicant to use the combined hearing procedure authorized under this section.

(d) The plan commission may adopt rules setting specific procedures to facilitate informal settlement of matters. The rules may grant procedural rights to persons in addition to those conferred by this chapter, so long as the rights conferred upon other persons are not substantially prejudiced. This subsection does not require any person to settle a matter under the plan commission's informal procedures.

As added by P.L.321-1995, SEC.2. Amended by P.L.126-2011, SEC.14.

IC 36-7-4-404
Power to sue and be sued; costs

Sec. 404. (a) ADVISORY. Each advisory plan commission shall sue and be sued collectively by its legal name, styled according to the municipality or county, "_____ Plan Commission", with service of process on the executive director or the president of the commission. No costs may be taxed against the commission or any of its members in any action.

(b) AREA. Each area plan commission shall sue and be sued collectively by its legal name, styled "The Area Plan Commission of _____ County" or a similar title adopted by official resolution of the commission, with service of process on the executive director or by leaving a copy at the office of the commission. No costs may be taxed against the commission or any of its members in any action.

(c) METRO. The metropolitan development commission shall sue and be sued collectively by its legal name, styled "The Metropolitan Development Commission of _____ County", with service of process on the director of the department of metropolitan development or by leaving a copy at the office of the department. No costs may be taxed against the commission or any of its members in any action.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.192-1984, SEC.9.

IC 36-7-4-405
Duties of plan commission; street names and numbers; areas not subject to plan commission; notice; development plans

Sec. 405. (a) ADVISORY – AREA. Each plan commission shall:

(1) make recommendations to the legislative body or bodies concerning:

(A) the adoption of the comprehensive plan and amendments to the comprehensive plan;

(B) the adoption or text amendment of:

(i) an initial zoning ordinance;

(ii) a replacement zoning ordinance; and

(iii) a subdivision control ordinance;

(C) the adoption or amendment of a PUD district ordinance (as defined in section 1503 of this chapter); and

(D) zone map changes; and

(2) render decisions concerning and approve plats, replats, and amendments to plats of subdivisions under the 700 series of this chapter.

(b) Each plan commission:

(1) shall assign street numbers to lots and structures;

(2) shall renumber lots and structures; and

(3) if the plan commission does not have the power under an ordinance adopted under subsection (c) to name or rename streets, may recommend the naming and renaming of streets to the executive.

(c) The executive shall name or rename streets. However, a unit

may provide by ordinance that the plan commission rather than the executive shall name or rename streets. Streets shall be named or renamed so that their names are easy to understand and to avoid duplication or conflict with other names. The plan commission may, by rule, prescribe a numbering system for lots and structures.

(d) This subsection applies to a plan commission having jurisdiction in a county with a population of at least four hundred thousand (400,000). The plan commission shall number structures on highways within the plan commission's jurisdiction to conform with the numbers of structures on streets within cities in the county.

(e) This subsection applies to unincorporated areas subject to the jurisdiction of no plan commission under this article. The county executive:

(1) must approve the assignment of street numbers to lots and structures; and

(2) may number or renumber lots and structures and name or rename streets.

(f) This subsection applies to areas located within a municipality that are subject to the jurisdiction of no plan commission under this article. The executive of the municipality:

(1) must approve the assignment of street numbers to lots and structures; and

(2) may number or renumber lots and structures and name or rename streets.

(g) An executive acting under subsection (e) or (f) shall name or rename streets:

(1) so that their names are easy to understand; and

(2) to avoid duplication or conflict with other names.

(h) If streets are named or renamed or lots and structures are numbered or renumbered under this section, the commission or executive that makes the naming or numbering decision shall notify:

(1) the circuit court clerk or board of registration;

(2) the statewide 911 board established by IC 36-8-16.7-24 and the administrator of an enhanced emergency telephone system established under IC 36-8-16 (before its repeal on July 1, 2012), if any;

(3) the United States Postal Service; and

(4) any person or body that the commission or executive considers appropriate to receive notice;

of its action no later than the last day of the month following the month in which the action is taken.

(i) Each plan commission shall make decisions concerning development plans and amendments to development plans under the 1400 series of this chapter, unless the responsibility to render decisions concerning development plans has been delegated under section 1402(c) of this chapter.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.21; P.L.13-1988, SEC.21; P.L.119-1989, SEC.2; P.L.260-1993, SEC.2; P.L.320-1995, SEC.4; P.L.132-2012, SEC.10.

IC 36-7-4-405.5
Conversion of rural route addresses

Sec. 405.5. (a) This section applies to a county where any territory contains rural route addresses.

(b) Each plan commission shall develop a plan for converting rural route addresses within the county to numbered addresses under section 405 of this chapter.

(c) This subsection applies to a county or part of a county that is not under the jurisdiction of a plan commission. The county executive shall develop a plan for converting rural route addresses within the county (or part of a county) to numbered addresses under section 405 of this chapter.

(d) A plan adopted under this section must specify a date by which the plan commission or county executive intends to complete the conversion of rural route addresses to numbered addresses.

As added by P.L.3-1995, SEC.153.

IC 36-7-4-406
Repealed

(*Repealed by P.L.220-1986, SEC.32.)*

IC 36-7-4-407
Duties; powers; advisory citizens' committees

Sec. 407. Each plan commission may establish advisory committees of citizens interested in problems of planning and zoning. In its resolution establishing such a committee, the commission shall specify the terms of its members and its purposes. Each advisory committee shall:

(1) study the subject and problems specified by the commission and recommend to the commission additional problems in need of study;

(2) advise the commission concerning how the subject and problems relate particularly to different areas and groups in the community; and

(3) if invited by the commission to do so, sit with and participate, without the right to vote, in the deliberations of the commission, when subjects of mutual concern are discussed.

A committee shall report only to the commission and shall make inquiries and reports only on the subject and problems specified by the commission's resolution establishing the committee.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.22.

IC 36-7-4-408
Powers; executive committee

Sec. 408. (a) Each plan commission may establish an executive committee of not less than three (3) nor more than nine (9) persons appointed by the commission from its membership. The establishment of the executive committee, the naming of its individual members, and the adoption of rules governing its

operation requires a two-thirds (2/3) majority vote of the entire membership of the commission.

(b) A majority of the executive committee may act in the name of the commission; but if there are any dissenting votes, a person voting in the minority may appeal the decision of the executive committee to the commission.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.23.

IC 36-7-4-409

Powers; grants-in-aid

Sec. 409. Each plan commission may, within its approved budget, negotiate for grants-in-aid and agree to terms and conditions attached to them. This section is specific authority to enter into grants-in-aid agreements under 40 U.S.C. section 461. Under the same limitations, the commission may enter into grants-in-aid agreements under that act as amended and any other act relating to planning and zoning.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.24.

IC 36-7-4-410

Powers; county-municipal plan commission

Sec. 410. (a) ADVISORY. The legislative body of any municipality located in a county having an advisory plan commission may, by ordinance, designate that county plan commission as the municipal plan commission. Such an ordinance may also provide that the county board of zoning appeals has jurisdiction within the corporate boundaries of the municipality. A county plan commission so designated has for that municipality all the powers and duties granted, under the advisory planning law, to a municipal plan commission. Any municipality designating a county plan commission as its municipal plan commission may contract annually to pay the county a proportionate part of the expenses that is properly chargeable to the planning service rendered that municipality. The county shall appropriate these payments to the county plan commission in addition to any sums budgeted for planning purposes.

(b) ADVISORY. Whenever a municipality designates a county plan commission as its municipal plan commission under subsection (a), residents of that municipality are eligible to be appointed citizen members of the commission under section 208(a)(5) of this chapter. Whenever a county board of zoning appeals has jurisdiction within the corporate boundaries of a municipality, residents of that municipality are eligible to be appointed citizen members of the board of zoning appeals under section 902 of this chapter.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.192-1984, SEC.10; P.L.126-2011, SEC.15.

IC 36-7-4-411

Powers; fees

Sec. 411. The plan commission may establish a schedule of

reasonable fees to defray the administrative costs connected with:

(1) processing and hearing administrative appeals and petitions for rezoning, special exceptions, special uses, contingent uses, and variances;

(2) issuing permits; and

(3) other official actions taken under this chapter.

As added by Acts 1981, P.L.310, SEC.25. Amended by P.L.192-1984, SEC.11.

IC 36-7-4-500

500 Series—Comprehensive plan

Sec. 500. This series (sections 500 through 599 of this chapter) may be cited as follows: 500 SERIES–COMPREHENSIVE PLAN.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-501

Comprehensive plan; requirement; approval; purpose

Sec. 501. A comprehensive plan shall be approved by resolution in accordance with the 500 series for the promotion of public health, safety, morals, convenience, order, or the general welfare and for the sake of efficiency and economy in the process of development. The plan commission shall prepare the comprehensive plan.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.26; P.L.335-1985, SEC.3.

IC 36-7-4-502

Comprehensive plan; contents

Sec. 502. A comprehensive plan must contain at least the following elements:

(1) A statement of objectives for the future development of the jurisdiction.

(2) A statement of policy for the land use development of the jurisdiction.

(3) A statement of policy for the development of public ways, public places, public lands, public structures, and public utilities.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.27; P.L.335-1985, SEC.4.

IC 36-7-4-503

Comprehensive plan; additional contents

Sec. 503. A comprehensive plan may, in addition to the elements required by section 502 of this chapter, include the following:

(1) Surveys and studies of current conditions and probable future growth within the jurisdiction and adjoining jurisdictions.

(2) Maps, plats, charts, and descriptive material presenting basic information, locations, extent, and character of any of the following:

(A) History, population, and physical site conditions.

(B) Land use, including the height, area, bulk, location, and use of private and public structures and premises.
(C) Population densities.
(D) Community centers and neighborhood units.
(E) Areas needing redevelopment and conservation.
(F) Public ways, including bridges, viaducts, subways, parkways, and other public places.
(G) Sewers, sanitation, and drainage, including handling, treatment, and disposal of excess drainage waters, sewage, garbage, refuse, and other wastes.
(H) Air, land, and water pollution.
(I) Flood control and irrigation.
(J) Public and private utilities, such as water, light, heat, communication, and other services.
(K) Transportation, including rail, bus, truck, air and water transport, and their terminal facilities.
(L) Local mass transit, including taxicabs, buses, and street, elevated, or underground railways.
(M) Parks and recreation, including parks, playgrounds, reservations, forests, wildlife refuges, and other public places of a recreational nature.
(N) Public buildings and institutions, including governmental administration and service buildings, hospitals, infirmaries, clinics, penal and correctional institutions, and other civic and social service buildings.
(O) Education, including location and extent of schools and postsecondary educational institutions.
(P) Land utilization, including agriculture, forests, and other uses.
(Q) Conservation of energy, water, soil, and agricultural and mineral resources.
(R) Any other factors that are a part of the physical, economic, or social situation within the jurisdiction.

(3) Reports, maps, charts, and recommendations setting forth plans and policies for the development, redevelopment, improvement, extension, and revision of the subjects and physical situations (set out in subdivision (2) of this section) of the jurisdiction so as to substantially accomplish the purposes of this chapter.

(4) A short and long range development program of public works projects for the purpose of stabilizing industry and employment and for the purpose of eliminating unplanned, unsightly, untimely, and extravagant projects.

(5) A short and long range capital improvements program of governmental expenditures so that the development policies established in the comprehensive plan can be carried out and kept up-to-date for all separate taxing districts within the jurisdiction to assure efficient and economic use of public funds.

(6) A short and long range plan for the location, general design,

and assignment of priority for construction of thoroughfares in the jurisdiction for the purpose of providing a system of major public ways that allows effective vehicular movement, encourages effective use of land, and makes economic use of public funds.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.28; P.L.335-1985, SEC.5; P.L.220-1986, SEC.9; P.L.185-2005, SEC.6; P.L.2-2007, SEC.386.

IC 36-7-4-504

Comprehensive plan; consideration of policy and pattern; validation, continuance, and consolidation of preexisting plans

Sec. 504. (a) After the comprehensive plan is approved for a jurisdiction, each governmental entity within the territorial jurisdiction where the plan is in effect shall give consideration to the general policy and pattern of development set out in the comprehensive plan in the:

(1) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities;

(2) authorization, construction, alteration, or abandonment of public ways, public places, public lands, public structures, or public utilities; and

(3) adoption, amendment, or repeal of zoning ordinances, including zone maps and PUD district ordinances (as defined in section 1503 of this chapter), subdivision control ordinances, historic preservation ordinances, and other land use ordinances.

(b) A comprehensive plan or master plan adopted or approved under any prior law is validated and continues in effect as the comprehensive plan for the plan commission in existence on September 1, 1986, or any successor plan commission until the plan becomes a part of or is amended or superseded by the comprehensive plan of the latter plan commission. In addition, a thoroughfare plan adopted or approved under any prior law is validated and continues in effect as a part of the comprehensive plan on and after September 1, 1986, until the thoroughfare plan is amended or superseded by changes in the comprehensive plan approved under this chapter.

(c) AREA. To effect the consolidation of the various plans and ordinances in force in the county and in the participating municipality into one (1) comprehensive plan, the area plan commission shall approve the comprehensive plans of the participating municipalities as its first comprehensive plan. The commission shall also recommend under applicable law to the participating legislative bodies, without amendment, the adoption of the zoning, subdivision control, thoroughfare, and other ordinances relating to the jurisdiction of the participating legislative body. If lands within the jurisdiction of the commission are not regulated by zoning ordinances, the commission shall classify those lands as residential or agricultural, until they can conduct such land use studies as are necessary for reclassification and zoning. Because the unification of the planning and zoning function is of an emergency

character, the commission and the participating legislative bodies shall initially adopt these preliminary plans and ordinances by simple resolution, to continue in effect until finally adopted in conformity with the area planning law.
As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.335-1985, SEC.6; P.L.220-1986, SEC.10; P.L.320-1995, SEC.5.

IC 36-7-4-504.5
Comprehensive plan; township advisory committee

Sec. 504.5. (a) In preparing or revising a comprehensive plan for a township, the legislative body of the consolidated city shall adopt an ordinance requiring the plan commission to establish an advisory committee of citizens interested in problems of planning and zoning for that township, a majority of whom shall be nominated by the township legislative body.

(b) An advisory committee created under subsection (a) must include a representative of the affected township legislative body as determined by procedures established in an ordinance adopted by the legislative body of the consolidated city.
As added by P.L.164-1995, SEC.18.

IC 36-7-4-505
Comprehensive plan; requests for related information

Sec. 505. (a) When the plan commission undertakes the preparation of a comprehensive plan, the commission may request any public or private officials to make available any information, documents, and plans that have been prepared and that provide any information that relates to the comprehensive plan.

(b) All officials and departments of state government and of the political subdivisions operating within lands under the jurisdiction of the plan commission shall comply with requests under subsection (a).

(c) All officials of public and private utilities operating within lands under the jurisdiction of the plan commission shall comply with requests under subsection (a) to furnish public information.
As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.29; P.L.335-1985, SEC.7.

IC 36-7-4-506
Thoroughfare plans included in comprehensive plans; location, change, vacation, or improvement of thoroughfares

Sec. 506. (a) A thoroughfare plan that is included in the comprehensive plan may determine lines for new, extended, widened, or narrowed public ways in any part of the territory in the jurisdiction.

(b) The determination of lines for public ways, as provided in subsection (a), does not constitute the opening, establishment, or acceptance of land for public way purposes.

(c) After a thoroughfare plan has been included in the comprehensive plan, thoroughfares may be located, changed,

widened, straightened, or vacated only in the manner indicated by the comprehensive plan.

(d) After a thoroughfare plan has been included in the comprehensive plan, the plan commission may recommend to the agency responsible for constructing thoroughfares in the jurisdiction the order in which thoroughfare improvements should be made.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.30; P.L.335-1985, SEC.8; P.L.220-1986, SEC.11.

IC 36-7-4-507

Comprehensive plan; notice and hearings before adoption

Sec. 507. Before the approval of a comprehensive plan, the plan commission must:

(1) give notice and hold one (1) or more public hearings on the plan;

(2) publish, in accordance with IC 5-3-1, a schedule stating the times and places of the hearing or hearings. The schedule must state the time and place of each hearing, and state where the entire plan is on file and may be examined in its entirety for at least ten (10) days before the hearing.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.45, SEC.18; P.L.335-1985, SEC.9.

IC 36-7-4-508

Comprehensive plan; adoption; certification; plan and summary availability for inspection; legalization of certain comprehensive plans

Sec. 508. (a) After a public hearing or hearings have been held, the plan commission may approve the comprehensive plan.

(b) ADVISORY–AREA. Upon approval, the plan commission shall certify the comprehensive plan to each participating legislative body.

(c) The plan commission may approve each segment of the comprehensive plan as it is completed. However, that approval does not preclude future examination and amendment of the comprehensive plan under the 500 series. A comprehensive plan that:

(1) was approved before March 14, 1994, under this subsection as in effect before March 14, 1994; and

(2) was not filed in the county recorder's office as required by this subsection as in effect before March 14, 1994;

is legalized.

(d) METRO. As used in this subsection, "comprehensive plan" or "plan" includes any segment of a comprehensive plan. Approval of the comprehensive plan by the metropolitan development commission is final. However, the commission may certify the comprehensive plan to the legislative body of each municipality in the county, to the executive of the consolidated city, and to any other governmental entity that the commission wishes. The commission shall make a complete copy of the plan available for inspection in the office of the plan commission. One (1) summary of the plan shall be

recorded in the county recorder's office. The summary of the plan must identify the following:

(1) The major components of the plan.

(2) The geographic area subject to the plan, including the townships or parts of townships that are subject to the plan.

(3) The date the commission adopted the plan.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.335-1985, SEC.10; P.L.31-1994, SEC.11; P.L.220-2011, SEC.661.

IC 36-7-4-509

Comprehensive plan; legislative approval, rejection, or amendment

Sec. 509. (a) ADVISORY–AREA. After certification of the comprehensive plan, the legislative body may adopt a resolution approving, rejecting, or amending the plan. Such a resolution requires only a majority vote of the legislative body, and is not subject to approval or veto by the executive of the adopting unit, and the executive is not required to sign it.

(b) ADVISORY–AREA. The comprehensive plan is not effective for a jurisdiction until it has been approved by a resolution of its legislative body. After approval by resolution of the legislative body of the unit, it is official for each unit that approves it. Upon approval of the comprehensive plan by the legislative body, the clerk of the legislative body shall place one (1) copy of the comprehensive plan on file in the office of the county recorder.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.335-1985, SEC.11; P.L.220-1986, SEC.12.

IC 36-7-4-510

Comprehensive plan; procedure following legislative rejection or amendment

Sec. 510. (a) ADVISORY–AREA. If the legislative body, by resolution, rejects or amends the comprehensive plan, then it shall return the comprehensive plan to the plan commission for its consideration, with a written statement of the reasons for its rejection or amendment.

(b) ADVISORY–AREA. The commission has sixty (60) days in which to consider the rejection or amendment and to file its report with the legislative body. However, the legislative body may grant the commission an extension of time, of specified duration, in which to file its report. If the commission approves the amendment, the comprehensive plan stands, as amended by the legislative body, as of the date of the filing of the commission's report with the legislative body. If the commission disapproves the rejection or amendment, the action of the legislative body on the original rejection or amendment stands only if confirmed by another resolution of the legislative body.

(c) ADVISORY–AREA. If the commission does not file a report with the legislative body within the time allotted under subsection (b), the action of the legislative body in rejecting or amending the comprehensive plan becomes final.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.31; P.L.335-1985, SEC.12; P.L.220-1986, SEC.13.

IC 36-7-4-511
Comprehensive plan; amendment approval; preparation and submission of amendments

Sec. 511. (a) Each amendment to the comprehensive plan must be approved according to the procedure set forth in the 500 series.

(b) ADVISORY–AREA. If the legislative body wants an amendment, it may direct the plan commission to prepare the amendment and submit it in the same manner as any other amendment to the comprehensive plan. The commission shall prepare and submit the amendment within sixty (60) days after the formal written request by the legislative body. However, the legislative body may grant the commission an extension of time, of specified duration, in which to prepare and submit the amendment.
As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.335-1985, SEC.13; P.L.220-1986, SEC.14.

IC 36-7-4-512
Comprehensive plan; capital improvement projects

Sec. 512. METRO. This section applies only to capital improvement projects consisting of real or personal property (or improvements) that have a useful life of more than one (1) year and a value of more than one hundred thousand dollars ($100,000). At least thirty (30) days before a governmental entity within the county:

(1) undertakes or acquires any such capital improvement project;

(2) starts the required proceedings to spend money or let contracts for such a project; or

(3) authorizes the issuance of bonds for the purpose of financing such a project;

the governmental entity must notify the metropolitan development commission in writing of the location, cost, and nature of the project. The commission may by rule limit the kinds of capital improvement projects that are subject to the notification requirement of this section. The commission may designate an agency responsible for fiscal analyses or control to receive notifications required by this section.
As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.32; P.L.335-1985, SEC.14.

IC 36-7-4-600
600 Series—Zoning ordinance

Sec. 600. This series (sections 600 through 699 of this chapter) may be cited as follows: 600 SERIES–ZONING ORDINANCE.
As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-601
Zoning ordinance; powers and duties of legislative body

Sec. 601. (a) The legislative body having jurisdiction over the geographic area described in the zoning ordinance has exclusive authority to adopt a zoning ordinance under the 600 series. However, no zoning ordinance may be adopted until a comprehensive plan has been approved for the jurisdiction under the 500 series of this chapter.

(b) When it adopts a zoning ordinance, the legislative body shall:

(1) designate the geographic area over which the plan commission shall exercise jurisdiction; and

(2) incorporate by reference into the ordinance zone maps, as prepared by the plan commission under subsection (e).

(c) When it adopts a zoning ordinance, the legislative body shall act for the purposes of:

(1) securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;

(2) lessening or avoiding congestion in public ways;

(3) promoting the public health, safety, comfort, morals, convenience, and general welfare; and

(4) otherwise accomplishing the purposes of this chapter.

(d) For the purposes described in subsection (c), the legislative body may do the following in the zoning ordinance:

(1) Establish one (1) or more districts, which may be for agricultural, commercial, industrial, residential, special, or unrestricted uses and any subdivision or combination of these uses. A district may include geographic areas that are not contiguous. A geographic area may be subject to more than one (1) district.

(2) In each district, regulate how real property is developed, maintained, and used. This regulation may include:

(A) requirements for the area of front, rear, and side yards, courts, other open spaces, and total lot area;

(B) requirements for site conditions, signs, and nonstructural improvements, such as parking lots, ponds, fills, landscaping, and utilities;

(C) provisions for the treatment of uses, structures, or conditions that are in existence when the zoning ordinance takes effect;

(D) restrictions on development in areas prone to flooding;

(E) requirements to protect the historic and architectural heritage of the community;

(F) requirements for structures, such as location, height, area, bulk, and floor space;

(G) restrictions on the kind and intensity of uses;

(H) performance standards for the emission of noises, gases, heat, vibration, or particulate matter into the air or ground or across lot lines;

(I) standards for population density and traffic circulation; and

(J) any other provisions that are necessary to implement the purposes of the zoning ordinance.

(3) Designate zoning districts in areas having special development problems or needs for compatibility in which a plan commission shall:

(A) approve or disapprove development plans under the 1400 series of this chapter; and

(B) ensure that a development plan approved under this subdivision is consistent with the comprehensive plan and the development requirements specified in the zoning ordinance.

(4) Provide for planned unit development through adoption and amendment of zoning ordinances, including PUD district ordinances (as defined in section 1503 of this chapter).

(5) Establish in which districts the subdivision of land may occur.

(e) When it prepares a proposal to initially adopt a zoning ordinance for a jurisdiction, the plan commission shall also prepare zone maps. The purpose of the zone maps is to indicate the districts into which the incorporated areas and unincorporated areas, if any, are divided.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1982, P.L.212, SEC.2; P.L.355-1983, SEC.1; P.L.335-1985, SEC.15; P.L.220-1986, SEC.15; P.L.320-1995, SEC.6.

IC 36-7-4-602

Zoning ordinance; procedures for adoption of ordinances, amendments, and map changes

Sec. 602. (a) The following procedure applies to a proposal to adopt an initial zoning ordinance (or to adopt a replacement zoning ordinance after repealing the entire zoning ordinance, including amendments and zone maps) for a jurisdiction:

(1) The plan commission must initiate the proposal.

(2) The plan commission must prepare the proposal so that it is consistent with section 601 of this chapter.

(3) The plan commission and the legislative body both must comply with section 603 of this chapter.

(4) The plan commission must give notice and hold a public hearing under section 604 of this chapter.

(5) The plan commission must certify the proposal to the legislative body under section 605 of this chapter.

(6) The legislative body must consider the proposal under section 606 of this chapter, and section 606 governs whether the proposal is adopted or defeated.

(7) If the proposal is adopted under section 606 of this chapter, the plan commission must print (and publish, if required) the ordinance under section 610 of this chapter.

(8) The ordinance takes effect as described in section 610 of this chapter.

(b) After the zoning ordinance for a jurisdiction has been adopted as described in subsection (a), the following procedure applies to a proposal to amend or partially repeal the text (not zone maps) of the

ordinance:

(1) The plan commission may initiate the proposal. (Under the advisory planning law or the area planning law, any participating legislative body also may initiate the proposal and require the plan commission to prepare it.)

(2) The plan commission must prepare the proposal so that it is consistent with section 601 of this chapter.

(3) The plan commission and the legislative body both must comply with section 603 of this chapter.

(4) The plan commission must give notice and hold a public hearing under section 604 of this chapter.

(5) The plan commission must certify the proposal to the legislative body under section 605 of this chapter.

(6) The legislative body must consider the proposal under section 607 of this chapter, and section 607 governs whether the proposal is adopted or defeated.

(7) If the proposal is adopted under section 607 of this chapter, the plan commission must print the amendments to the zoning ordinance under section 610 of this chapter.

(8) The amendments take effect as described in section 610 of this chapter.

(c) After the zoning ordinance for a jurisdiction has been adopted as described in subsection (a), the following procedure applies to a proposal to change the zone maps (whether by incorporating an additional map or by amending or deleting a map) incorporated by reference into the ordinance:

(1) The proposal may be initiated either:

(A) by the plan commission; or

(B) by a petition signed by property owners who own at least fifty percent (50%) of the land involved.

(Under the advisory planning law or the area planning law, any participating legislative body also may initiate the proposal and require the plan commission to prepare it.)

(2) The plan commission or petitioners must prepare the proposal so that it is consistent with section 601 of this chapter.

(3) The plan commission and the legislative body both must comply with section 603 of this chapter.

(4) The plan commission must give notice and hold a public hearing under section 604 of this chapter.

(5) The plan commission must certify the proposal to the legislative body under section 605 of this chapter.

(6) The legislative body must consider the proposal under section 608 of this chapter, and section 608 governs whether the proposal is adopted or defeated.

(7) If the proposal is adopted under section 608 of this chapter, the plan commission must update the zone maps that it keeps available under section 610 of this chapter.

(8) The zone map changes take effect as described in section 610 of this chapter.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981,

P.L.45, SEC.19; P.L.335-1985, SEC.16; P.L.220-1986, SEC.16.

IC 36-7-4-603
Zoning ordinance; preparation and consideration of proposals

Sec. 603. In preparing and considering proposals under the 600 series, the plan commission and the legislative body shall pay reasonable regard to:

(1) the comprehensive plan;

(2) current conditions and the character of current structures and uses in each district;

(3) the most desirable use for which the land in each district is adapted;

(4) the conservation of property values throughout the jurisdiction; and

(5) responsible development and growth.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.335-1985, SEC.17; P.L.220-1986, SEC.17.

IC 36-7-4-604
Zoning ordinance; notice and hearing before certification of proposed ordinance; prohibited communications

Sec. 604. (a) Before the plan commission certifies a proposal to the legislative body under section 605 of this chapter, the plan commission must hold a public hearing under this section.

(b) The plan commission shall give notice of the hearing by publication under IC 5-3-1. The notice must state:

(1) the time and place of the hearing;

(2) either:

(A) in the case of a proposal under section 606 or 607 of this chapter, the geographic areas (or zoning districts in a specified geographic area) to which the proposal applies; or

(B) in the case of a proposal under section 608 of this chapter, the geographic area that is the subject of the zone map change;

(Subdivision (2) does not require the identification of any real property by metes and bounds.)

(3) either:

(A) in the case of a proposal under section 606 of this chapter, a summary (which the plan commission shall have prepared) of the subject matter contained in the proposal (not the entire text of the ordinance);

(B) in the case of a proposal under section 607 of this chapter, a summary (which the plan commission shall have prepared) of the subject matter contained in the proposal (not the entire text) that describes any new or changed provisions; or

(C) in the case of a proposal under section 608 of this chapter, a description of the proposed change in the zone maps;

(4) if the proposal contains or would add or amend any penalty

or forfeiture provisions, the entire text of those penalty or forfeiture provisions;

(5) the place where a copy of the proposal is on file for examination before the hearing;

(6) that written objections to the proposal that are filed with the secretary of the commission before the hearing will be considered;

(7) that oral comments concerning the proposal will be heard; and

(8) that the hearing may be continued from time to time as may be found necessary.

(c) The plan commission shall also provide for due notice to interested parties at least ten (10) days before the date set for the hearing. The commission shall by rule determine who are interested parties, how notice is to be given to interested parties, and who is required to give that notice. However, if the subject matter of the proposal abuts or includes a county line (or a county line street or road or county line body of water), then all owners of real property to a depth of two (2) ownerships or one-eighth (1/8) of a mile into the adjacent county, whichever is less, are interested parties who must receive notice under this subsection.

(d) The hearing must be held by the plan commission at the place stated in the notice. The commission may also give notice and hold hearings at other places within the county where the distribution of population or diversity of interests of the people indicate that the hearings would be desirable. The commission shall adopt rules governing the conduct of hearings under this section.

(e) A zoning ordinance may not be held invalid on the ground that the plan commission failed to comply with the requirements of this section, if the notice and hearing substantially complied with this section.

(f) The files of the plan commission concerning proposals are public records and shall be kept available at the commission's office for inspection by any interested person.

(g) METRO. In the case of a proposal to amend a zoning map under section 608 of this chapter or in the case of a proposed approval of a development plan required by a zoning ordinance as a condition of development, a person may not communicate before the hearing with any hearing officer, member of the historic preservation commission, or member of the plan commission with intent to influence the officer's or member's action on the proposal. Before the hearing, the staff may submit a statement of fact concerning the physical characteristics of the area involved in the proposal, along with a recital of surrounding land use and public facilities available to serve the area. The staff may include with the statement an opinion of the proposal. The statement must be made a part of the file concerning the proposal not less than six (6) days before the proposal is scheduled to be heard. The staff shall furnish copies of the statement to persons in accordance with rules adopted by the commission.

(h) METRO. In the case of a proposal to amend a zoning map under section 608 of this chapter, this subsection applies if the proposal affects only real property within the corporate boundaries of an excluded city. Notwithstanding the other provisions of this section, the legislative body of the excluded city may decide that the legislative body rather than the plan commission should hold the public hearing prescribed by this section. Whenever the plan commission receives a proposal subject to this section, the plan commission shall refer the proposal to the legislative body of the excluded city. At the legislative body's first regular meeting after receiving a referred proposal, the legislative body shall decide whether the legislative body will hold the public hearing. Within thirty (30) days after making the decision to hold the hearing, the legislative body shall hold the hearing, acting for purposes of this section as if the legislative body is the plan commission. The legislative body shall then make a recommendation on the proposal to the plan commission. After receiving the excluded city legislative body's recommendation (or at the end of the thirty (30) day period for the public hearing if the proposal receives no recommendation), the plan commission shall meet and decide whether to make a favorable recommendation on the proposal. If the proposal receives a favorable recommendation from the commission, the proposal shall be certified to the county legislative body as provided in section 605 of this chapter.

(i) Before a proposal involving a structure regulated under IC 8-21-10 may become effective, the plan commission must have received:

(1) a copy of:

(A) the permit for the structure issued by the Indiana department of transportation; or

(B) the Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration; and

(2) evidence that notice was delivered to a public use airport as required in IC 8-21-10-3 not less than sixty (60) days before the proposal is considered.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.335-1985, SEC.18; P.L.220-1986, SEC.18; P.L.344-1987, SEC.1; P.L.190-1988, SEC.1; P.L.321-1995, SEC.3; P.L.54-2002, SEC.5.

IC 36-7-4-605

Certification of proposed ordinance

Sec. 605. (a) ADVISORY–AREA. A proposed zoning ordinance shall be certified to each participating legislative body by the plan commission as follows:

(1) If the proposal is to adopt an initial zoning ordinance (or to adopt a replacement zoning ordinance after repealing the entire zoning ordinance, including amendments and zone maps) under section 606 of this chapter, it may be certified only if it receives a favorable recommendation from the commission.

(2) If the proposal is to amend or partially repeal the text (not

zone maps) of the ordinance under section 607 of this chapter, it may be certified with a favorable recommendation, an unfavorable recommendation, or no recommendation from the commission.

(3) If the proposal is to change the zone maps incorporated by reference into the ordinance under section 608 of this chapter, it may be certified with a favorable recommendation, an unfavorable recommendation, or no recommendation from the commission.

(b) METRO. A proposal shall be certified to the legislative body by the metropolitan development commission only if it receives a favorable recommendation from the commission.

(c) The legislative body shall consider the recommendation (if any) of the commission before acting on the proposal under section 606, 607, or 608 of this chapter.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.45, SEC.20; P.L.335-1985, SEC.19; P.L.220-1986, SEC.19.

IC 36-7-4-606

Zoning ordinance; procedure on proposal to adopt initial or replacement ordinance for a jurisdiction

Sec. 606. (a) This section applies to a proposal, as described in section 602(a) of this chapter, to adopt an initial zoning ordinance (or to adopt a replacement zoning ordinance after repealing the entire zoning ordinance, including amendments and zone maps) for a jurisdiction.

(b) At the first regular meeting of the legislative body after the plan commission certifies the proposal under section 605 of this chapter, the legislative body shall either:

(1) adopt, reject, or amend the proposal; or

(2) decide to further consider the proposal, in which case the proposal may be scheduled for a further hearing at any regular or special meeting of the legislative body within ninety (90) days after certification. In any event, the legislative body shall vote on the proposal within ninety (90) days after the plan commission certifies the proposal under section 605 of this chapter.

(c) If the legislative body proceeds under subsection (b)(1), it shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting. If the legislative body proceeds under subsection (b)(2) to schedule a further hearing, it shall publish a notice of the hearing in accordance with IC 5-3-1, announce the hearing during a meeting, and enter the announcement in its memoranda and minutes. The notice and announcement must state:

(1) the date, time, and place of the hearing;

(2) that it pertains to an original zoning ordinance;

(3) that written objections to the proposal filed with the clerk of the legislative body or with the county auditor at or before the hearing will be heard; and

(4) that the hearing may be continued from time to time as may

be found necessary.

(d) The recommendation of the plan commission concerning the proposal must be on file in the commission's office for public examination for at least ten (10) days before any hearing scheduled under subsection (b)(2). On completion of the hearing, the legislative body shall consider the proposal.

(e) If the legislative body adopts the proposal, the ordinance takes effect as other ordinances of the legislative body.

(f) If the legislative body fails to act on the proposal within ninety (90) days after certification, the ordinance takes effect as if it had been adopted (as certified) ninety (90) days after certification.

(g) If the legislative body rejects or amends the proposal, it shall be returned to the plan commission for its consideration, with a written statement of the reasons for the rejection or amendment. The commission has forty-five (45) days in which to consider the rejection or amendment and report to the legislative body as follows:

(1) If the commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the legislative body as of the date of the filing of the commission's report of approval with the legislative body or the end of the forty-five (45) day period.

(2) If the commission disapproves the rejection or amendment, the action of the legislative body on the original rejection or amendment stands only if confirmed by another vote of the legislative body within forty-five (45) days after the commission certifies its disapproval. If the legislative body fails to confirm its action under this subdivision, then the ordinance takes effect in the manner provided in subsection (f).

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.45, SEC.21; P.L.356-1983, SEC.1; P.L.335-1985, SEC.20; P.L.220-1986, SEC.20.

IC 36-7-4-607

Zoning ordinance; procedure on proposal to amend or partially repeal ordinance

Sec. 607. (a) This section applies to a proposal, as described in section 602(b) of this chapter, to amend or partially repeal the text (not zone maps) of the zoning ordinance.

(b) ADVISORY–AREA. If the proposal is initiated by a participating legislative body instead of the plan commission, the proposal must be referred to the commission for consideration and recommendation before any final action is taken by the legislative body.

(c) On receiving or initiating the proposal, the commission shall, within sixty (60) days, hold a public hearing in accordance with section 604 of this chapter. Within ten (10) business days after the commission determines its recommendation (if any), the commission shall certify the proposal under section 605 of this chapter.

(d) The legislative body shall vote on the proposal within ninety (90) days after the plan commission certifies the proposal under

section 605 of this chapter.

(e) This subsection applies if the proposal receives a favorable recommendation from the plan commission:

(1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the legislative body may adopt, reject, or amend the proposal. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.

(2) If the legislative body adopts (as certified) the proposal, it takes effect as other ordinances of the legislative body.

(3) If the legislative body fails to act on the proposal within ninety (90) days after certification, it takes effect as if it had been adopted (as certified) ninety (90) days after certification.

(4) If the legislative body rejects or amends the proposal, it shall be returned to the plan commission for its consideration, with a written statement of the reasons for the rejection or amendment. The commission has forty-five (45) days in which to consider the rejection or amendment and report to the legislative body as follows:

(A) If the commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the legislative body as of the date of the filing of the commission's report of approval with the legislative body or the end of the forty-five (45) day period.

(B) If the commission disapproves the rejection or amendment, the action of the legislative body on the original rejection or amendment stands only if confirmed by another vote of the legislative body within forty-five (45) days after the commission certifies its disapproval. If the legislative body fails to confirm its action under this clause, the ordinance takes effect in the manner provided in subdivision (3).

(f) ADVISORY–AREA. This subsection applies if the proposal receives either an unfavorable recommendation or no recommendation from the plan commission:

(1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the legislative body may adopt, reject, or amend the proposal. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.

(2) If the legislative body adopts (as certified) the proposal, it takes effect as other ordinances of the legislative body.

(3) If the legislative body rejects the proposal or fails to act on it within ninety (90) days after certification, it is defeated.

(4) If the legislative body amends the proposal, it shall be returned to the plan commission for its consideration, with a written statement of the reasons for the amendment. The commission has forty-five (45) days in which to consider the

amendment and report to the legislative body as follows:

(A) If the commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the legislative body as of the date of the filing of the commission's report of approval with the legislative body or the end of the forty-five (45) day period.

(B) If the commission disapproves the amendment, the action of the legislative body on the original amendment stands only if confirmed by another vote of the legislative body within forty-five (45) days after the commission certifies its disapproval. If the legislative body fails to confirm its action under this clause, the ordinance is defeated as provided in subdivision (3).

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.33; Acts 1982, P.L.212, SEC.3; P.L.355-1983, SEC.2; P.L.335-1985, SEC.21.

IC 36-7-4-608

Zoning ordinance; procedure for changing zoning maps

Sec. 608. (a) This section applies to a proposal, as described in section 602(c) of this chapter, to change the zone maps incorporated by reference into the zoning ordinance.

(b) If the proposal is not initiated by the plan commission, it must be referred to the commission for consideration and recommendation before any final action is taken by the legislative body. On receiving or initiating the proposal, the commission shall, within sixty (60) days, hold a public hearing in accordance with section 604 of this chapter. Within ten (10) business days after the commission determines its recommendation (if any), the commission shall certify the proposal under section 605 of this chapter.

(c) METRO. This subsection applies if the proposal receives a favorable recommendation from the plan commission:

(1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter, the legislative body may, by a majority of those voting, schedule the proposal for a hearing on a date not later than its next regular meeting.

(2) If the legislative body fails to schedule the proposal for a hearing under subdivision (1), the ordinance takes effect as if it had been adopted at the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter.

(3) For purposes of this subdivision, the final action date for a proposal is the date thirty (30) days after the date that the proposal is certified under section 605 of this chapter, or the date of the second regular meeting after the proposal is certified under section 605 of this chapter, whichever is later. If the legislative body schedules the proposal for a hearing under subdivision (1) but fails to act on it by the final action date, the ordinance takes effect as if it had been adopted (as certified) on

the final action date. However, the period of time from certification under section 605 of this chapter to the final action date may be extended by the legislative body, with the consent of the initiating plan commission or the petitioning property owners. If the legislative body fails to act on the proposal by the final action date (as extended), the ordinance takes effect as if it had been adopted (as certified) on that extended final action date.

(4) If the legislative body schedules the proposal for a hearing under subdivision (1), it shall announce the hearing during a meeting and enter the announcement in its memoranda and minutes. The announcement must state:

(A) the date, time, and place of the hearing;

(B) a description of the proposed changes in the zone maps;

(C) that written objections to the proposal filed with the clerk of the legislative body or with the county auditor will be heard; and

(D) that the hearing may be continued from time to time as may be found necessary.

(5) If the legislative body rejects the proposal at a hearing scheduled under subdivision (1), it is defeated.

(d) METRO. The plan commission may adopt a rule to limit further consideration, for up to one (1) year after its defeat, of a proposal that is defeated under subsection (c)(5).

(e) ADVISORY–AREA. The legislative body shall vote on the proposal within ninety (90) days after the plan commission certifies the proposal under section 605 of this chapter.

(f) ADVISORY–AREA. This subsection applies if the proposal receives a favorable recommendation from the plan commission:

(1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the legislative body may adopt or reject the proposal. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.

(2) If the legislative body adopts (as certified) the proposal, it takes effect as other ordinances of the legislative body.

(3) If the legislative body rejects the proposal, it is defeated.

(4) If the legislative body fails to act on the proposal within ninety (90) days after certification, the ordinance takes effect as if it had been adopted (as certified) ninety (90) days after certification.

(g) ADVISORY–AREA. This subsection applies if the proposal receives either an unfavorable recommendation or no recommendation from the plan commission:

(1) At the first regular meeting of the legislative body after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the legislative body may adopt or reject the proposal. The legislative body shall give notice under IC 5-14-1.5-5 of its

intention to consider the proposal at that meeting.

(2) If the legislative body adopts (as certified) the proposal, it takes effect as other ordinances of the legislative body.

(3) If the legislative body rejects the proposal, it is defeated.

(4) If the legislative body fails to act on the proposal within ninety (90) days after certification, it is defeated.

(h) ADVISORY–AREA. The plan commission may adopt a rule to limit further consideration, for up to one (1) year after its defeat, of a proposal that is defeated under subsection (f)(3), (g)(3), or (g)(4).

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.45, SEC.22; P.L.335-1985, SEC.22; P.L.345-1987, SEC.1.

IC 36-7-4-608.5
Repealed

(*Repealed by P.L.32-2004, SEC.4.)*

IC 36-7-4-609
Zoning ordinances; vote required for action by legislative body; veto of city ordinances

Sec. 609. (a) ADVISORY. A legislative body may take action under section 606, 607, or 608 of this chapter only by a vote of at least a majority of all the elected members of the body.

(b) AREA. A legislative body may take action under section 606, 607, or 608 of this chapter only by a vote of at least a majority of all the elected members of the body.

(c) METRO. The legislative body may take action under section 606, 607, or 608 of this chapter only by a vote of at least three-fifths (3/5) of all the elected members of the body.

(d) ADVISORY–AREA. Each city shall determine whether its zoning ordinances will be subject to veto by the executive of the city. If the city legislative body, by general ordinance, so provides, then each zoning ordinance adopted by that city under section 606, 607, or 608 of this chapter may be vetoed by the executive of the city. The executive must exercise the veto:

(1) in a case in which the legislative body adopts (as certified) the proposal, within ten (10) days after the legislative body acts;

(2) in a case in which the legislative body amends the proposal and the plan commission approves the amendment or fails to act, within fifty-five (55) days after the proposal is returned to the plan commission for its consideration;

(3) in a case in which the legislative body amends the proposal and confirms its original amendment by another vote, within ten (10) days after the legislative body confirms its original amendment; or

(4) in a case in which the proposal is to take effect because of the legislative body's failure to act within a period of days, within ten (10) days after the expiration of that period.

(e) If a city zoning ordinance is not vetoed under subsection (d), it takes effect without any action being taken by the executive of the

city.

(f) ADVISORY–AREA. If a city zoning ordinance is vetoed under subsection (d), it is defeated unless the city legislative body, at its first regular or special meeting after receiving the veto message, passes the ordinance over the veto by a two-thirds (2/3) vote.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.34; P.L.335-1985, SEC.23.

IC 36-7-4-610

Zoning ordinance; notice of adoption; printing; presumption; effective date; copies

Sec. 610. (a) After adoption of a zoning ordinance under section 606 of this chapter, the plan commission shall publish a notice of adoption in accordance with IC 5-3-1. The notice of adoption (which the plan commission shall have prepared) must:

(1) summarize the subject matter of the ordinance;

(2) give the date of adoption;

(3) specify the places or areas that would be directly affected by the ordinance (this subdivision does not require the identification of any real property by metes and bounds);

(4) specify the penalty or forfeiture prescribed for a violation of the ordinance; and

(5) give two (2) locations open to the public where the entire text of the ordinance is available for inspection.

(b) After adoption of a zoning ordinance under section 606 or 607 of this chapter, the plan commission shall print the text of the ordinance in book or pamphlet form (or arrange for the inclusion of the zoning ordinance in the code of ordinances printed by the unit under IC 36-1-5), and no other printing or publication of any zoning ordinance is required. Printing of the text of a zoning ordinance in compliance with this subsection constitutes presumptive evidence:

(1) of the text of the ordinance that is contained in the code of ordinances, book, or pamphlet (and supplement, if any);

(2) of the date of adoption of the ordinance, and of any amendment to the ordinance that is contained in the code of ordinances, book, or pamphlet (and supplement, if any); and

(3) that the ordinance, along with any amendment to the ordinance that is contained in the code of ordinances, book, or pamphlet (and supplement, if any), has been properly signed, attested, and recorded.

(c) Zone maps incorporated by reference into the zoning ordinance are not required to be printed in the code of ordinances, book, or pamphlet printed under this section, but the plan commission shall keep them available at its office for public inspection.

(d) Unless a zoning ordinance provides for a later effective date, the ordinance takes effect when it is adopted under section 606, 607, or 608 of this chapter, subject to subsection (e).

(e) When a provision prescribing a penalty or forfeiture for a violation is printed under this section, it may not take effect until

fourteen (14) days after the later of the following:

(1) The final day on which notice of its adoption is published under subsection (a).

(2) The day on which it is filed in the clerk's office under subsection (f).

(f) If the zoning ordinance is not included in the code of ordinances printed by a unit under IC 36-1-5:

(1) the book or pamphlet (and supplement, if any) that comprises the zoning ordinance shall be incorporated by reference into the code of ordinances;

(2) two (2) copies of the book or pamphlet (and supplement, if any) as printed under this section shall be filed in the office of the clerk of each participating legislative body, and these copies shall be kept on file in that office for public inspection as required by IC 36-1-5-4; and

(3) the clerk shall keep additional copies of the book or pamphlet (and supplement, if any) in the clerk's office for the purpose of sale or distribution.

(g) If a unit includes the zoning ordinance in the unit's code of ordinances printed under IC 36-1-5, the plan commission shall also make copies of the zoning ordinance available to the public in accordance with IC 5-14-3.

(h) This chapter does not prohibit a unit from adopting:

(1) a unified development ordinance that combines the unit's zoning and subdivision control ordinances into a single book, pamphlet, or code title, article, or chapter; or

(2) form based codes or ordinances that employ combinations of maps, plats, charts, diagrams, tables, text, and images.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.335-1985, SEC.24; P.L.220-1986, SEC.21; P.L.126-2011, SEC.16.

IC 36-7-4-610.5

Proposed changes in zone maps

Sec. 610.5. This section applies to a proposal, as described in section 602(c) of this chapter, to change the zone maps incorporated by reference into the zoning ordinance. If, not later than one hundred eighty (180) days after adoption of the proposal, the legislative body finds that the proposal was adopted as a result of a person's intentional misrepresentation or omission of material facts, the legislative body may, by a three-fourths (3/4) vote (as described in IC 36-1-8-14), adopt an ordinance to nullify any change in the zone maps that resulted from the misrepresentation or omission. Such an ordinance may be adopted by the legislative body without being referred to the plan commission for consideration and recommendation under sections 604, 605, and 608 of this chapter.

As added by P.L.216-1999, SEC.3. Amended by P.L.125-2001, SEC.5.

IC 36-7-4-611

Zoning ordinance; due deliberation presumption; effectiveness

within jurisdiction of adopting legislative body

Sec. 611. (a) Any ordinance adopted under the 600 series is presumed to have been adopted after due deliberation in regard to the facts upon which the comprehensive plan was formulated.

(b) AREA. If a proposed zoning ordinance is adopted under section 606, 607, or 608 of this chapter by one (1) or more, but not all, of the participating legislative bodies, it has effect within the jurisdiction of each legislative body that adopted it. The fact that the ordinance was based on a comprehensive plan developed for a larger territorial area does not affect its validity. The plan commission may print the ordinance under section 610 of this chapter as it applies only to certain territorial areas, whenever that would be useful for its enforcement.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.335-1985, SEC.25.

IC 36-7-4-612

Zoning ordinance; effect of prior ordinances

Sec. 612. (a) ADVISORY. Each zoning ordinance and each amendment to it adopted under any prior statute are validated and continued in effect until amended or repealed by action of the legislative body taken under authority of the advisory planning law. Each zoning ordinance has the same effect even though previously adopted as a comprehensive plan of land use or as a part of such a comprehensive plan.

(b) AREA. Each zoning ordinance that:

(1) was adopted by a county or a participating municipality; and

(2) is in effect at the time of the establishment of a planning department under section 202 of this chapter;

remains in full force and shall be enforced by the planning department under the area planning law until superseded by the zoning ordinance adopted for the jurisdiction under section 606 of the area planning law.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.335-1985, SEC.26; P.L.220-1986, SEC.22.

IC 36-7-4-613

Repealed

(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-614

Repealed

(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-615

Repealed

(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-616

Zoning ordinance; agricultural nonconforming use

Sec. 616. (a) The definitions used in this section apply only to this section.

(b) As used in this section, "agricultural use" refers to land that is used for:

(1) the production of livestock or livestock products, commercial aquaculture, equine or equine products, land designated as a conservation reserve plan, pastureland, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and apiary products, tobacco, or other agricultural crops, in the case of land that was not subject to a comprehensive plan or zoning ordinance before the most recent plan or zoning ordinance, including any amendments, was adopted; or

(2) agricultural purposes as defined in or consistent with a comprehensive plan or zoning ordinance that:

(A) the land was subject to; and

(B) was repealed before the adoption of the most recent comprehensive plan or zoning ordinance, including any amendments.

(c) As used in this section, "agricultural nonconforming use" means the agricultural use of land that is not permitted under the most recent comprehensive plan or zoning ordinance, including any amendments, for the area where the land is located.

(d) An agricultural use of land that constitutes an agricultural nonconforming use may be changed to another agricultural use of land without losing agricultural nonconforming use status.

(e) A county or municipality may not, through the county or municipality's zoning authority, do any of the following:

(1) Terminate an agricultural nonconforming use if the agricultural nonconforming use has been maintained for at least any three (3) year period in a five (5) year period.

(2) Restrict an agricultural nonconforming use.

(3) Require any of the following for the agricultural nonconforming use of the land:

(A) A variance for the land.

(B) A special exception for the land.

(C) A special use for the land.

(D) A contingent use for the land.

(E) A conditional use for the land.

(f) Notwithstanding subsection (e), this section does not prohibit a county, a municipality, or the state from requiring an agricultural nonconforming use to be maintained and operated in compliance with all:

(1) state environmental and state health laws and rules; and

(2) requirements to which conforming agricultural use land is subject under the county's comprehensive plan or zoning ordinance.

As added by P.L.113-1998, SEC.1. Amended by P.L.106-1999, SEC.2.

IC 36-7-4-700
700 Series—Subdivision control

Sec. 700. This series (sections 700 through 799 of this chapter) may be cited as follows: 700 SERIES–SUBDIVISION CONTROL. *As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1982, P.L.211, SEC.4.*

IC 36-7-4-701
Subdivision control ordinance

Sec. 701. (a) The legislative body shall, in the zoning ordinance adopted under the 600 series of this chapter, determine the zoning districts in which subdivision of land may occur.

(b) The plan commission shall then recommend to each participating legislative body an ordinance containing provisions for subdivision control, which ordinance shall be adopted, amended, or repealed in the same manner as the zoning ordinance. After the subdivision control ordinance has been adopted and a certified copy of the ordinance has been filed with the county recorder, the plan commission has exclusive control over the approval of all plats and replats involving land covered by the subdivision control ordinance, subject to subsection (c) and subsection (f).

(c) ADVISORY. The municipal plan commission has exclusive control over the approval of plats and replats involving unincorporated land within its jurisdiction, unless the legislative body of the county has adopted a subdivision control ordinance covering those lands. In this case, the county plan commission has exclusive control over the approval.

(d) The subdivision control ordinance may provide that the subdivision of land that does not involve the opening of a new public way and that complies in all other respects with the subdivision control ordinance and the zoning ordinance may be granted primary approval by the plat committee without public notice and hearing, subject to appeal to the plan commission. Within ten (10) days after primary approval under this subsection, the plan commission staff shall provide for due notice to interested parties of their right to appeal to the plan commission. The notice shall be given in the manner set forth in section 706(2) and 706(3) of this chapter.

(e) The plan commission may appoint a plat committee to hold hearings on and approve plats and replats on behalf of the commission. The plat committee consists of three (3) or five (5) persons, with at least one (1) of the members being a member of the commission. Each appointment of a member of the plat committee is for a term of one (1) year, but the commission may remove a member from the committee. The commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his residence address. A member who is removed may not appeal the removal to a court or otherwise. The plat committee may take action only by a majority vote.

(f) AREA. A participating legislative body may, in the subdivision control ordinance, reserve to itself the power to waive any condition

that is imposed upon primary approval of a plat by the plan commission under section 702 of this chapter. The legislative body shall prescribe the procedure under which a person may apply for a waiver of a condition under this subsection.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1982, P.L.211, SEC.5; P.L.335-1985, SEC.29; P.L.320-1995, SEC.10.

IC 36-7-4-702

Subdivision control; primary approval of plat; standards of ordinance; requisites; compliance

Sec. 702. (a) In determining whether to grant primary approval of a plat, the plan commission (or plat committee acting on the commission's behalf) shall determine if the plat or subdivision qualifies for primary approval under the standards prescribed by the subdivision control ordinance.

(b) The subdivision control ordinance must specify the standards for determining whether a plat qualifies for primary approval. The ordinance must include standards for:

(1) minimum width, depth, and area of lots in the subdivision;

(2) public way widths, grades, curves, and the coordination of subdivision public ways with current and planned public ways; and

(3) the extension of water, sewer, and other municipal services.

The ordinance may also include standards for the allocation of areas to be used as public ways, parks, schools, public and semipublic buildings, homes, businesses, and utilities, and any other standards related to the purposes of this chapter.

(c) The standards fixed in the subdivision control ordinance under subsection (b) may be waived at the discretion of the plan commission (or plat committee acting on the commission's behalf); however, to be approved, the plat must still meet all applicable standards prescribed in the zoning ordinance (other than standards modified by variance in accordance with the 900 series of this chapter). As a condition of granting a waiver under this subsection, the commission or committee may allow or require a commitment to be made under section 1015 of this chapter.

(d) As a condition of primary approval of a plat, the commission or committee may specify:

(1) the manner in which public ways shall be laid out, graded, and improved;

(2) a provision for water, sewage, and other utility services;

(3) a provision for lot size, number, and location;

(4) a provision for drainage design; and

(5) a provision for other services as specified in the subdivision control ordinance.

(e) The subdivision control ordinance may not regulate condominiums regulated by IC 32-25.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1982, P.L.211, SEC.6; P.L.2-2002, SEC.109; P.L.126-2011, SEC.17.

IC 36-7-4-703
Subdivision control; application for approval of plat; procedure

Sec. 703. A person desiring the approval of a plat shall submit a written application for approval in accordance with procedures prescribed by the legislative body in the subdivision control ordinance.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.35; Acts 1982, P.L.211, SEC.7.

IC 36-7-4-704
Subdivision control; fees; uniform schedule; payment

Sec. 704. The plan commission shall establish a uniform schedule of fees proportioned to the cost of checking and verifying the proposed plats. An applicant shall pay the specified fee upon the filing of an application for approval.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.36; Acts 1982, P.L.211, SEC.8.

IC 36-7-4-705
Subdivision control; primary approval of plat; review of application; hearing date

Sec. 705. Upon receipt of an application for primary approval, the plan commission staff shall review the application for technical conformity with the standards fixed in the subdivision control ordinance. Within thirty (30) days after receipt, the staff shall announce the date for a hearing before the plan commission or plat committee and provide for notice in accordance with section 706 of this chapter. The plan commission shall, by rule, prescribe procedures for setting hearing dates and for the conduct of hearings.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.37; Acts 1982, P.L.211, SEC.9.

IC 36-7-4-706
Subdivision control; application for primary approval; notice of hearing

Sec. 706. After the staff has announced a date for a hearing before the plan commission or plat committee, it shall:

(1) notify the applicant in writing;

(2) give notice of the hearing by publication in accordance with IC 5-3-1; and

(3) provide for due notice to interested parties at least ten (10) days before the date set for the hearing. The plan commission shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.38; Acts 1982, P.L.211, SEC.10.

IC 36-7-4-707
Subdivision control; primary approval of plat; findings and decision

Sec. 707. (a) If, after the hearing, the plan commission or plat committee determines that the application and plat comply with the standards in the subdivision control ordinance, the commission or committee shall make written findings and a decision granting primary approval to the plat. This decision, which must also specify any condition imposed or waiver granted under section 702 of this chapter, must be signed by an official designated in the subdivision control ordinance.

(b) If, after the hearing, the plan commission or plat committee disapproves the plat, the commission or committee shall make written findings that set forth its reasons and a decision denying primary approval and shall provide the applicant with a copy. This decision must be signed by the official designated in the subdivision control ordinance.

(c) This section applies to any subdivision of land, whether or not it is exempted from the notice and hearing requirements of this series under section 701(d) of this chapter.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1982, P.L.211, SEC.11; P.L.126-2011, SEC.18.

IC 36-7-4-708

Subdivision control; primary approval or disapproval of plat; appeal to plan commission; procedure; review

Sec. 708. (a) An applicant or other interested party may appeal to the plan commission the primary approval or disapproval of a plat, or the imposition of a condition on primary approval by the plat committee, in accordance with section 402(d) of this chapter. However, if the plat committee grants primary approval for the subdivision of land without public notice and hearing under section 701(d) of this chapter, an interested party may appeal the approval to the plan commission by filing a notice of appeal with the plan commission not more than five (5) days after a copy of the plat committee's action is mailed to the interested party. Notice shall be given and a hearing held by the commission in the same manner as in the case of the plat committee.

(b) The commission has the same power as the plat committee to approve, disapprove, or impose conditions on the approval of plats.

(c) The primary approval by the commission of a plat must be certified on behalf of the commission by an official designated in the subdivision control ordinance.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1982, P.L.211, SEC.12; P.L.320-1995, SEC.11; P.L.126-2011, SEC.19.

IC 36-7-4-709

Subdivision control; secondary approval of plat; proof of financial responsibility; rule for determination of completion of improvements and installations

Sec. 709. (a) Secondary approval under section 710 of this chapter may be granted to a plat for a subdivision in which the improvements and installments have not been completed as required by the

subdivision control ordinance, if:

(1) the applicant provides a bond, or other proof of financial responsibility as prescribed by the legislative body in the subdivision control ordinance, that:

(A) is an amount determined by the plan commission or plat committee to be sufficient to complete the improvements and installations in compliance with the ordinance; and

(B) provides surety satisfactory to the plan commission or plat committee; or

(2) with respect to the installation or extension of water, sewer, or other utility service:

(A) the applicant shows by written evidence that it has entered into a contract with the political subdivision or utility providing the service; and

(B) the plan commission or plat committee determines based on written evidence that the contract provides satisfactory assurance that the service will be installed or extended in compliance with the subdivision control ordinance.

(b) Any money received from a bond or otherwise shall be used only for making the improvements and installments for which the bond or other proof of financial responsibility was provided. This money may be used for these purposes without appropriation. The improvement or installation must conform to the standards provided for such improvements or installations by the municipality in which it is located, as well as the subdivision control ordinance.

(c) The plan commission shall, by rule, prescribe the procedure for determining whether all improvements and installations have been constructed and completed as required by the subdivision control ordinance. The rule must designate the person or persons responsible for making the determination.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1982, P.L.211, SEC.13; P.L.337-1985, SEC.1; P.L.126-2011, SEC.20.

IC 36-7-4-710

Subdivision control; secondary approval of plat; authority to grant; time; prerequisites for legal effect of plat

Sec. 710. (a) The plan commission may grant secondary approval of a plat under this section or may delegate to the plat committee or staff the authority to grant such secondary approvals.

(b) Secondary approval may be granted, after expiration of the time provided for appeal under section 708 of this chapter.

(c) No notice or hearing is required, and the provisions of this series concerning notice and hearing do not apply to secondary approvals.

(d) A plat of a subdivision may not be filed with the auditor, and the recorder may not record it, unless it has been granted secondary approval and signed and certified by the official designated in the subdivision control ordinance governing the area. The filing and recording of the plat is without legal effect unless approved by the commission, committee, or staff.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.39; Acts 1982, P.L.211, SEC.14; P.L.126-2011, SEC.21.

IC 36-7-4-711

Vacation of plats; alternate procedure; petition; notice and hearing

Sec. 711. (a) The plan commission (or plat committee acting on its behalf), proceeding in accordance with IC 36-7-3-10 or with this section, has exclusive control over the vacation of plats or parts of plats.

(b) In a case in which not all the owners of land in a plat are in agreement regarding a proposed vacation, this section provides an alternate procedure under which one (1) or more owners of land in the plat may file with the plan commission a petition to vacate all the plat or only that part of the plat that pertains to land owned by the petitioner or petitioners. A petition under this section must:

(1) state the reasons for and the circumstances prompting the request;

(2) specifically describe the property in the plat proposed to be vacated; and

(3) give the name and address of every other owner of land in the plat.

(c) Subject to section 714 of this chapter, a petition under this section may also include a request to vacate any recorded covenants filed as a part of the plat.

(d) Not more than thirty (30) days after receipt of a petition under this section, the plan commission staff shall announce the date for the hearing before the plan commission (or plat committee acting on the plan commission's behalf). The plan commission shall adopt rules prescribing procedures for setting hearing dates and for providing other notice as may be required in accordance with this chapter. The petitioner shall pay all expenses of providing the notice required by this subsection.

(e) The plan commission shall adopt rules prescribing procedures for the conduct of the hearing, which must include a provision giving every other owner of land in the plat an opportunity to comment on the petition.

(f) After hearing the petition, the plan commission or plat committee shall approve or disapprove the request. The commission or committee may approve the vacation of all or part of a plat only upon a determination that:

(1) conditions in the platted area have changed so as to defeat the original purpose of the plat;

(2) it is in the public interest to vacate all or part of the plat; and

(3) the value of that part of the land in the plat not owned by the petitioner will not be diminished by the vacation.

(g) The commission or committee may impose reasonable conditions as part of any approval. The commission or committee shall furnish a copy of the commission's or committee's decision to the county recorder for recording.

(h) An applicant or other interested party may appeal the approval or disapproval of a vacation by the plat committee in the manner prescribed by section 402(d) of this chapter.
As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.220-1986, SEC.23; P.L.126-2011, SEC.22.

IC 36-7-4-712
Plat committee; exclusive control over vacation of plats or public ways; rules; public interest; appeals

Sec. 712. (a) METRO. The plat committee has exclusive control over the vacation of:

(1) plats or parts of plats; and

(2) public ways, easements, or public places, or parts of any of them, whether or not they are included in an approved plat;

in the county. The plat committee may adopt rules governing the procedure for these vacations. The vacation of public ways, easements, or public places, or parts of any of them may be made only upon a finding by the plat committee that the vacation is in the public interest. The plat committee may accomplish the vacation of plats or parts of plats by proceeding in accordance with IC 36-7-3-10 or section 711 of this chapter.

(b) METRO. An applicant or other interested party may appeal the approval or disapproval of a vacation in the manner prescribed by section 402(d) of this chapter.
As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.40; P.L.220-1986, SEC.24; P.L.2-1989, SEC.26; P.L.126-2011, SEC.23.

IC 36-7-4-713
Repealed

(*Repealed by P.L.320-1995, SEC.44.)*

IC 36-7-4-714
Determination required to vacate recorded covenant filed with plat

Sec. 714. The vacation of all or part of a plat may include the vacation of any recorded covenants filed with the plat, but only upon a determination that:

(1) the platted area is within an area needing redevelopment and the covenant vacation would promote a recovery of property values in the area needing redevelopment by allowing or encouraging normal development and occupancy of the platted area;

(2) the covenant vacation is needed to secure for the public adequate light, air, convenience of access, or safety from fire, flood, or other danger; or

(3) the covenant vacation is needed to lessen or avoid congestion in the public ways.

As added by P.L.126-2011, SEC.24.

IC 36-7-4-715

Final decisions of plan commission subject to review

Sec. 715. (a) The following are final decisions of the plan commission that may be reviewed as provided by section 1016 of this chapter:

(1) Primary approval or disapproval of a plat.

(2) Imposition of a condition on primary approval of a plat.

(3) Approval or disapproval of the vacation of all or part of a plat.

(4) Approval or disapproval of the vacation of any recorded covenants filed with the plat.

(5) Imposition of a condition on approval of the vacation of all or part of a plat (which may include the vacation of any recorded covenants filed with the plat).

(b) The plan commission may adopt a rule to limit further consideration for up to one (1) year after its disapproval, of a plat or vacation request that is disapproved under section 707, 708, 711, 712, or 714 of this chapter.

As added by P.L.126-2011, SEC.25.

IC 36-7-4-800

800 Series—Improvement location permit

Sec. 800. This series (sections 800 through 899 of this chapter) may be cited as follows: 800 SERIES–IMPROVEMENT LOCATION PERMIT.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-801

Improvement location permit; requirement

Sec. 801. (a) ADVISORY. A structure may not be located and an improvement location permit for a structure on platted or unplatted land may not be issued unless the structure and its location conform to the municipal zoning ordinance. However, if the land is unincorporated land that lies within a county that has adopted a zoning ordinance, then the municipal zoning ordinance does not apply and the structure must conform to the county zoning ordinance. A municipality, having adopted a zoning ordinance, may issue and control improvement location permits on unincorporated lands within the jurisdiction of its municipal plan commission if the lands lie within a county that has not adopted a zoning ordinance.

(b) AREA–METRO. A zoning ordinance, a subdivision ordinance, or a separate ordinance may require the procurement of:

(1) an improvement location permit for the erection, alteration, or repair of any structure on platted or unplatted land; and

(2) an occupancy permit for the use of any structure or land regulated by a zoning ordinance, subdivision ordinance, thoroughfare ordinance, or other ordinance relating to land use.

If such a provision is adopted, a structure may not be located and a permit may not be issued unless the use, character, and location of the structure is in conformity with the applicable ordinance.

(c) AREA. The ordinance under subsection (b) must contain a

schedule of fees and must provide that the unit that issues the permit shall receive the fee and pay it into its general fund.
As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.220-1986, SEC.25.

IC 36-7-4-802
Improvement location permit; authority to issue

Sec. 802. (a) ADVISORY. The ordinance may designate the official or employee of the municipality or county who may issue improvement location permits within the jurisdiction of the advisory plan commission and in conformance with the zoning ordinance.

(b) AREA. The authority to issue the improvement location permit and the occupancy permit may be delegated by the ordinance to the area plan commission or to other appropriate officers of the county or municipality. If the authority is delegated in part to officers of a municipality, they may not issue permits for structures to be erected outside the corporate boundaries of the municipality.

(c) METRO. The metropolitan development commission shall issue improvement location permits and occupancy permits. The commission may delegate this duty to any municipal or county officers.
As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.220-1986, SEC.26.

IC 36-7-4-803
Bonds of contractors, engineers, and surveyors; enforcement of zoning or subdivision ordinance

Sec. 803. (a) AREA–METRO. As an additional means of insuring the enforcement of a zoning or subdivision ordinance, a legislative body may adopt, as a part of either ordinance or by separate ordinance, provisions requiring building contractors to furnish an annual bond of one thousand dollars ($1,000). This bond is to insure that if the construction does not comply with the zoning or subdivision ordinance that it can be made to conform without cost to the municipality, the county, or the person for whom the construction was undertaken.

(b) METRO. An ordinance under subsection (a) may also require professional engineers and land surveyors to furnish an annual bond of one thousand dollars ($1,000) to insure that their plans and surveys conform to the zoning or subdivision ordinance.

(c) METRO. A person constructing a building for his own use and occupancy as a residence or in connection with his residence is exempt from any provisions adopted under subsection (a).
As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-804
Improvement location or building permit; eligibility; violations of zoning or subdivision ordinance; hearing

Sec. 804. (a) METRO. After a building contractor violates a zoning or subdivision ordinance three (3) times in a calendar year, he

is ineligible to receive an improvement location or building permit for one (1) year, beginning on the date of the third violation. Whenever a person for whom a structure is to be built applies for a permit, he must disclose under the penalties for perjury the identity of his contractor; such a person is eligible to receive a permit only if his contractor is eligible.

(b) METRO. A determination by the metropolitan development commission, after a hearing at which the contractor may be represented by counsel and may present evidence, is conclusive evidence of a violation under subsection (a).

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-900

900 Series—Board of zoning appeals

Sec. 900. This series (sections 900 through 999 of this chapter) may be cited as follows: 900 SERIES–BOARD OF ZONING APPEALS.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-901

Board of zoning appeals; establishment; divisions; jurisdiction; continuation of certain boards

Sec. 901. (a) As a part of the zoning ordinance, the legislative body shall establish a board of zoning appeals.

(b) The board of zoning appeals is composed of one (1) division, unless the zoning ordinance is amended under this subsection. Whenever considered desirable, the zoning ordinance may be amended to establish an additional one (1), two (2), or three (3) divisions of the board of zoning appeals.

(c) After January 1, 1984, whenever any divisions of the board of zoning appeals are established or reestablished by the zoning ordinance, the ordinance must provide for each division to consist of five (5) members appointed in accordance with section 902 of this chapter.

(d) The board of zoning appeals shall be known as:

(1) the advisory board of zoning appeals (under the advisory planning law);

(2) the area board of zoning appeals (under the area planning law); or

(3) the metropolitan board of zoning appeals (under the metropolitan development law).

(e) Except as provided in this section, a board of zoning appeals has territorial jurisdiction over all the land subject to the zoning ordinance, and if the board has more than one (1) division, all divisions have concurrent jurisdiction within that territory.

(f) ADVISORY–AREA. The zoning ordinance may provide that any additional division of the board of zoning appeals, having been established under subsection (b), is to have only limited territorial jurisdiction. The zoning ordinance must describe the limits of that division's territorial jurisdiction and specify whether that division has

exclusive or concurrent jurisdiction within that territory.

(g) METRO. Any municipal board of zoning appeals that was established by an excluded city under IC 18-7-2-61 (before its repeal on September 1, 1981) continues as the board of zoning appeals for that municipality. A board of zoning appeals for an excluded city has exclusive territorial jurisdiction within the corporate boundaries of that municipality. All divisions of the metropolitan board of zoning appeals have concurrent territorial jurisdiction throughout the remainder of the county. The legislative body of the consolidated city may adopt ordinances to regulate the time of the meetings and the voting procedures of the metropolitan board of zoning appeals.

(h) ADVISORY. Any board of zoning appeals that was established under IC 18-7-3-11 continues as the board of zoning appeals for that jurisdiction, until otherwise provided by the zoning ordinance.

(i) AREA. Any board of zoning appeals that was established under the advisory planning law and continued in existence under the area planning law continues as the board of zoning appeals for that jurisdiction, until otherwise provided by the zoning ordinance.

(j) AREA. Any board of zoning appeals that was established under the area planning law as a seven (7) member board continues as the area board of zoning appeals, until otherwise provided by the zoning ordinance.

(k) METRO. The zoning ordinance may provide that a historic preservation commission created under IC 36-7-11.1-3 may exercise the powers of a board of zoning appeals within a historic area or historic zoning district established under IC 36-7-11.1-6. However, this subsection does not eliminate the need for a historic preservation commission to issue a certificate of appropriateness under IC 36-7-11.1-8(e) before the approval of a variance by either:

(1) a board of zoning appeals; or

(2) a historic preservation commission exercising the powers of a board of zoning appeals.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.357-1983, SEC.1; P.L.3-1990, SEC.125; P.L.321-1995, SEC.4; P.L.164-1995, SEC.20.

IC 36-7-4-902

Board of zoning appeals; members; number; appointment

Sec. 902. (a) ADVISORY. Each division of the advisory board of zoning appeals consists of five (5) members as follows:

(1) Three (3) citizen members appointed by the executive of the municipality or county, of whom one (1) must be a member of the plan commission and two (2) must not be members of the plan commission.

(2) One (1) citizen member appointed by the fiscal body of the municipality or county, who must not be a member of the plan commission.

(3) One (1) member appointed by the plan commission from the plan commission's membership, who must be a county

agricultural agent or a citizen member of the plan commission other than the member appointed under subdivision (1).

(b) ADVISORY. In each county having a metropolitan plan commission, subsection (a) does not apply. In such a county, each division of the advisory board of zoning appeals consists of five (5) members as follows:

(1) Two (2) members, of whom no more than one (1) may be of the same political party, appointed by the county legislative body.

(2) Three (3) members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) only of these members must be a member of the plan commission.

(c) AREA. When the area board of zoning appeals was established before January 1, 1984, as a seven (7) member board, the board consists of seven (7) members as follows:

(1) Two (2) citizen members appointed by the area plan commission from its membership, one (1) of whom must be a municipal representative and the other must be a county representative.

(2) Three (3) citizen members, who may not be members of any plan commission, appointed by the executive of the largest municipality in the county. However, if there are two (2) or more municipalities having a population of at least twenty thousand (20,000) in the county, the executive of the largest municipality shall appoint two (2) citizen members and the executive of the second largest municipality shall appoint one (1) citizen member. Furthermore, if there are no cities in the county participating in the commission, then the three (3) members appointed under this subdivision shall be appointed as follows:

(A) One (1) member appointed by the county executive.

(B) One (1) member appointed by the county fiscal body.

(C) One (1) member appointed by the legislative bodies of those towns participating in the commission.

(3) Two (2) citizen members, who may not be members of any plan commission, appointed by the county legislative body.

(d) AREA. Except as provided in subsection (c), each division of the area board of zoning appeals consists of five (5) members as follows:

(1) One (1) citizen member appointed by the area plan commission from its membership.

(2) One (1) citizen member, who may not be a member of any plan commission, appointed by the executive of the largest municipality in the county participating in the commission.

(3) Two (2) citizen members, of whom one (1) must be a member of the area plan commission and one (1) must not be a member of any plan commission, appointed by the county legislative body.

(4) One (1) citizen member, who may not be a member of any

plan commission, appointed by the executive of the second largest municipality in the county participating in the commission. However, if there is only one (1) municipality in the county participating in the commission, then the county legislative body shall make this appointment.

(e) METRO. Each division of the metropolitan board of zoning appeals consists of five (5) members as follows:

(1) Two (2) citizen members appointed by the executive of the consolidated city.

(2) Two (2) citizen members appointed by the legislative body of the consolidated city.

(3) One (1) citizen member, who may also be a member of the metropolitan development commission, appointed by the commission.

(f) METRO. The municipal board of zoning appeals for an excluded city consists of five (5) members as follows:

(1) Three (3) citizen members appointed by the legislative body of the excluded city.

(2) Two (2) citizen members, who may also be members of the metropolitan development commission, appointed by the commission.

(g) Whenever the zoning ordinance provides for a certain division of the board of zoning appeals to have limited territorial jurisdiction, it must also provide for that division to consist of members who are all residents of that limited territory. Those members shall be appointed in the same manner that is prescribed by subsection (a) for divisions of an advisory board of zoning appeals, but if the plan commission is unable to make its appointment in that manner, the appointment shall be made instead by the legislative body.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.357-1983, SEC.2; P.L.320-1995, SEC.12.

IC 36-7-4-903

Board of zoning appeals; additional division or member required for unincorporated jurisdictional area

Sec. 903. ADVISORY. (a) When a municipal plan commission exercises jurisdiction outside the incorporated area of the municipality as provided for in section 205 or 1208 of this chapter, one (1) of the following must occur:

(1) An additional division of the board of zoning appeals shall be established under section 901(b) of this chapter that will have territorial jurisdiction only in the unincorporated area. The division must consist only of:

(A) residents of the unincorporated area; or

(B) individuals who reside in the county and also own real property within the unincorporated area.

However, at least a majority of the members appointed to the division must be residents of the unincorporated area.

(2) The municipal plan commission shall designate, as its appointment to the municipal board of zoning appeals under

section 902(a)(3) of this chapter one (1) of the additional citizen members who were appointed under section 214(a), 1210(a), or 1210.5(c)(3) of this chapter to the plan commission to represent the unincorporated area. The citizen shall be appointed for a term of two (2) years. The citizen is entitled to participate and vote in all deliberations of the municipal board of zoning appeals.

(b) Notwithstanding section 902(g) of this chapter, if the zoning ordinance provides for an additional division of the board of zoning appeals under subsection (a)(1), the ordinance may also provide for the appointment of one (1) or more members of that division by elected officials of the county or township.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.357-1983, SEC.3; P.L.216-1999, SEC.4; P.L.32-2004, SEC.3; P.L.126-2011, SEC.26.

IC 36-7-4-904
Repealed

(*Repealed by P.L.357-1983, SEC.22.)*

IC 36-7-4-905
Board of zoning appeals; membership; restrictions

Sec. 905. (a) None of the members of a board of zoning appeals may hold:

(1) an elected office (as defined in IC 3-5-2-17); or

(2) any other appointed office, except as permitted by section 902 of this chapter, in municipal, county, or state government.

(b) A member of the board of zoning appeals must meet one (1) of the following requirements:

(1) The member must be a resident of the jurisdictional area of the board.

(2) The member must be a resident of the county and also an owner of real property located in whole or in part in the jurisdictional area of the board.

However, at least a majority of the total number of citizen members appointed to the board of zoning appeals must be residents of the jurisdictional area of the board of zoning appeals. The board shall determine whether a member meets all applicable residency requirements for appointment in accordance with uniform rules prescribed by the board.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.41; P.L.126-2011, SEC.27.

IC 36-7-4-906
Board of zoning appeals; members; terms; removal

Sec. 906. (a) ADVISORY–AREA. When an initial term of office expires, each new appointment is for a term of four (4) years.

(b) ADVISORY–AREA. Upon the establishment of a division of the board of zoning appeals, the members shall initially be appointed as provided in the zoning ordinance for the following terms of office:

(1) One (1) for a term of one (1) year.
(2) One (1) for a term of two (2) years.
(3) One (1) for a term of three (3) years.
(4) Two (2) for a term of four (4) years.

(c) ADVISORY–AREA. Under subsection (b), each term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment.

(d) METRO. Each appointment of a member of a division of a board of zoning appeals is for a term of one (1) year.

(e) METRO. The appointing authority may remove a member from the metropolitan board of zoning appeals. The appointing authority must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his residence address. A member who is removed may not appeal the removal to a court or otherwise.

(f) ADVISORY–AREA. The appointing authority may remove a member from the board of zoning appeals for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at his residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the circuit or superior court of the county.

(g) A member of a board of zoning appeals serves until his successor is appointed and qualified. A member is eligible for reappointment.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.42; Acts 1982, P.L.33, SEC.31; P.L.357-1983, SEC.4.

IC 36-7-4-907

Board of zoning appeals; members; vacancies

Sec. 907. (a) If a vacancy occurs among the members of the board of zoning appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the board in any hearing or decision if the regular member it has appointed has a disqualification under section 909 of this chapter or is otherwise unavailable to participate in the hearing or decision. An alternate member shall have all of the powers and duties of a regular member while participating in the hearing or decision.

(b) A member of the board of zoning appeals who misses three (3) consecutive regular meetings of the board may be treated as if the member had resigned, at the discretion of the appointing authority.

(c) Members serving in any division of the board of zoning appeals may also serve as alternate members for the other divisions of the board of zoning appeals. Whenever regular and alternate members serving in a particular division are unavailable, the chairperson or vice chairperson of the affected division may select members from other divisions in order to assemble up to five (5) members to participate in any hearing or decision.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981,

P.L.310, SEC.43; P.L.357-1983, SEC.5; P.L.345-1987, SEC.3; P.L.226-1997, SEC.3; P.L.126-2011, SEC.28.

IC 36-7-4-908
Repealed

(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-4-909
Board of zoning appeals; members; conflict of interest; disqualification

Sec. 909. (a) A member of a board of zoning appeals is disqualified and may not participate in a hearing or decision of that board concerning a zoning matter if the member:

(1) is biased or prejudiced or otherwise unable to be impartial; or

(2) has a direct or indirect financial interest in the outcome of the hearing or the decision.

(b) The board shall enter in the board's records:

(1) the fact that a regular member has such a disqualification; and

(2) the name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.44; P.L.357-1983, SEC.6; P.L.126-2011, SEC.29.

IC 36-7-4-910
Board of zoning appeals; quorum

Sec. 910. A quorum consists of a majority of the entire membership of the board of zoning appeals.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-911
Board of zoning appeals; official action

Sec. 911. Action of the board of zoning appeals is not official, unless it is authorized by a majority of the entire membership of the board.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-912
Board of zoning appeals; chairman and vice chairman

Sec. 912. At the first meeting of each year, the board of zoning appeals shall elect a chairman and vice chairman from its members. The vice chairman may act as chairman during the absence or disability of the chairman.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-913
Board of zoning appeals; secretary and employees

Sec. 913. The board of zoning appeals may appoint a secretary and such employees as are necessary for the discharge of its duties.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.45.

IC 36-7-4-914
Board of zoning appeals; facilities

Sec. 914. The plan commission shall provide for suitable facilities for the holding of board of zoning appeals' hearings and for the preserving of records, documents, and accounts.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.357-1983, SEC.7.

IC 36-7-4-915
Board of zoning appeals; minutes and records

Sec. 915. The board of zoning appeals shall keep minutes of its proceedings and record the vote on all actions taken. All minutes and records shall be filed in the office of the board and are public records. The board shall in all cases heard by it make written findings of fact.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.46.

IC 36-7-4-916
Board of zoning appeals; rules

Sec. 916. (a) The board of zoning appeals shall adopt rules, which may not conflict with the zoning ordinance, concerning:

(1) the filing of appeals;
(2) the application for variances, special exceptions, special uses, contingent uses, and conditional uses;
(3) the giving of notice;
(4) the conduct of hearings; and
(5) the determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk, or area).

(b) The board of zoning appeals may also adopt rules providing for:

(1) the allocation of cases filed among the divisions of the board of zoning appeals; and
(2) the fixing of dates for hearings by the divisions.

(c) Rules adopted by the board of zoning appeals shall be printed and be made available to all applicants and other interested persons.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.47; Acts 1982, P.L.212, SEC.4; P.L.357-1983, SEC.8.

IC 36-7-4-917
Board of zoning appeals; appropriations

Sec. 917. The fiscal body of the municipality or county, as the case may be, may appropriate under section 308 of this chapter such amounts as are necessary to carry out the duties of the board of zoning appeals.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.357-1983,

SEC.9.

IC 36-7-4-918
Repealed
(*Repealed by P.L.357-1983, SEC.22.)*

IC 36-7-4-918.1
Board of zoning appeals; review of orders, requirements, decisions, or determinations
Sec. 918.1. A board of zoning appeals shall hear and determine appeals from and review:
(1) any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the zoning ordinance;
(2) any order, requirement, decision, or determination made by an administrative board or other body except a plan commission in relation to the enforcement of the zoning ordinance; or
(3) any order, requirement, decision, or determination made by an administrative board or other body except a plan commission in relation to the enforcement of an ordinance adopted under this chapter requiring the procurement of an improvement location or occupancy permit.
As added by P.L.357-1983, SEC.10.

IC 36-7-4-918.2
Board of zoning appeals; special exceptions and certain uses; approval or denial
Sec. 918.2. A board of zoning appeals shall approve or deny all:
(1) special exceptions;
(2) special uses;
(3) contingent uses; and
(4) conditional uses;
from the terms of the zoning ordinance, but only in the classes of cases or in the particular situations specified in the zoning ordinance. The board may impose reasonable conditions as a part of its approval.
As added by P.L.357-1983, SEC.11.

IC 36-7-4-918.3
Board of zoning appeals; variance from use district or classification
Sec. 918.3. AREA. Neither the area board of zoning appeals nor any other board of zoning appeals continued in existence under the area planning law may grant a variance from a use district or classification under the area planning law.
As added by P.L.357-1983, SEC.12.

IC 36-7-4-918.4
Board of zoning appeals; variance of use
Sec. 918.4. ADVISORY–METRO. A board of zoning appeals

shall approve or deny variances of use from the terms of the zoning ordinance. The board may impose reasonable conditions as a part of its approval. A variance may be approved under this section only upon a determination in writing that:

(1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(3) the need for the variance arises from some condition peculiar to the property involved;

(4) the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

(5) the approval does not interfere substantially with the comprehensive plan adopted under the 500 series of this chapter.

As added by P.L.357-1983, SEC.13.

IC 36-7-4-918.5

Board of zoning appeals; variance from development standards

Sec. 918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

(1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

(3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. However, the zoning ordinance may establish a stricter standard than the "practical difficulties" standard prescribed by this subdivision.

(b) Before approval of a proposal involving a structure regulated under IC 8-21-10 may become effective, the board of zoning appeals must have received:

(1) a copy of:

(A) the permit for the structure issued by the Indiana department of transportation; or

(B) the Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration; and

(2) evidence that notice was delivered to a public use airport as required in IC 8-21-10-3 not less than sixty (60) days before the proposal is considered.

(c) Only the plan commission (or plat committee acting on the commission's behalf) may grant a waiver from standards that are

fixed in the subdivision control ordinance, as provided in section 702(c) of this chapter.

As added by P.L.357-1983, SEC.14. Amended by P.L.54-2002, SEC.6; P.L.126-2011, SEC.30.

IC 36-7-4-918.6

Board of zoning appeals in certain counties; special exceptions, uses, and variances

Sec. 918.6. (a) This section applies to a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) ADVISORY–AREA. Notwithstanding sections 918.2, 918.4, and 918.5 of this chapter, a zoning or subdivision control ordinance shall require that the board of zoning appeals submit any of the following petitions to the legislative body for approval or disapproval:

(1) Special exceptions.

(2) Special uses.

(3) Use variances.

(c) ADVISORY–AREA. The board of zoning appeals shall file a petition under this section with the clerk of the legislative body with:

(1) a favorable recommendation;

(2) an unfavorable recommendation; or

(3) no recommendation.

(d) ADVISORY–AREA. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the petition at its first regular meeting after the board of zoning appeals files its recommendation.

(e) ADVISORY–AREA. A petition is granted or denied when the legislative body votes on the petition as follows:

(1) In a county described in subsection (a)(1), the legislative body shall vote on the petition within ninety (90) days after the board of zoning appeals makes its recommendation. If the legislative body does not vote to deny the petition within ninety (90) days, the petition is considered approved.

(2) In a county described in subsection (a)(2), the legislative body shall vote on the petition within sixty (60) days after the board of zoning appeals makes its recommendations. If the legislative body does not vote to deny the petition within sixty (60) days, the petition is approved.

(f) ADVISORY–AREA. If the legislative body approves a petition, it must make the determination in writing as required under section 918.2, 918.4, or 918.5 of this chapter or as required by the zoning ordinance.

As added by P.L.304-1989, SEC.1. Amended by P.L.12-1992, SEC.164; P.L.167-1994, SEC.2; P.L.119-2012, SEC.194.

IC 36-7-4-918.8
Board of zoning appeals; metropolitan development commission; exercise of powers; variances, exceptions, or uses

Sec. 918.8. (a) METRO. In connection with its consideration of a proposed ordinance for the amendment of the zoning ordinance proposed under section 607(c)(2) of this chapter, the metropolitan development commission may exercise the powers of the metropolitan board of zoning appeals for the purpose of approving or denying:

(1) a variance from the development standards of the zoning ordinance; or

(2) a special exception, special use, contingent use, or conditional use from the terms of the zoning ordinance.

(b) METRO. The commission may, by rule, establish procedures so that the power of the commission to recommend amendment of zoning ordinances and the power of the commission to approve and deny these variances, exceptions, and uses may be exercised concurrently. These rules may be inconsistent with the 900 series to the extent reasonably necessary to allow the commission to exercise the power to approve or deny these variance, exception, and use petitions.

(c) METRO. When acting under this section, the commission may:

(1) vote on the amendment to the zoning ordinance and the variance, exception, or use petition at the same time; and

(2) condition the approval of variance, exception, or use in such a manner that it takes effect when the recommended ordinance amendment is approved by the legislative body.

(d) METRO. Section 922 of this chapter does not apply to variances, exceptions, and uses approved under this section.

As added by P.L.357-1983, SEC.15.

IC 36-7-4-919
Board of zoning appeals; appeal to board; grounds; record; decision

Sec. 919. (a) An appeal filed with the board of zoning appeals must specify the grounds of the appeal and must be filed within such time and in such form as may be prescribed by the board of zoning appeals by rule.

(b) The administrative official, hearing officer, administrative board, or other body from whom the appeal is taken shall, on the request of the board of zoning appeals, transmit to it all documents, plans, and papers constituting the record of the action from which an appeal was taken.

(c) Certified copies of the documents, plans, and papers constituting the record may be transmitted for purposes of subsection (b).

(d) Upon appeal, the board may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the board has all the powers of the official, officer,

board, or body from which the appeal is taken.

(e) The board shall make a decision on any matter that it is required to hear under the 900 series either:

(1) at the meeting at which that matter is first presented; or

(2) at the conclusion of the hearing on that matter, if it is continued.

(f) Within five (5) days after making any decision under the 900 series, the board of zoning appeals shall file in the office of the board a copy of its decision.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.49; P.L.357-1983, SEC.16.

IC 36-7-4-920

Board of zoning appeals, hearing on administrative appeals, exceptions, uses, and variances; notice; appearance

Sec. 920. (a) The board of zoning appeals shall fix a reasonable time for the hearing of administrative appeals, exceptions, uses, and variances.

(b) Public notice in accordance with IC 5-3-1-2 and IC 5-3-1-4 and due notice to interested parties shall be given at least ten (10) days before the date set for the hearing.

(c) The party taking the appeal, or applying for the exception, use, or variance, may be required to assume the cost of public notice and due notice to interested parties. At the hearing, each party may appear in person, by agent, or by attorney.

(d) The board shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.

(e) The staff (as defined in the zoning ordinance), if any, may appear before the board at the hearing and present evidence in support of or in opposition to the granting of a variance or the determination of any other matter.

(f) Other persons may appear and present relevant evidence.

(g) A person may not communicate with any member of the board before the hearing with intent to influence the member's action on a matter pending before the board. Not less than five (5) days before the hearing, however, the staff (as defined in the zoning ordinance), if any, may file with the board a written statement setting forth any facts or opinions relating to the matter.

(h) The board may require any party adverse to any pending petition to enter a written appearance specifying the party's name and address. If the written appearance is entered more than four (4) days before the hearing, the board may also require the petitioner to furnish each adverse party with a copy of the petition and a plot plan of the property involved.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.50; Acts 1982, P.L.212, SEC.6; P.L.357-1983, SEC.17.

IC 36-7-4-921

Repealed

(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-922
Board of zoning appeals; procedures for appeal to metropolitan development commission

Sec. 922. (a) METRO. An official designated by the metropolitan development commission may appeal to the metropolitan development commission any decision of a board of zoning appeals regarding an administrative appeal, or approving a special exception, a special or conditional use, or a variance from the terms of the zoning ordinance. The official must file in the office of the department of metropolitan development a notice of appeal within five (5) days after the board files a copy of the decision in the office of the board. However, if a representative of the department of metropolitan development appears at the hearing at which the administrative appeal is decided, or the special exception, special or conditional use, or variance is approved, then the official must file the notice of appeal within five (5) days after the board has rendered its decision. The notice must certify that the decision raises a substantial question of zoning policy appropriate for consideration by the commission. The commission shall hear the appeal at its next regular meeting held not less than five (5) days after the notice of appeal is filed.

(b) METRO. In hearing appeals under this section, the metropolitan development commission sits as a board of zoning appeals and shall be treated as if it is a board for purposes of this section. The commission may accept into evidence the written record, if any, of the hearing before the board of zoning appeals, along with other evidence introduced by the staff or interested parties. The commission shall consider the matter de novo, but the decision of the board is considered affirmed unless two-thirds (2/3) of the commission members voting vote to deny the administrative appeal, exception, use, or variance.

(c) METRO. Although persons other than the designated official may not appeal a decision of a board of zoning appeals to the metropolitan development commission, they may appear as interested parties in appeals under this section. No public notice need be given of the hearing of an appeal under this section, but the official shall promptly mail notice of the subject of the appeal and date and place of the hearing to each adverse party. However, if the record of the board shows that more than three (3) proponents or more than three (3) remonstrators appeared, then the official need mail notice only to the first three (3) of each as disclosed by the record.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.52; Acts 1982, P.L.212, SEC.7; P.L.357-1983, SEC.19; P.L.320-1995, SEC.14.

IC 36-7-4-923
Alternate procedure for expedient disposition of petitions; hearing

officers

Sec. 923. (a) This section allows the establishment of an alternate procedure under which there can be a more expedient disposition of certain matters that otherwise would be heard by a board of zoning appeals. When authorized by ordinance or by rules of the plan commission, a hearing officer has the power of a board of zoning appeals to approve or deny, through the alternate procedure allowed by this section:

(1) a variance from the development standards of the zoning ordinance in accordance with section 918.5 of this chapter; or

(2) a special exception, special use, contingent use, or conditional use from the terms of the zoning ordinance in accordance with section 918.2 of this chapter; or

(3) a variance of use from the terms of the zoning ordinance in accordance with section 918.4 of this chapter. However, the authority of a hearing officer under this subdivision may be exercised only if:

(A) the area planning law is not applicable; and

(B) the variance of use would allow all of the following:

(i) The expansion of a use currently existing on the tract.

(ii) A use that is consistent with the comprehensive plan.

(b) All requirements for variances, exceptions, and uses imposed by the 900 series of this chapter apply to the alternate procedure, except to the extent that a provision of section 924 of this chapter imposes a different requirement.

(c) The alternate procedure does not apply in any excluded city as described in IC 36-3-1-7. Sections 919(f) and 922 of this chapter do not apply to the alternate procedure.

(d) The hearing officer (who may be a board member, a staff member, or any other person) shall be appointed by the plan commission. More than one (1) hearing officer may be appointed. A hearing officer may be removed from the officer's responsibilities at any time by the plan commission.

(e) The plan commission may adopt other rules or recommend ordinances for the alternate procedure not inconsistent with the 900 series of this chapter. These rules or ordinances may specify the period during which the staff may indicate whether the staff objects to the proposed variance, exception, or use. These rules or ordinances may also provide for public notice and due notice to interested parties in accordance with section 920(b), 920(c), and 920(d) of this chapter, but the rules or ordinances may, because of the nature of the petitions heard under the alternate procedure, provide for a less inclusive definition of "interested person" and provide for a quicker and less burdensome method of giving notice to interested persons than rules applicable to petitions not filed under the alternate procedure.

(f) METRO. For purposes of subsection (d), the director of the department of metropolitan development shall nominate, and the plan commission shall appoint, all hearing officers. Such a hearing officer may be removed from the officer's responsibilities at any time by

either the director or the plan commission.

(g) METRO. The plan commission may, if requested by a historic preservation commission created under IC 36-7-11.1-3, appoint:

(1) a member of the historic preservation commission;

(2) a member of the historic preservation staff; or

(3) a person who is an employee of the department of metropolitan development;

as a hearing officer to act in a historic area or historic zoning district created under IC 36-7-11.1-6. The hearing officer may be removed from the hearing officer's responsibilities at any time by either the historic preservation commission or the plan commission.

As added by Acts 1982, P.L.212, SEC.8. Amended by P.L.357-1983, SEC.20; P.L.320-1995, SEC.15; P.L.321-1995, SEC.5; P.L.126-2011, SEC.31.

IC 36-7-4-924

Alternate procedure for disposition of petitions or applications; objections; commitments; appeals

Sec. 924. (a) In establishing the alternate procedure under section 923 of this chapter, the plan commission may adopt rules or recommend ordinances:

(1) limiting the kinds of variance, special exception, special use, contingent use, or conditional use petitions or applications that may be filed under the alternate procedure;

(2) permitting the hearing officer, in appropriate circumstances, to transfer a petition or an application filed under the alternate procedure to the board of zoning appeals;

(3) requiring the creation of minutes and records of the proceedings before the hearing officer and the filing of the minutes and records as public records; and

(4) regulating conflicts of interest and communication with the hearing officer, so as to require the same level of conduct as is required by the 900 series of this chapter.

(b) The staff (as defined by the zoning ordinance), if any, may file a written objection to a petition or an application for a variance, exception, or use if:

(1) it would be injurious to the public health, safety, morals, and general welfare of the community; or

(2) the use or value of the area adjacent to the property included would be affected in a substantially adverse manner.

(c) If a written objection is filed under subsection (b), the petition or application shall:

(1) be considered withdrawn; or

(2) be transferred to the board of zoning appeals if requested by the petitioner or applicant.

(d) The staff (as defined by the zoning ordinance), if any, may indicate that it does not object to the approval of the variance, exception, or use if specified conditions are attached. If the petitioner or applicant does not accept these conditions, the petition or application shall:

(1) be considered withdrawn; or

(2) be transferred to the board of zoning appeals if requested by the petitioner or applicant.

(e) The hearing officer may impose conditions and may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel, as provided in section 1015 of this chapter. If the petitioner or applicant for the variance, exception, or use does not accept these conditions or make the commitment, the petition or application shall:

(1) be considered withdrawn; or

(2) be transferred to the board of zoning appeals if requested by the petitioner or applicant.

(f) The hearing officer may not modify or terminate any commitment, whether made under this section or section 1015 of this chapter. Commitments made under this section may be modified or terminated only by the board of zoning appeals.

(g) A decision of a hearing officer under the alternate procedure may not be a basis for judicial review, but it may be appealed to the board of zoning appeals. An interested person who wishes to appeal a decision of a hearing officer under the alternate procedure must file the appeal with:

(1) the board of zoning appeals if the board of zoning appeals consists of only one (1) division; or

(2) a division of the board of zoning appeals if the board of zoning appeals consists of more than one (1) division;

within five (5) days after the decision is made.

As added by P.L.357-1983, SEC.21. Amended by P.L.320-1995, SEC.16; P.L.126-2011, SEC.32.

IC 36-7-4-1000

1000 Series—Remedies and enforcement

Sec. 1000. This series (sections 1000 through 1099 of this chapter) may be cited as follows: 1000 SERIES–REMEDIES AND ENFORCEMENT.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1001

Remedies and enforcement; stay of proceedings and work on premises affected pending appeal to board of zoning appeals

Sec. 1001. (a) When an appeal from the decision of an official or board has been filed with the board of zoning appeals, proceedings and work on the premises affected shall be stayed unless the official or board certifies to the board of zoning appeals that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In that case, proceedings or work may not be stayed except by a restraining order.

(b) After notice to the officer or board and to the owner of the premises affected and after due cause is shown, the circuit or superior court of the county in which the premises affected are located may grant the restraining order.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.53.

IC 36-7-4-1002
Remedies and enforcement; stay order

Sec. 1002. After the owner of, or a person in charge of the work on, the premises affected has received notice that an appeal has been filed with the board of zoning appeals, the official or board charged with the enforcement of an ordinance, under the 600 series of this chapter, may order the work stayed and call on the police power of the municipality or county to give effect to that order.
As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1003
Judicial review

Sec. 1003. (a) Each decision of the legislative body under section 918.6 of this chapter is subject to judicial review in the same manner as that provided for the appeal of a final decision of the board of zoning appeals under section 1016(a) of this chapter.

(b) METRO. A petition for judicial review must be filed with the court after the expiration of the period within which an official designated by the metropolitan development commission may file an appeal under section 922 of this chapter but not later than the period provided for timely filing under section 1605 of this chapter. However, if the official files an appeal, then only the decision of the metropolitan development commission sitting as a board of zoning appeals is subject to judicial review. The official or department of metropolitan development may not seek judicial review of a decision of a board of zoning appeals or the commission sitting as a board of zoning appeals.
As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.304-1989, SEC.2; P.L.1-1990, SEC.360; P.L.320-1995, SEC.17; P.L.150-2003, SEC.1; P.L.126-2011, SEC.33.

IC 36-7-4-1004
Repealed

(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-4-1005
Repealed

(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-1006
Repealed

(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-1007
Repealed

(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-1008
Repealed
(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-1009
Repealed
(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-1010
Repealed
(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-1011
Repealed
(*Repealed by P.L.126-2011, SEC.68.)*

IC 36-7-4-1012
Remedies and enforcement; violation as common nuisance

Sec. 1012. An ordinance adopted under this chapter may provide that a structure erected, raised, or converted, or land or premises used, in violation of this chapter or an ordinance or regulation made under this chapter, is a common nuisance and that the owner or possessor of the structure, land, or premises is liable for maintaining a common nuisance.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.56.

IC 36-7-4-1013
Remedies and enforcement; prosecution; attorneys

Sec. 1013. (a) When the legislative body provides penalties for failure to comply with any ordinance adopted under this chapter, the municipal attorney or an attorney representing the county, as the case may be, shall, on receipt of information of the violation of any ordinance, make an investigation of the alleged violation. If acts elicited by the investigation are sufficient to establish a reasonable belief that a violation has occurred on the part of the party investigated, the municipal attorney or an attorney representing the county may file a complaint against the person and prosecute the alleged violation under IC 36-1-6.

(b) The plan commission or a board of zoning appeals may request the prosecuting attorney of the county to take appropriate action in any case involving the violation of any ordinance or regulation adopted under this chapter.

(c) The plan commission may appoint one (1) or more attorneys to advise the planning staff and to assist in the enforcement of any ordinances and regulations adopted under this chapter. Subject to the 400 series of this chapter, an area plan commission may employ one (1) attorney on a full-time basis so that the attorney can become fully informed on the specialized law of planning, zoning, and subdivision control.

(d) The services of attorneys appointed by the plan commission under subsection (c) shall be made available without extra compensation to the prosecuting attorney in all cases involving ordinances or regulations adopted under this chapter. The attorneys may be deputized to act for and under the direction of the prosecuting attorney.

(e) In civil actions for the enforcement of ordinances or regulations adopted under this chapter, an attorney appointed by the plan commission may bring an action in the name of the plan commission.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.137-1989, SEC.16; P.L.126-2011, SEC.34.

IC 36-7-4-1014

Remedies and enforcement; allowable actions

Sec. 1014. (a) The plan commission, board of zoning appeals, or any enforcement official designated in the zoning ordinance may bring an action under IC 36-1-6 to enforce any ordinance adopted or action taken under this chapter.

(b) The plan commission, board of zoning appeals, or any enforcement official designated in the zoning ordinance may also bring an action to enforce:

(1) conditions imposed by the commission or board of zoning appeals under this chapter; or

(2) covenants made in connection with a subdivision plat, a development plan, or a PUD district ordinance (as defined in section 1503 of this chapter).

(c) ADVISORY. In addition, in each county having a metropolitan plan commission, if the county or second class city adopts a zoning ordinance under this chapter, then that unit may also invoke any remedy under this section. However, the county may do so only outside the corporate boundaries of the city, and the city may do so only within its corporate boundaries.

(d) The plan commission, board of zoning appeals, or designated enforcement official may invoke any legal, equitable, or special remedy in an action described in subsection (a) or (b).

(e) An action for the levy of a fine or penalty for enforcement of a zoning ordinance may be brought in any court located within the jurisdiction of the plan commission or board of zoning appeals.

(f) If the plan commission, board of zoning appeals, or designated enforcement official is successful in an action brought under this section, the respondent shall bear the costs of the action. A change of venue from the county may not be granted in such an action.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.220-1986, SEC.27; P.L.2-1989, SEC.27; P.L.261-1993, SEC.1; P.L.16-1995, SEC.13; P.L.320-1995, SEC.19; P.L.126-2011, SEC.35.

IC 36-7-4-1015

Commitments; enforcement

Sec. 1015. (a) As a condition to the:

(1) adoption of a rezoning proposal;
(2) primary approval of a proposed subdivision plat or development plan;
(3) approval of a vacation of all or part of the plat; or
(4) approval of an application for a:
(A) special exception;
(B) special use;
(C) contingent use;
(D) conditional use; or
(E) variance;

the owner of a parcel of real property may be required or allowed to make a commitment to the plan commission or board of zoning appeals, as applicable, concerning the use or development of that parcel.

(b) Commitments are subject to the following provisions:

(1) A commitment must be in writing.

(2) Unless the written commitment is modified or terminated in accordance with this subsection, a written commitment is binding on the owner of the parcel.

(3) A commitment shall be recorded in the office of the county recorder. After a commitment is recorded, it is binding on a subsequent owner or any other person who acquires an interest in the parcel. However, a commitment is binding on the owner who makes the commitment even if the commitment is unrecorded. An unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment.

(4) A commitment may contain terms providing for its own expiration. A commitment may also contain terms providing that the commitment automatically terminates:

(A) if the zoning district or classification applicable to the parcel is changed;

(B) if the land use to which the commitment relates is changed; or

(C) otherwise in accordance with the rules of the plan commission or board of zoning appeals to which the commitment is made.

(5) Except for a commitment that expires or automatically terminates under subdivision (4), a commitment may be modified or terminated only by a decision of the plan commission or board of zoning appeals to which the commitment was made. The decision must be made at a public hearing after notice of the hearing has been provided under the rules of the plan commission or board of zoning appeals, as the case may be.

(6) During the time a rezoning proposal is being considered by the legislative body under the 600 or 1500 series of this chapter, the owner may make a new commitment to the plan commission or modify the terms of a commitment that was made when the

proposal was being considered by the plan commission.

(7) No further action of the plan commission is required for a new commitment made under subdivision (6) to be effective.

(8) If a commitment is modified under subdivision (6):

(A) no further action is required by the plan commission for the commitment to be effective if the effect of the modification is to make the commitment more stringent; or

(B) the modified commitment must be ratified by the plan commission if the effect of the modification is to make the commitment less stringent.

(9) Requiring or allowing a commitment to be made does not obligate the plan commission, board of zoning appeals, or legislative body, as applicable, to adopt, approve, or favorably recommend the proposal or application to which the commitment relates.

(c) The plan commission or board of zoning appeals may adopt rules:

(1) governing the creation, form, recording, effectiveness, modification, and termination of commitments; and

(2) designating which specially affected persons and classes of specially affected persons are entitled to enforce commitments.

(d) An action to enforce a commitment may be brought in the circuit or superior court of the county by:

(1) the plan commission or board of zoning appeals to which the commitment was made;

(2) any person who was entitled to enforce a commitment under the rules of the plan commission or board of zoning appeals in force at the time the commitment was made; or

(3) any other specially affected person who was designated in the commitment.

(e) A person bringing an action to enforce a commitment may request mandatory or prohibitory injunctive relief through the granting of a temporary restraining order, preliminary injunction, or permanent injunction. If an action to enforce a commitment is successful, the respondent shall bear the costs of the action. A change of venue from the county may not be granted in such an action.

(f) In an action to enforce a commitment, it is not a defense that:

(1) no consideration was given for the commitment;

(2) the commitment does not benefit any designated parcel of property;

(3) the document setting forth the commitment lacks a seal;

(4) there is no privity of estate;

(5) there is not privity of contract; or

(6) there is no proof of damages.

(g) The following types of conditions, as authorized by this chapter, are not considered commitments and are not subject to subsection (b):

(1) A condition imposed upon primary approval of a plat that must be met before secondary approval of the plat may be

granted under the 700 series of this chapter.

(2) A condition imposed upon the approval of an exception, a use, a variance, or a development plan that must be met before an improvement location permit may be issued under the 800 series of this chapter.

(3) A condition imposed upon an approval relative to any other development requirement that must be met before any other secondary approval may be granted or building permit may be issued under this chapter.

(4) A condition that was imposed before July 1, 2011, on an approval relative to any development requirement. However, this subdivision applies only if a copy of the condition has been filed and permanently maintained as a public record in the office of the plan commission or board of zoning appeals that imposed the condition.

(h) Covenants, easements, equitable servitudes, and other land use restrictions created in accordance with law are not considered commitments and are not subject to subsection (b).

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.320-1995, SEC.20; P.L.126-2011, SEC.36.

IC 36-7-4-1016

Judicial review of zoning decisions

Sec. 1016. (a) Final decisions of the board of zoning appeals under:

(1) the 900 series of this chapter (administrative appeals, exceptions, uses, and variances); or

(2) section 1015 of this chapter (appeals of commitment modifications or terminations);

are considered zoning decisions for purposes of this chapter and are subject to judicial review in accordance with the 1600 series of this chapter.

(b) The following decisions of the plan commission are considered zoning decisions for purposes of this chapter and are subject to judicial review in the same manner as that provided for the appeal of a final decision of the board of zoning appeals under subsection (a):

(1) A final decision under the 700 series of this chapter (subdivision control).

(2) A final decision under section 1015 of this chapter (appeal of a commitment modification or termination).

(3) A final decision under the 1400 series of this chapter (development plans).

(4) A final decision under the 1500 series of this chapter (planned unit development), when authority to make a final decision is delegated to the plan commission by the legislative body under section 1511 of this chapter.

(c) Final decisions of preservation commissions under IC 36-7-11, IC 36-7-11.1, IC 36-7-11.2, or IC 36-7-11.3 (certificates of appropriateness) are considered zoning decisions for purposes of this

chapter and are subject to judicial review in the same manner as that provided for the appeal of a final decision of the board of zoning appeals under subsection (a).

(d) Final decisions of zoning administrators under IC 14-28-4-18 (improvement location permits within flood plain areas) are considered zoning decisions for purposes of this chapter and are subject to judicial review in the same manner as that provided for the appeal of a final decision of the board of zoning appeals under subsection (a).

(e) The following actions are legislative acts and are not considered zoning decisions for purposes of this chapter:

(1) Adopting or approving a comprehensive plan under the 500 series of this chapter.

(2) Certifying with or without a recommendation a proposal under the 600 series of this chapter.

(3) Adopting, rejecting, or amending a zoning ordinance under the 600 series of this chapter.

(4) Adopting, rejecting, or amending an impact fee ordinance under the 1300 series of this chapter.

(5) Designating a zoning district where a development plan is required under the 1400 series of this chapter.

(6) Adopting, rejecting, or amending a PUD district ordinance under the 1500 series of this chapter.

(7) Adopting, rejecting, or amending a flood plain zoning ordinance under IC 14-28-4.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.57; P.L.320-1995, SEC.21; P.L.126-2011, SEC.37.

IC 36-7-4-1017

Remedies and enforcement; status of structures erected in violation

Sec. 1017. In an action or proceeding by the municipality or county for the taking, appropriation, or condemnation of land, or in an action against the municipality or county, no compensation or damages may be awarded for the taking of or injury to any structure erected in violation of:

(1) an ordinance adopted under this chapter; or

(2) any prior ordinance superseded by an ordinance adopted under this chapter.

This section applies only if the structure remains in violation at the time of the taking, appropriation, or condemnation.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.58.

IC 36-7-4-1018

Violations; penalties; ordinances

Sec. 1018. Ordinances adopted under this chapter may provide for penalties for violations, subject to IC 36-1-3-8.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.59.

IC 36-7-4-1019
Remedies and enforcement; nonconforming use or variance; burden of proof

Sec. 1019. In an enforcement action brought under this chapter, the party alleging the existence of a nonconforming use or variance granted by a board of zoning appeals has the burden of proof on that issue. The nonexistence of a nonconforming use or variance need not be proved.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.60.

IC 36-7-4-1020
Ordinances; presumption of validity; official notice

Sec. 1020. (a) All ordinances adopted under this chapter are presumed to have been validly adopted.

(b) A plan commission or a board of zoning appeals shall take official notice of all ordinances adopted under this chapter.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.310, SEC.61; P.L.220-1986, SEC.28; P.L.126-2011, SEC.38.

IC 36-7-4-1100
1100 Series—Miscellaneous provisions

Sec. 1100. This series (sections 1100 through 1199 of this chapter) may be cited as follows: 1100 SERIES–MISCELLANEOUS PROVISIONS.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1101
Miscellaneous provisions; application

Sec. 1101. AREA. The area planning law does not apply in:

(1) a county where countywide planning and zoning is required by statute; and

(2) a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.12-1992, SEC.165.

IC 36-7-4-1102
Miscellaneous provisions; supplemental nature of planning law

Sec. 1102. This chapter is supplemental to and does not abrogate the powers extended to agencies, bureaus, departments, commissions, divisions, or officials of state government by other statutes and these powers remain in effect. Powers of supervision and regulation by these entities of state government over political subdivisions or persons also are not abrogated and continue in effect.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.126-2011, SEC.39.

IC 36-7-4-1103

Miscellaneous provisions; use and alienation of mineral resources and forests outside urban areas

Sec. 1103. (a) This section does not apply to a plan commission exercising jurisdiction in a county having a population of more than twenty thousand nine hundred (20,900) but less than twenty-one thousand (21,000).

(b) ADVISORY—AREA. For purposes of this section, urban areas include all lands and lots within the corporate boundaries of a municipality, any other lands or lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area, and other lands or lots that have been or are planned for residential areas contiguous to the municipality.

(c) ADVISORY—AREA. This chapter does not authorize an ordinance or action of a plan commission that would prevent, outside of urban areas, the complete use and alienation of any mineral resources or forests by the owner or alienee of them.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.117-1986, SEC.3; P.L.346-1987, SEC.1; P.L.305-1989, SEC.1; P.L.12-1992, SEC.166; P.L.216-1999, SEC.5; P.L.170-2002, SEC.153; P.L.119-2012, SEC.195.

IC 36-7-4-1104

Miscellaneous provisions; no effect on eminent domain

Sec. 1104. (a) As used in this section, "state agency" means all agencies, boards, commissions, departments, and institutions, including state educational institutions, of the state.

(b) ADVISORY–AREA. This chapter does not restrict or regulate (or authorize any political subdivision, legislative body, plan commission, or board of zoning appeals to restrict or regulate) the exercise of the power of eminent domain by the state or by any state agency or the use of property owned or occupied by the state or by any state agency.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1105

Miscellaneous provisions; setting aside memorials or monuments

Sec. 1105. ADVISORY. The advisory planning law does not restrict or prohibit the state of any of its political subdivisions from setting aside, by law, sites, memorials, edifices, and monuments in commemoration of persons or objects of historical or architectural interest or value as a part of our citizens' heritage.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1106

Miscellaneous provisions; comprehensive plans and ordinances; standards and requirements; manufactured homes

Sec. 1106. (a) As used in this section:

(1) "Manufactured home" means a dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing

Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.).

(2) "Underfloor space" means that space between the bottom of the floor joists and the earth.

(3) "Occupied space" means the total area of earth horizontally covered by the structure, excluding accessory structures such as, but not limited to, garages, patios and porches.

(b) Comprehensive plans and ordinances adopted under the provisions of this chapter may subject dwelling units and lots to identical standards and requirements, whether or not the dwelling unit to be placed on a lot is a manufactured home or some other type of dwelling unit. These standards and requirements may include, but are not limited to:

(1) setback distance;

(2) side and rear yard area;

(3) vehicle parking space;

(4) minimum square footage of the dwelling unit; and

(5) underfloor space enclosure requirements.

However, aesthetic standards and requirements pertaining to the home structure itself which are adopted under this section may only pertain to roofing and siding materials.

(c) METRO. Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not totally preclude all manufactured homes constructed after January 1, 1981, and that exceed twenty-three (23) feet in width and nine hundred fifty (950) square feet of occupied space, from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed.

(d) ADVISORY–AREA. Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not totally preclude all manufactured homes constructed after January 1, 1981, and that exceed nine hundred fifty (950) square feet of occupied space, from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed.

As added by Acts 1981, P.L.312, SEC.1. Amended by Acts 1982, P.L.33, SEC.32.

IC 36-7-4-1107

Children's home

Sec. 1107. (a) This section applies to a children's home providing residential care for eleven (11) or more children that is operating in a residential area on January 1, 1992.

(b) As used in this section, "children's home" has the meaning set forth in IC 12-7-2-29(1).

(c) A zoning ordinance may not prevent improvements to a children's home on the grounds that:

(1) the children's home is a business; or

(2) the persons residing in the children's home are not related.

(d) Except as provided in subsection (c), a children's home must

meet the same:

(1) zoning requirements;

(2) developmental standards; and

(3) building codes;

that apply to the improvement of residential structures in the same residential district or classification as the children's home.

(e) As used in this subsection, "tract" has the meaning set forth in IC 6-1.1-1-22.5. A children's home must comply with a restriction, reservation, condition, exception, or covenant in a subdivision plat, deed, or other instrument of, or pertaining to, the transfer, sale, lease, or use of property that:

(1) applies to the tract on which the children's home is located; and

(2) is in existence for that tract before the children's home acquires ownership or use of the tract.

As added by P.L.142-1992, SEC.1. Amended by P.L.1-1993, SEC.242; P.L.2-1995, SEC.131.

IC 36-7-4-1108

Child care home used as primary residence of care home operator; zoning restrictions

Sec. 1108. (a) This section applies only to a child care home that is used as the primary residence of the person who operates the child care home.

(b) As used in this section, "child care home" has the meaning set forth in IC 12-7-2-28.6.

(c) Except as provided in subsection (e), a zoning ordinance may not do any of the following:

(1) Exclude a child care home from a residential area solely because the child care home is a business.

(2) Impose limits on the number of children that may be served by a child care home at any one (1) time that vary from the limits set forth in IC 12-7-2-33.7 and IC 12-7-2-33.8.

(3) Impose requirements or restrictions upon child care homes that vary from the requirements and restrictions imposed upon child care homes by rules adopted by the division of family resources or the fire prevention and building safety commission.

(d) Notwithstanding subsection (c), a child care home may be required to meet the same:

(1) zoning requirements;

(2) developmental standards; and

(3) building codes;

that apply to other residential structures in the same residential district or classification as the child care home.

(e) A zoning ordinance:

(1) that is in effect on July 1, 1993; and

(2) that:

(A) excludes a child care home from a residential area solely because the child care home is a business;

(B) imposes limits on the number of children that may be

served by a child care home at any one (1) time that vary from the limits set forth in IC 12-7-2-33.7 and IC 12-7-2-33.8; or

(C) imposes requirements or restrictions upon child care homes that vary from the requirements and restrictions imposed upon child care homes by rules adopted by the division of family resources or the fire prevention and building safety commission;

is not subject to subsection (c) until July 1, 1994.

As added by P.L.136-1993, SEC.23. Amended by P.L.145-2006, SEC.374.

IC 36-7-4-1109

Approval of permit, plat, plan, use, or exception; applicability of local or state law while approval pending

Sec. 1109. (a) As used in this section, "local governmental agency" includes any agency, officer, board, or commission of a local unit of government that may issue:

(1) a permit; or

(2) an approval of a land use or an approval for the construction of a development, a building, or another structure.

(b) As used in this section, "permit" means any of the following:

(1) An improvement location permit.

(2) A building permit.

(3) A certificate of occupancy.

(4) Approval of a site-specific development plan.

(5) Approval of a primary or secondary plat.

(6) Approval of a contingent use, conditional use, special exception or special use.

(7) Approval of a planned unit development.

(c) Subject to section 1110 of this chapter, if a person files a complete application as required by the effective ordinances or rules of a local governmental agency for a permit with the appropriate local governmental agency, the granting of the permit, and the granting of any secondary, additional, or related permits or approvals required from the same local governmental agency with respect to the general subject matter of the application for the first permit, are governed for at least three (3) years after the person applies for the permit by the statutes, ordinances, rules, development standards, and regulations in effect and applicable to the property when the application is filed, even if before the issuance of the permit or while the permit approval process is pending, or before the issuance of any secondary, additional, or related permits or approvals or while the secondary, additional, or related permit or approval process is pending, the statutes, ordinances, rules, development standards, or regulations governing the granting of the permit or approval are changed by the general assembly or the applicable local legislative body or regulatory body. However, this subsection does not apply if the development or other activity to which the permit relates is not completed within ten (10) years after the development or activity is

commenced.

(d) Subsection (e) applies if:

(1) either:

(A) a local governmental agency issues to a person a permit or grants a person approval for the construction of a development, a building, or another structure; or

(B) a permit or approval is not required from the local governmental agency for the construction of the development, building, or structure;

(2) before beginning the construction of the development, building, or structure, the person must obtain a permit or approval for the construction of the development, building, or structure from a state governmental agency; and

(3) the person has applied for the permit or requested the approval for the construction of the development, building, or structure from the state governmental agency within ninety (90) days of issuance of the permit by the local governmental agency.

(e) Subject to subsection (f) and section 1110 of this chapter, if the conditions of subsection (d) are satisfied:

(1) a permit or approval issued or granted to a person by the local governmental agency for the construction of the development, building, or structure; or

(2) the person's right to construct the development, building, or structure without a permit or approval from the local governmental agency;

is governed for at least three (3) years after the person applies for the permit by the statutes, ordinances, rules, development standards, regulations, and approvals in effect and applicable to the property when the person applies for the permit or requests approval from the state governmental agency for the construction of the development, building, or structure, even if before the commencement of the construction or while the permit application or approval request is pending with the state governmental agency the statutes governing the granting of the permit or approval from the local governmental agency are changed by the general assembly or the ordinances, rules, development standards, or regulations of the local governmental agency are changed by the applicable local legislative body or regulatory body. However, this subsection does not apply if the development or other activity to which the permit or approval request relates is not completed within ten (10) years after the development or activity is commenced.

(f) Subsection (d) does not apply to property when it is demonstrated by the local or state governmental agency that the construction of the development, building, or structure would cause imminent peril to life or property.

(g) This section does not apply to building codes under IC 22-13.

As added by P.L.49-2006, SEC.1. Amended by P.L.126-2011, SEC.40.

IC 36-7-4-1110
Application of IC 14-28-4-18 to permits, rights, or approval granted before July 1, 2011

Sec. 1110. (a) As used in this section, "permit or right" refers to:

(1) the granting of a permit, and the granting of any secondary, additional, or related permits or approvals, in response to an application filed:

(A) before July 1, 2011; and

(B) as described in section 1109(c) of this chapter;

(2) a permit issued or approval granted:

(A) before July 1, 2011; and

(B) as described in section 1109(e)(1) of this chapter; and

(3) the right to construct a development, building, or structure:

(A) that inures before July 1, 2011; and

(B) is described in section 1109(e)(2) of this chapter.

(b) Before July 1, 2014, the changes made to IC 14-28-4-18 and IC 36-7 by the enrolled act enacted during the 2011 regular session of the general assembly do not apply to a permit or right.

(c) After June 30, 2014, and notwithstanding section 1109 of this chapter, the changes made to IC 14-28-4-18 and IC 36-7 by the enrolled act enacted during the 2011 regular session of the general assembly apply to a permit or right.

(d) This section expires December 31, 2014.

As added by P.L.126-2011, SEC.41.

IC 36-7-4-1111
Computation of time

Sec. 1111. In computing any period of time under this chapter, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the computed period is to be included unless it is:

(1) a Saturday;

(2) a Sunday;

(3) a legal holiday under an Indiana statute; or

(4) a day that the office in which the act is to be done is closed during regular business hours.

A period runs until the end of the next day after a day described in subdivisions (1) through (4). If the period allowed is less than seven (7) days, intermediate Saturdays, Sundays, legal holidays, and days on which the office in which the act is to be done is closed during regular business hours are excluded from the calculation.

As added by P.L.126-2011, SEC.42.

IC 36-7-4-1200
1200 Series—Township joinder

Sec. 1200. This series (sections 1200 through 1299 of this chapter) may be cited as follows: 1200 SERIES–TOWNSHIP JOINDER.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1201
Township joinder; conditions

Sec. 1201. ADVISORY. A township may join a municipality that has an advisory plan commission and has adopted zoning and subdivision control ordinances, if any part of the township is contiguous to:

(1) a corporate boundary of the municipality;
(2) an area over which the municipality is exercising planning and zoning authority; or
(3) a township that has joined the municipality under the 1200 series of this chapter.

Although no part of the township is contiguous to the municipality, a township may join a municipality that has an advisory plan commission and has adopted zoning and subdivision control ordinances, if the municipality is the county seat of the county in which the township is located.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1202
Township joinder; additional conditions

Sec. 1202. (a) ADVISORY. In a county that has a county plan commission or a metropolitan plan commission, after the county has adopted:

(1) a zoning ordinance that establishes reasonable districts for:
  (A) agricultural, residential, commercial, and industrial land uses;
  (B) adequate setback lines; and
  (C) area, bulk, and height restrictions; and
(2) a subdivision control ordinance that imposes restrictions at least equal to those established in the zoning ordinance;

a township may not join with a municipality for planning and zoning purposes. This subsection does not affect a joinder agreement implemented before the county adopts ordinances of the character set forth in this subsection. Such a joinder agreement continues in effect until the township withdraws from the joinder under section 1212 of this chapter.

(b) ADVISORY. If a county has not established a county plan commission or a metropolitan plan commission or adopted ordinances of the character set forth in subsection (a), a township may join with a municipality for planning and zoning purposes.

As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.306-1989, SEC.1.

IC 36-7-4-1203
Township joinder; filing of petition; hearing; notice; remonstrance

Sec. 1203. (a) ADVISORY. If a township wants to join a municipality for planning and zoning purposes, a petition, signed by fifty (50) freeholders, must be filed with the township executive. The township executive and the township legislative body shall hold a hearing within thirty (30) days after the date of the filing of the

petition. Public notice, giving the place, date, and time of the hearing, shall be given in accordance with IC 5-3-1.

(b) ADVISORY. If a remonstrance duly signed by a majority of the freeholders of the township residing outside the corporate boundaries of any municipality is filed on or before the date of the hearing, no action may be taken on the petition. If no such remonstrance is filed, the township executive and legislative body shall send the petition requesting joinder immediately to the municipal plan commission. If a petition for joinder is rejected under remonstrance as provided in this section, it may be refiled not earlier than one (1) year after that remonstrance.

As added by Acts 1981, P.L.309, SEC.23. Amended by Acts 1981, P.L.45, SEC.23.

IC 36-7-4-1204

Township joinder; consideration of petition

Sec. 1204. ADVISORY. Upon the receipt of a petition for joinder from a township, the municipal plan commission shall consider the petition. If the commission is favorable to it, it shall recommend joinder to the municipal legislative body. If the legislative body is favorable, it shall pass a resolution setting forth the terms of the joinder, send one (1) copy to the township executive, and file one (1) copy with the county recorder, which copy shall be filed in the miscellaneous records. If the commission or the legislative body rejects the petition, it shall immediately notify the township executive.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1205

Township joinder; choice of municipality for joinder

Sec. 1205. ADVISORY. If a township is contiguous to two (2) or more municipalities, the township may elect the municipality with which it wants to join.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1206

Township joinder; limitations on choice of municipality

Sec. 1206. (a) ADVISORY. If a township is partially within the corporate boundaries of a municipality or is partially within the jurisdictional limits of a municipality, as specified in section 205 of the advisory planning law, it may seek joinder only with that municipality.

(b) ADVISORY. If a township is within the jurisdictional limits of two (2) municipalities and one (1) of those municipalities is exercising control within the jurisdictional limit, the township must first seek joinder with that municipality. If both municipalities are exercising jurisdiction, then the township may choose the municipality with which it wants to join.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1207

Township joinder; joinder with county or municipality in other county

Sec. 1207. ADVISORY. If a township located in another county is contiguous to:

(1) a municipal or county boundary;

(2) an area over which a municipality is exercising planning and zoning authority; or

(3) a township that has joined a municipality or county under the 1200 series of this chapter;

and joinder is not precluded by section 1202 of this chapter, then it may join either a contiguous municipality or a contiguous county that:

(A) has an advisory plan commission; and

(B) has adopted ordinances of the type specified in section 1202 of this chapter.

The procedures for joinder are the same as specified by sections 1203 and 1204 of this chapter, except that if joinder is with a county, the petition must go to the county plan commission or the metropolitan plan commission and the resolution of approval must be adopted by the county legislative body.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1208

Township joinder; planning and zoning jurisdiction

Sec. 1208. ADVISORY. If the petition is accepted, the planning and zoning jurisdiction of the municipality, or of the county under section 1207 of this chapter, extends to the township with the same effect as if the township was a part of the municipality or the county, as the case may be.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1209

Township joinder; planning and zoning cost

Sec. 1209. ADVISORY. As a condition to the acceptance of the petition, the legislative body of a municipality or county may stipulate that the township contract with it for the payment of an equitable amount of the cost of planning and zoning within the township. If the municipality or county believes that it is to its advantage, it may agree to provide planning and zoning services without cost to the township.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1210

Township joinder; membership of township on advisory plan commission

Sec. 1210. (a) ADVISORY. To implement the joinder agreement, the township executive, with the approval of the township legislative body, shall appoint additional members to the advisory plan commission. The number of additional appointments must be such

that, when added to the membership of the plan commission before joinder, the total membership of the plan commission reflects the proportion that the population of the township bears to that of the municipality or county, as the case may be. However, this proportional representation must not cause a reduction in the number of members representing that municipality or county.

(b) ADVISORY. Each additional member shall serve for a term of two (2) years from the date of the appointment. Members may be reappointed to subsequent terms. The members have all the rights and privileges of a member of the advisory plan commission, including the right to vote.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1210.5

Township joinder; membership of certain townships on advisory plan commission in certain counties

Sec. 1210.5. (a) ADVISORY. As used in this section, "municipality" refers to the most populous municipality in the jurisdiction of the plan commission.

(b) ADVISORY. This section applies to a plan commission operating under a joinder agreement in a county:

(1) having a population of more than two hundred seventy thousand (270,000) but less than three hundred thousand (300,000); and

(2) containing:

(A) a township having a population of more than thirty-two thousand (32,000) but less than fifty thousand (50,000); or

(B) a township having a population of more than nine thousand (9,000) but less than fifteen thousand (15,000).

(c) ADVISORY. Notwithstanding section 1210 of this chapter, a plan commission described in subsection (b) shall have nine (9) members as follows:

(1) Four (4) members who are residents of the municipality, to be appointed for four (4) year terms by the executive of the municipality.

(2) Three (3) members who are residents of the municipality, to be appointed for four (4) year terms by the legislative body of the municipality.

(3) Two (2) members who are residents of the township, to be appointed for four (4) year terms by the township executive with the approval of the township legislative body.

(d) The joinder agreement expires if the municipality annexes the entire area of a township described in subsection (b)(2).

(e) A joinder agreement under this section may be terminated if:

(1) the municipality adopts an ordinance terminating the joinder agreement;

(2) before adopting the ordinance under subdivision (1), the municipality conducts a public hearing on the issue of terminating the joinder agreement; and

(3) the executive of the municipality provides written notice to

the township executive of the township subject to the joinder agreement that states the reason for the municipality's termination of the joinder agreement.

As added by P.L.322-1995, SEC.1. Amended by P.L.226-1997, SEC.4; P.L.170-2002, SEC.154; P.L.39-2007, SEC.1; P.L.119-2012, SEC.196.

IC 36-7-4-1210.6

Plan commission created by joinder agreement; vacancies

Sec. 1210.6. (a) ADVISORY. This section applies to an advisory plan commission that is:

(1) created through a joinder agreement; and

(2) composed of nine (9) members, some of whom are appointed from a legislative branch of local government.

(b) Notwithstanding any other provision, if:

(1) there is a vacancy in the membership of a plan commission that is required by statute to be filled by a member of a legislative body of local government; and

(2) no member of the legislative body of local government will accept an appointment to fill the vacancy;

the appointing authority may appoint a person from the community who is not an elected official to serve on the advisory plan commission for a term of one (1) year.

(c) The person appointed under subsection (b) may be reappointed to successive terms.

As added by P.L.150-2003, SEC.4.

IC 36-7-4-1211

Township joinder; collection of fees

Sec. 1211. ADVISORY. Fees collected for the issuance of permits or for the approval of subdivision plats shall be paid to the municipality or county, that the township joins, at the same rate and in the same manner as if the township was a part of that municipality or county.

As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1212

Township joinder; withdrawal of township; conditions; procedure

Sec. 1212. ADVISORY. Because long range planning studies of population, land use, schools, recreation, and public ways involve substantial expenditures, a township that joins with a municipality or county may not withdraw from the joinder, unless:

(1) the municipality or county has consolidated on an area basis its planning and zoning activity under other law; or

(2) a petition, requesting a referendum on the question "Shall the township withdraw from joinder with (the municipality), or (the county), for planning and zoning purposes?", is sent to the township executive and is signed by at least the number of the voters of the township required under IC 3-8-6-3 to place a candidate on the ballot.

If the petition is received, the township executive shall certify the petition to the county election board under IC 3-10-9-3. The board shall place the question on a ballot to be submitted at the next general election for the township in the form prescribed by IC 3-10-9-4. If the township repays the amount expended for planning and zoning purposes that exceeds the amount contributed by the township and a majority of the voters voting in the election vote in the affirmative, the township may withdraw from its joinder with the municipality or county.
As added by Acts 1981, P.L.309, SEC.23. Amended by P.L.3-1987, SEC.566; P.L.12-1995, SEC.131.

IC 36-7-4-1213
Township joinder; authorization
Sec. 1213. ADVISORY. This series authorizes each municipality and county to effect joinder with a contiguous township.
As added by Acts 1981, P.L.309, SEC.23.

IC 36-7-4-1300
1300 Series—Impact Fees
Sec. 1300. This series (sections 1300 through 1399 of this chapter) may be cited as follows: 1300 SERIES — IMPACT FEES.
As added by P.L.221-1991, SEC.1.

IC 36-7-4-1301
"Community level of service" defined
Sec. 1301. As used in this series, "community level of service" means a quantitative measure of the service provided by the infrastructure that is determined by a unit to be appropriate.
As added by P.L.221-1991, SEC.2.

IC 36-7-4-1302
"Current level of service" defined
Sec. 1302. As used in this series, "current level of service" means a quantitative measure of service provided by existing infrastructure to support existing development.
As added by P.L.221-1991, SEC.3.

IC 36-7-4-1303
"Development" defined
Sec. 1303. As used in this series, "development" means an improvement of any kind on land.
As added by P.L.221-1991, SEC.4.

IC 36-7-4-1304
"Fee payer" and "person" defined
Sec. 1304. (a) As used in this series, "fee payer" means the following:
(1) A person who has paid an impact fee.
(2) A person to whom a person who paid an impact fee has

made a written assignment of rights concerning the impact fee.

(3) A person who has assumed by operation of law the rights concerning an impact fee.

(b) As used in this series, "person" means an individual, a sole proprietorship, a partnership, an association, a corporation, a fiduciary, or any other entity.

As added by P.L.221-1991, SEC.5.

IC 36-7-4-1305

"Impact fee" and "capital costs" defined

Sec. 1305. (a) As used in this series, "impact fee" means a monetary charge imposed on new development by a unit to defray or mitigate the capital costs of infrastructure that is required by, necessitated by, or needed to serve the new development.

(b) As used in this section, "capital costs" means the costs incurred to provide additional infrastructure to serve new development, including the following:

(1) Directly related costs of construction or expansion of infrastructure that is necessary to serve the new development, including reasonable design, survey, engineering, environmental, and other professional fees that are directly related to the construction or expansion.

(2) Directly related land acquisition costs, including costs incurred for the following:

(A) Purchases of interests in land.

(B) Court awards or settlements.

(C) Reasonable appraisal, relocation service, negotiation service, title insurance, expert witness, attorney, and other professional fees that are directly related to the land acquisition.

(3) Directly related debt service, subject to section 1330 of this chapter.

(4) Directly related expenses incurred in preparing or updating the comprehensive plan or zone improvement plan, including all administrative, consulting, attorney, and other professional fees, as limited by section 1330 of this chapter.

As added by P.L.221-1991, SEC.6.

IC 36-7-4-1306

"Impact fee ordinance" defined

Sec. 1306. As used in this series, "impact fee ordinance" means an ordinance adopted under section 1311 of this chapter.

As added by P.L.221-1991, SEC.7.

IC 36-7-4-1307

"Impact zone" defined

Sec. 1307. As used in this series, "impact zone" means a geographic area designated under section 1315 of this chapter.

As added by P.L.221-1991, SEC.8.

IC 36-7-4-1308
"Infrastructure" defined

Sec. 1308. As used in this series, "infrastructure" means the capital improvements that:

(1) comprise:
  (A) a sanitary sewer system or wastewater treatment facility;
  (B) a park or recreational facility;
  (C) a road or bridge;
  (D) a drainage or flood control facility; or
  (E) a water treatment, water storage, or water distribution facility;

(2) are:
  (A) owned solely for a public purpose by:
    (i) a unit; or
    (ii) a corporation created by a unit; or
  (B) leased by a unit solely for a public purpose; and

(3) are included in the zone improvement plan of the impact zone in which the capital improvements are located.

The term includes site improvements or interests in real property needed for a facility listed in subdivision (1).

As added by P.L.221-1991, SEC.9.

IC 36-7-4-1309
"Infrastructure type" defined

Sec. 1309. As used in this series, "infrastructure type" means any of the following types of infrastructure covered by an impact fee ordinance:

(1) Sewer, which includes sanitary sewerage and wastewater treatment facilities.

(2) Recreation, which includes parks and other recreational facilities.

(3) Road, which includes public ways and bridges.

(4) Drainage, which includes drains and flood control facilities.

(5) Water, which includes water treatment, water storage, and water distribution facilities.

As added by P.L.221-1991, SEC.10.

IC 36-7-4-1310
"Infrastructure agency" defined

Sec. 1310. As used in this series, "infrastructure agency" means a political subdivision or an agency of a political subdivision responsible for acquiring, constructing, or providing a particular infrastructure type.

As added by P.L.221-1991, SEC.11.

IC 36-7-4-1311
Ordinance; jurisdiction to adopt; impact fees and other charges

Sec. 1311. (a) The legislative body of a unit may adopt an ordinance imposing an impact fee on new development in the geographic area over which the unit exercises planning and zoning

jurisdiction. The ordinance must aggregate the portions of the impact fee attributable to the infrastructure types covered by the ordinance so that a single and unified impact fee is imposed on each new development.

(b) If the legislative body of a unit has planning and zoning jurisdiction over the entire geographic area covered by the impact fee ordinance, an ordinance adopted under this section shall be adopted in the same manner that zoning ordinances are adopted under the 600 SERIES of this chapter.

(c) If the legislative body of a unit does not have planning and zoning jurisdiction over the entire geographic area covered by the impact fee ordinance but does have jurisdiction over one (1) or more infrastructure types in the area, the legislative body shall establish the portion of the impact fee schedule or formula for the infrastructure types over which the legislative body has jurisdiction. The legislative body of the unit having planning and zoning jurisdiction shall adopt an impact fee ordinance containing that portion of the impact fee schedule or formula if:

(1) a public hearing has been held before the legislative body having planning and zoning jurisdiction; and

(2) each plan commission that has planning jurisdiction over any part of the geographic area in which the impact fee is to be imposed has approved the proposed impact fee ordinance by resolution.

(d) An ordinance adopted under this section is the exclusive means for a unit to impose an impact fee. An impact fee imposed on new development to pay for infrastructure may not be collected after January 1, 1992, unless the impact fee is imposed under an impact fee ordinance adopted under this chapter.

(e) Notwithstanding any other provision of this chapter, the following charges are not impact fees and may continue to be imposed by units:

(1) Fees, charges, or assessments imposed for infrastructure services under statutes in existence on January 1, 1991, if:

(A) the fee, charge, or assessment is imposed upon all users whether they are new users or users requiring additional capacity or services;

(B) the fee, charge, or assessment is not used to fund construction of new infrastructure unless the new infrastructure is of the same type for which the fee, charge, or assessment is imposed and will serve the payer; and

(C) the fee, charge, or assessment constitutes a reasonable charge for the services provided in accordance with IC 36-1-3-8(6) or other governing statutes requiring that any fees, charges, or assessments bear a reasonable relationship to the infrastructure provided.

(2) Fees, charges, and assessments agreed upon under a contractual agreement entered into before April 1, 1991, or fees, charges, and assessments agreed upon under a contractual agreement, if the fees, charges, and assessments are treated as

impact deductions under section 1321(d) of this chapter if an impact fee ordinance is in effect.

As added by P.L.221-1991, SEC.12.

IC 36-7-4-1312

Ordinance; prerequisites to adoption

Sec. 1312. (a) A unit may not adopt an impact fee ordinance under section 1311 of this series unless the unit has adopted a comprehensive plan under the 500 SERIES of this chapter for the geographic area over which the unit exercises planning and zoning jurisdiction.

(b) Before the adoption of an impact fee ordinance under section 1311 of this chapter, a unit shall establish an impact fee advisory committee. The advisory committee shall:

(1) be appointed by the executive of the unit;

(2) be composed of not less than five (5) and not more than ten (10) members with at least forty percent (40%) of the membership representing the development, building, or real estate industries; and

(3) serve in an advisory capacity to assist and advise the unit with regard to the adoption of an impact fee ordinance under section 1311 of this chapter.

(c) A planning commission or other committee in existence before the adoption of an impact fee ordinance that meets the membership requirements of subsection (b) may serve as the advisory committee that subsection (b) requires.

(d) Action of an advisory committee established under subsection (b) is not required as a prerequisite for the unit in adopting an impact fee ordinance under section 1311 of this chapter.

As added by P.L.221-1991, SEC.13.

IC 36-7-4-1313

Other permissible fees and charges of adopting unit

Sec. 1313. This series does not prohibit a unit from doing any of the following:

(1) Imposing a charge to pay the administrative, plan review, or inspection costs associated with a permit for development.

(2) Imposing, pursuant to a written commitment or agreement and as a condition or requirement attached to a development approval or authorization (including permitting or zoning decisions), an obligation to dedicate, construct, or contribute goods, services, land or interests in land, or infrastructure to a unit or to an infrastructure agency. However, if the unit adopts or has already adopted an impact fee ordinance under section 1311 of this chapter the following apply:

(A) The person dedicating, contributing, or providing an improvement under this subsection is entitled to a credit for the improvement under section 1335 of this chapter.

(B) The cost of complying with the condition or requirement imposed by the unit under this subdivision may not exceed

the impact fee that could have been imposed by the unit under section 1321 of this chapter for the same infrastructure.

(3) Imposing new permit fees, charges, or assessments or amending existing permit fees, charges, or assessments. However, the permit fees, charges, or assessments must meet the requirements of section 1311(e)(1)(A), 1311(e)(1)(B), and 1311(e)(1)(C) of this chapter.

As added by P.L.221-1991, SEC.14.

IC 36-7-4-1314
Ordinance; application

Sec. 1314. (a) Except as provided in subsection (b), an impact fee ordinance must apply to any development:

(1) that is in an impact zone; and

(2) for which a unit may require a structural building permit.

(b) An impact fee ordinance may not apply to an improvement that does not create a need for additional infrastructure, including the erection of a sign, the construction of a fence, or the interior renovation of a building not resulting in a change in use.

As added by P.L.221-1991, SEC.15.

IC 36-7-4-1315
Ordinance; establishment of impact zones

Sec. 1315. (a) An impact fee ordinance must establish an impact zone, or a set of impact zones, for each infrastructure type covered by the ordinance. An impact zone established for a particular infrastructure type is not required to be congruent with an impact zone established for a different infrastructure type.

(b) An impact zone may not extend beyond the jurisdictional boundary of an infrastructure agency responsible for the infrastructure type for which the impact zone was established, unless an agreement under IC 36-1-7 is entered into by the infrastructure agencies.

(c) If an impact zone, or a set of impact zones, includes a geographic area containing territory from more than one (1) planning and zoning jurisdiction, the applicable legislative bodies and infrastructure agencies shall enter into an agreement under IC 36-1-7 concerning the collection, division, and distribution of the fees collected under the impact fee ordinance.

As added by P.L.221-1991, SEC.16.

IC 36-7-4-1316
Impact zones; geographical area

Sec. 1316. A unit must include in an impact zone designated under section 1315 of this chapter the geographical area necessary to ensure that:

(1) there is a functional relationship between the components of the infrastructure type in the impact zone;

(2) the infrastructure type provides a reasonably uniform benefit

throughout the impact zone; and

(3) all areas included in the impact zone are contiguous.

As added by P.L.221-1991, SEC.17.

IC 36-7-4-1317

Ordinance; identification of responsible infrastructure agency

Sec. 1317. A unit must identify in the unit's impact fee ordinance the infrastructure agency that is responsible for acquiring, constructing, or providing each infrastructure type included in the impact fee ordinance.

As added by P.L.221-1991, SEC.18.

IC 36-7-4-1318

Ordinance; zone improvement plan preparation; contents of plan

Sec. 1318. (a) A unit may not adopt an impact fee ordinance under section 1311 of this chapter unless the unit has prepared or substantially updated a zone improvement plan for each impact zone during the immediately preceding one (1) year period. A single zone improvement plan may be used for two (2) or more infrastructure types if the impact zones for the infrastructure types are congruent.

(b) Each zone improvement plan must contain the following information:

(1) A description of the nature and location of existing infrastructure in the impact zone.

(2) A determination of the current level of service.

(3) Establishment of a community level of service. A unit may provide that the unit's current level of service is the unit's community level of service in the zone improvement plan.

(4) An estimate of the nature and location of development that is expected to occur in the impact zone during the following ten (10) year period.

(5) An estimate of the nature, location, and cost of infrastructure that is necessary to provide the community level of service for the development described in subdivision (4). The plan must indicate the proposed timing and sequencing of infrastructure installation.

(6) A general description of the sources and amounts of money used to pay for infrastructure during the previous five (5) years.

(c) If a zone improvement plan provides for raising the current level of service to a higher community level of service, the plan must:

(1) provide for completion of the infrastructure that is necessary to raise the current level of service to the community level of service within the following ten (10) year period;

(2) indicate the nature, location, and cost of infrastructure that is necessary to raise the current level of service to the community level of service; and

(3) identify the revenue sources and estimate the amount of the revenue sources that the unit intends to use to raise the current level of service to the community level of service for existing

development. Revenue sources include, without limitation, any increase in revenues available from one (1) or more of the following:

(A) Adopting or increasing the following:

(i) The county adjusted gross income tax.

(ii) The county option income tax.

(iii) The county economic development income tax.

(iv) The annual license excise surtax.

(v) The wheel tax.

(B) Imposing the property tax rate per one hundred dollars ($100) of assessed valuation that the unit may impose to create a cumulative capital improvement fund under IC 36-9-14.5 or IC 36-9-15.5.

(C) Transferring and reserving for infrastructure purposes other general revenues that are currently not being used to pay for capital costs of infrastructure.

(D) Dedicating and reserving for infrastructure purposes any newly available revenues, whether from federal or state revenue sharing programs or from the adoption of newly authorized taxes.

(d) A unit must consult with a qualified engineer licensed to perform engineering services in Indiana when the unit is preparing the portions of the zone improvement plan described in subsections (b)(1), (b)(2), (b)(5), and (c)(2).

(e) A zone improvement plan and amendments and modifications to the zone improvement plan become effective after adoption as part of the comprehensive plan under the 500 SERIES of this chapter or adoption as part of the capital improvements program under section 503(5) of this chapter. If the unit establishing the impact fee schedule or formula and establishing the zone improvement plan is different from the unit having planning and zoning jurisdiction, the unit having planning and zoning jurisdiction shall incorporate the zone improvement plan as part of the unit's comprehensive plan and capital improvement plan.

(f) If a unit's zone improvement plan identifies revenue sources for raising the current level of service to the community level of service, impact fees may not be assessed or collected by the unit unless:

(1) before the effective date of the impact fee ordinance the unit has available or has adopted the revenue sources that the zone improvement plan specifies will be in effect before the impact fee ordinance becomes effective; and

(2) after the effective date of the impact fee ordinance the unit continues to provide adequate funds to defray the cost of raising the current level of service to the community level of service, using revenue sources specified in the zone improvement plan or revenue sources other than impact fees.

As added by P.L.221-1991, SEC.19.

IC 36-7-4-1319

Amendment to ordinance or zone improvement plan

Sec. 1319. (a) A unit shall amend a zone improvement plan to make adjustments in the nature, location, and cost of infrastructure and the timing or sequencing of infrastructure installations to respond to the nature and location of development occurring in the impact zone. Appropriate planning and analysis shall be carried out before an amendment is made to a zone improvement plan.

(b) A unit may not amend an impact fee ordinance if the amendment makes a significant change in an impact fee schedule or formula or if the amendment designates an impact zone or alters the boundary of a zone, unless a new or substantially updated zone improvement plan has been approved within the immediately preceding one (1) year period.

As added by P.L.221-1991, SEC.20.

IC 36-7-4-1320

Ordinance; fee schedule and formula

Sec. 1320. (a) An impact fee ordinance must include:

(1) a schedule prescribing for each impact zone the amount of the impact fee that is to be imposed for each infrastructure type covered by the ordinance; or

(2) a formula for each impact zone by which the amount of the impact fee that is to be imposed for each infrastructure type covered by the ordinance may be derived.

(b) A schedule or formula included in an impact fee ordinance must provide an objective and uniform standard for calculating impact fees that allows fee payers to accurately predict the impact fees that will be imposed on new development.

As added by P.L.221-1991, SEC.21.

IC 36-7-4-1321

Fee schedule or formula; requirements; limitations

Sec. 1321. (a) An impact fee schedule or formula described in section 1320 of this chapter shall be prepared so that the impact fee resulting from the application of the schedule or formula to a development meets the requirements of this section. However, this section does not require that a particular methodology be used in preparing the schedule or formula.

(b) As used in this section, "impact costs" means a reasonable estimate, made at the time the impact fee is assessed, of the proportionate share of the costs incurred or to be incurred by the unit in providing infrastructure of the applicable type in the impact zone that are necessary to provide the community level of service for the development. The amount of impact costs may not include the costs of infrastructure of the applicable type needed to raise the current level of service in the impact zone to the community level of service in the impact zone for development that is existing at the time the impact fee is assessed.

(c) As used in this section, "nonlocal revenue" means a reasonable estimate, made at the time the impact fee is assessed, of revenue that:

(1) will be received from any source (including but not limited to state or federal grants) other than a local government source; and

(2) is to be used within the impact zone to defray the capital costs of providing infrastructure of the applicable type.

(d) As used in this section, "impact deductions" means a reasonable estimate, made at the time the impact fee is assessed, of the amounts from the following sources that will be paid during the ten (10) year period after assessment of the impact fee to defray the capital costs of providing infrastructure of the applicable types to serve a development:

(1) Taxes levied by the unit or on behalf of the unit by an applicable infrastructure agency that the fee payer and future owners of the development will pay for use within the geographic area of the unit.

(2) Charges and fees, other than fees paid by the fee payer under this chapter, that are imposed by any of the following for use within the geographic area of the unit:

(A) An applicable infrastructure agency.

(B) A governmental entity.

(C) A not-for-profit corporation created for governmental purposes.

Charges and fees covered by this subdivision include tap and availability charges paid for extension of services or the provision of infrastructure to the development.

(e) An impact fee on a development may not exceed:

(1) impact costs; minus

(2) the sum of nonlocal revenues and impact deductions.

As added by P.L.221-1991, SEC.22.

IC 36-7-4-1322

Fee assessment date; increase or decrease in fees; developments against which fees may not be assessed; existing contracts

Sec. 1322. (a) Except as provided in subsection (b), an impact fee ordinance must require that, if the fee payer requests, an impact fee on a development must be assessed not later than thirty (30) days after the earlier of:

(1) the date the fee payer obtains an improvement location permit for the development; or

(2) the date that the fee payer voluntarily submits to the unit a development plan for the development and evidence that the property is properly zoned for the proposed development. The plan shall be in the form prescribed by the unit's zoning ordinance and shall contain reasonably sufficient detail for the unit to calculate the impact fee.

(b) An impact fee ordinance may provide that if a proposed development is of a magnitude that will require revision of the zone improvement plan in order to appropriately serve the new development, the unit shall revise the unit's zone improvement plan and shall assess an impact fee on a development not later than one

hundred eighty (180) days after the earlier of the following:

(1) The date on which the fee payer obtains an improvement location permit for the development.

(2) The date on which the fee payer submits to the unit a development plan for a development and evidence that the property is properly zoned for the proposed development. The development plan must be in the form prescribed by the unit's zoning ordinance and must contain reasonably sufficient detail for the unit to calculate the impact fee.

(c) An impact fee assessed under subsections (a) or (b) may be increased only if the structural building permit has not been issued for the development and the requirements of subsection (d) are satisfied. In the case of a phased development, only a portion of an impact fee assessed under subsection (a) or (b) that is attributable to the portion of the development for which a permit has not been issued may be increased if the requirements of subsection (d) are satisfied.

(d) Unless the improvement location permit or development plan originally submitted for the development is changed so that the amount of impact on infrastructure the development creates in the impact zone is significantly increased, an impact fee assessed under:

(1) subsection (a)(1) or (b)(1) may not be increased for the period of the improvement location permit's validity; and

(2) subsection (a)(2) or (b)(2) may not be increased for three (3) years.

(e) An impact fee assessed under subsection (a) or (b) shall be decreased if the improvement location permit or development plan originally submitted for the development is changed so that the amount of impact on infrastructure that the development creates in the impact zone is significantly decreased. If a change occurs in the permit or plan that results in a decrease in the amount of the impact fee after the fee has been paid, the unit that collected the fee shall immediately refund the amount of the overpayment to the fee payer.

(f) If the unit fails to assess an impact fee within the period required by subsection (a) or (b), the unit may not assess an impact fee on the development unless the development plan originally submitted for the development is materially and substantially changed.

(g) Notwithstanding other provisions in this chapter, a unit may not assess an impact fee against a development if:

(1) an improvement location permit has been issued for all or a part of a development before adoption of an impact fee ordinance that is in compliance with this chapter; and

(2) the development satisfies all of the following criteria:

(A) The development is zoned for commercial or industrial use before January 1, 1991.

(B) The development will consist primarily of new buildings or structures. As used in this clause, the term "new buildings or structures" does not include additions or expansions of existing buildings or structures.

(C) The parts of the development for which a structural building permit has not been issued are owned or controlled by the person that owned or controlled the development on January 1, 1991.

(D) A structural building permit is issued for the development not more than four (4) years after the effective date of the impact fee ordinance.

(E) The development is part of a common scheme of development that:

(i) involves land that is contiguous;

(ii) involves a plan for development that includes a survey of the land, engineering drawings, and a site plan showing the anticipated size, location, and use of buildings and the anticipated location of streets, sewers, and drainage;

(iii) if plan approval is required, resulted in an application being filed with an appropriate office, commission, or official of the unit before January 1, 1991, that resulted or may result in approval of any phase of the development plan referred to in item (ii);

(iv) has been diligently pursued since January 1, 1991;

(v) resulted before January 1, 1991, in a substantial investment in creating, publicizing, or implementing the common scheme of development; and

(vi) involved the expenditure of significant funds before January 1, 1991, for the provision of improvements, such as roads, sewers, water treatment facilities, water storage facilities, water distribution facilities, drainage systems, or parks, that are on public lands or are available for other development in the area.

(h) Notwithstanding any other provision of this chapter, this chapter does not impair the validity of any contract between a unit and a fee payer that was:

(1) entered into before January 1, 1991; and

(2) executed in consideration of zoning amendments or annexations requested by the fee payer.

As added by P.L.221-1991, SEC.23.

IC 36-7-4-1323

Fee due date; proration; repeal or lapse of ordinance

Sec. 1323. (a) Except as provided in section 1324 of this chapter, an impact fee assessed in compliance with section 1322 of this chapter is due and payable on the date of issuance of the structural building permit for the new development on which the impact fee is imposed.

(b) For a phased development, an impact fee shall be prorated for purposes of payment according to the impact of the parcel for which a structural building permit is issued in relation to the total impact of the development. In accordance with section 1324 of this chapter, only the prorated portion of the assessed impact fee is due and payable on the issuance of the permit.

(c) If an impact fee ordinance is repealed, lapses, or becomes ineffective after the assessment of an impact fee on a development but before the issuance of the structural building permit for part or all of the development:

(1) any part of the impact fee attributable to the part of the development for which a structural building permit has not been issued is void and is not due and payable, in the case of a phased development; and

(2) the entire impact fee is void and is not due and payable, in the case of a development other than a phased development.

As added by P.L.221-1991, SEC.24.

IC 36-7-4-1324

Ordinance; installment payment plan; fee upon permit issuance; interest; penalty for late payment

Sec. 1324. (a) An impact fee ordinance must include an installment payment plan. The installment payment plan must at least offer a fee payer the option of paying part of an impact fee in equal installment payments if the impact fee is greater than five thousand dollars ($5,000). In an installment plan under this section:

(1) a maximum of five thousand dollars ($5,000) or five percent (5%) of the impact fee, whichever is greater, may become payable on the date the structural building permit is issued for the development on which the fee is imposed;

(2) the first installment may not become due and payable less than one (1) year after the date the structural building permit is issued for the development on which the fee is imposed; and

(3) the last installment may not be due and payable less than two (2) years after the date the structural building permit is issued for the development on which the fee is imposed.

(b) An impact fee ordinance may require an impact fee of five thousand dollars ($5,000) or less to be paid in full on the date the structural building permit is issued for the development on which the impact fee is imposed.

(c) An impact fee ordinance may provide that a reasonable rate of interest, not to exceed the prejudgment rate of interest in effect at the time the interest accrues, may be charged if the fee payer elects to pay in installments. If interest is charged, the ordinance must provide that interest accrues only on the portion of the impact fee that is outstanding and does not begin to accrue until the date the structural building permit is issued for the development or the part of the development on which the impact fee is imposed.

(d) An impact fee ordinance may provide that if all or part of an installment is not paid when due and payable, the amount of the installment shall be increased on the first day after the installment is due and payable by a penalty amount equal to ten percent (10%) of the installment amount that is overdue. If interest is charged under subsection (c), the interest shall be charged on the penalty amount.

As added by P.L.221-1991, SEC.25.

IC 36-7-4-1325
Collection of unpaid fees; lien; receipt for payments

Sec. 1325. (a) A unit may use any legal remedy to collect an impact fee imposed by the unit. A unit must bring an action to collect an impact fee and all penalties, costs, and collection expenses associated with a fee not later than ten (10) years after the fee or the prorated portion of the impact fee first becomes due and payable.

(b) On the date a structural building permit is issued for the development of property on which the impact fee is assessed, the unit acquires a lien on the real property for which the permit is issued. For a phased development, the amount of the lien may not exceed the prorated portion of the impact fee due and payable in one (1) or more installments at the time the structural building permit is issued.

(c) A lien acquired by a unit under this section is not affected by a sale or transfer of the real property subject to the lien, including the sale, exchange, or lease of the real property under IC 36-1-11.

(d) A lien acquired by a unit under this section continues for ten (10) years after the impact fee or the prorated portion of the impact fee becomes due and payable. However, if an action to enforce the lien is filed within the ten (10) year period, the lien continues until the termination of the proceeding.

(e) A holder of a lien of record on any real property on which an impact fee is delinquent may pay the delinquent impact fee and any penalties and costs. The amount paid by the lien holder is an additional lien on the real property in favor of the lien holder and is collectible in the same manner as the original lien.

(f) If a person pays an impact fee assessed against any real property, the person is entitled to a receipt for the payment that is:

(1) on a form prescribed by the impact fee ordinance; and

(2) issued by a person designated in the impact fee ordinance.

As added by P.L.221-1991, SEC.26.

IC 36-7-4-1326
Ordinance; special reduced rates for affordable housing development

Sec. 1326. (a) An impact fee ordinance may provide for a reduction in an impact fee for housing development that provides sale or rental housing, or both, at a price that is affordable to an individual or a family earning less than eighty percent (80%) of the median income for the county in which the housing development is located. If the housing development comprises more than one (1) residential unit, the impact fee reduction shall apply only to the residential units that are affordable to an individual or a family earning less than eighty percent (80%) of the median income of the county.

(b) If the impact fee ordinance provides for a reduction in an impact fee under subsection (a), the ordinance must:

(1) contain a schedule or formula that sets forth the amount of the fee reduction for various types of housing development specified in subsection (a);

(2) require that, as a condition of receiving the fee reduction, the owner execute an agreement that:

(A) is binding for a period of at least five (5) years on the owner and subsequent owners; and

(B) limits the tenancy of residential units receiving the fee reduction to individuals or families who at the time the tenancy is initiated are earning less than eighty percent (80%) of the median income of the county;

(3) contain standards to be used in determining if a particular housing development specified in subsection (a) will receive a fee reduction; and

(4) designate a board or an official of the unit to conduct the hearing required by subsection (c).

(c) A fee reduction authorized by this section must be approved by a board or official of the unit at a public hearing.

As added by P.L.221-1991, SEC.27.

IC 36-7-4-1327

Fee reduction; appeal procedures

Sec. 1327. An impact fee ordinance must provide a procedure through which the fee reduction decision made under section 1326 of this chapter may be appealed by the following persons:

(1) The person requesting the fee reduction.

(2) An infrastructure agency responsible for infrastructure of the applicable type for the impact zone in which the impact fee reduction is granted.

As added by P.L.221-1991, SEC.28.

IC 36-7-4-1328

Fee reduction; complementary payment by granting unit

Sec. 1328. A unit that provides a fee reduction under section 1326 of this chapter shall pay into the account or accounts established for the impact zone in which the fee was reduced an amount equal to the amount of the fee reduction.

As added by P.L.221-1991, SEC.29.

IC 36-7-4-1329

Fund for impact fee collections; establishment; management; reports

Sec. 1329. (a) A unit imposing an impact fee shall establish a fund to receive amounts collected under this series.

(b) Money in a fund established under subsection (a) at the end of the unit's fiscal year remains in the fund. Interest earned by the fund shall be deposited in the fund.

(c) The fiscal officer of the unit shall manage the fund according to the provisions of this series. The fiscal officer shall annually report to the unit's plan commission and to each infrastructure agency responsible for infrastructure in an impact zone. The report must include the following:

(1) The amount of money in accounts established for the impact

zone.

(2) The total receipts and disbursements of the accounts established for the impact zone.

(d) A separate account shall be established in the fund for each impact zone established by the unit and for each infrastructure type within each zone. Interest earned by an account shall be deposited in that account.

As added by P.L.221-1991, SEC.30.

IC 36-7-4-1330

Use of fees

Sec. 1330. An impact fee collected under this series shall be used for the following purposes:

(1) Providing funds to an infrastructure agency for the provision of new infrastructure that:

(A) is necessary to serve the new development in the impact zone from which the fee was collected; and

(B) is identified in the zone improvement plan.

(2) In an amount not to exceed five percent (5%) of the annual collections of an impact fee, for expenses incurred by the unit that paid for the consulting services that were used to establish the impact fee ordinance.

(3) Payment of a refund under section 1332 of this chapter.

(4) Payment of debt service on an obligation issued to provide infrastructure described in subdivision (1).

As added by P.L.221-1991, SEC.31.

IC 36-7-4-1331

Infrastructure construction

Sec. 1331. (a) An infrastructure agency shall, within the time described in the zone improvement plan, construct infrastructure for which:

(1) a zone improvement plan has been adopted;

(2) an impact zone has been established; and

(3) an impact fee has been collected.

(b) A unit may amend the unit's zone improvement plan, including the time provided in the plan for construction of infrastructure, only if the amount of expenditures provided for the construction of infrastructure in the original plan does not decrease in any year and the benefit to the overall impact zone does not decrease because of the amendment.

As added by P.L.221-1991, SEC.32.

IC 36-7-4-1332

Impact fee refunds

Sec. 1332. (a) A fee payer is entitled to a refund of an impact fee if an infrastructure agency:

(1) has failed to complete a part of the infrastructure for which the impact fee was imposed not later than:

(A) twenty-four (24) months after the time described in

section 1331 of this chapter; or

(B) a longer time as is reasonably necessary to complete the infrastructure if unforeseeable and extraordinary circumstances that are not in whole or in part caused by the unit have delayed the construction;

(2) has unreasonably denied the fee payer the use and benefit of the infrastructure during the useful life of the infrastructure; or

(3) has failed within the earlier of:

(A) six (6) years after issuance of the structural building permit; or

(B) the anticipated infrastructure completion date as specified in the zone improvement plan existing on the date the impact fee was collected;

to make reasonable progress toward completion of the specific infrastructure for which the impact fee was imposed or thereafter fails to make reasonable progress toward completion.

(b) An application for a refund under subsection (a) must be filed with the unit that imposed the impact fee not later than two (2) years after the right to a refund accrues. A unit shall issue a refund in part or in full or shall reject the application for refund not later than thirty (30) days after receiving an application for a refund.

(c) If a unit approves a refund in whole or in part, the unit shall pay the amount approved, plus interest from the date on which the impact fee was paid to the date the refund is issued. The interest rate shall be the same rate as the rate that the unit's impact fee ordinance provides for impact fee payments paid in installments.

(d) If a unit rejects an application for refund or approves only a partial refund, the fee payer may appeal not later than sixty (60) days after the rejection or partial approval to the unit's impact fee review board established under section 1338 of this chapter by filing with the board an appeal on a form prescribed by the board. The board shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to a lay person.

(e) An impact fee ordinance shall designate the employee or official of the unit who is responsible for accepting, rejecting, and paying a refund and interest.

(f) A unit's impact fee review board shall hold a hearing on all appeals for a refund under this section. The hearing shall be held not later than forty-five (45) days after the application for appeal is filed with the board. A unit's impact fee review board shall provide notice of the application for refund to the infrastructure agency responsible for the infrastructure for which the impact fee was imposed.

(g) An impact fee review board holding a hearing under subsection (f) shall determine the amount of a refund that shall be made to the fee payer from the account established for the infrastructure for which the fee was imposed. A refund ordered by the board must include interest from the date the impact fee was paid to the date the refund is issued at the same rate the ordinance provides for impact fee payments paid in installments.

(h) A party aggrieved by a final decision of an impact fee review board in a hearing under subsection (f) may appeal to the circuit or superior court of the county in which the unit is located and is entitled to a trial de novo.
As added by P.L.221-1991, SEC.33.

IC 36-7-4-1333
Impact fees; appeal of amount before impact review board; judicial review; effect on pending fee payments

Sec. 1333. (a) A person against whom an impact fee has been assessed may appeal the amount of the impact fee. A unit may not deny issuance of a structural building permit on the basis that an impact fee has not been paid or condition issuance of the permit on the payment of an impact fee. However, in the case of an impact fee of one thousand dollars ($1,000) or less a unit may require a fee payer to:

(1) pay the impact fee; or
(2) bring an appeal under this section;

before the unit issues a structural building permit for the development for which the impact fee was assessed.

(b) A person must file a petition for a review of the amount of an impact fee with the unit's impact fee review board not later than thirty (30) days after issuance of the structural building permit for the development for which the impact fee was assessed. An impact fee ordinance may require a petition to be accompanied by payment of a reasonable fee not to exceed one hundred dollars ($100). A fee payer shall receive a full refund of the filing fee if:

(1) the fee payer prevails;
(2) the amount of the impact fee or the reductions or credits against the fee is adjusted by the unit, the board, or a court; and
(3) the body ordering the adjustment finds that the amount of the fee, reductions, or credits were arbitrary or capricious.

(c) A unit's impact fee review board shall prescribe the form of the petition for review of an impact fee under subsection (b). The board shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to a lay person. The form must require the petitioner to specify:

(1) a description of the new development on which the impact fee has been assessed;
(2) all facts related to the assessment of the impact fee; and
(3) the reasons the petitioner believes that the amount of the impact fee assessed is erroneous or is greater than the amount allowed by the fee limitations set forth in this series.

(d) A unit's impact fee review board shall prescribe a form for a response by a unit to a petition for review under this section. The board shall issue instructions for completion of the form. The form must require the unit to indicate:

(1) agreement or disagreement with each item indicated on the petition for review under subsection (c); and
(2) the reasons the unit believes that the amount of the fee

assessed is correct.

(e) Immediately upon the receipt of a timely filed petition on the form prescribed under subsection (c), a unit's impact fee review board shall provide a copy of the petition to the unit assessing the impact fee. The unit shall not later than thirty (30) days after the receipt of the petition provide to the board a completed response to the petition on the form prescribed under subsection (d). The board shall immediately forward a copy of the response form to the petitioner.

(f) An impact fee review board shall:

(1) review the petition and the response submitted under this section; and

(2) determine the appropriate amount of the impact fee not later than thirty (30) days after submission of both petitions.

(g) A fee payer aggrieved by a final determination of an impact fee review board may appeal to the circuit or superior court of the county in which the unit is located and is entitled to a trial de novo. If the assessment of a fee is vacated by judgment of the court, the assessment of the impact fee shall be remanded to the board for correction of the impact fee assessment and further proceedings in accordance with law.

(h) If a petition for a review or an appeal of an impact fee assessment is pending, the impact fee is not due and payable until after the petition or appeal is finally adjudicated and the amount of the fee is determined.

As added by P.L.221-1991, SEC.34.

IC 36-7-4-1334

Ordinance; appeal provision for amount of fees

Sec. 1334. An impact fee ordinance must set forth the reasons for which an appeal of the amount of an impact fee may be made. The impact fee ordinance must provide that an appeal of the amount of an impact fee may be made for the following reasons:

(1) A fact assumption used in determining the amount of an impact fee is incorrect.

(2) The amount of the impact fee is greater than the amount allowed under sections 1320, 1321, and 1322 of this chapter.

As added by P.L.221-1991, SEC.35.

IC 36-7-4-1335

Fee payer credits; infrastructure or improvements; amount of credit

Sec. 1335. (a) As used in this section, "improvement" means an improvement under section 1313(2) of this chapter or a site improvement, land, or real property interest as follows:

(1) That is to be used for at least one (1) of the infrastructure purposes specified in section 1309 of this chapter.

(2) That is included in or intended to be used relative to an infrastructure type for which the unit has imposed an impact fee in the impact zone.

(3) That is not a type of improvement that is uniformly required by law or rule for the type of development on which the impact fee has been imposed.

(4) That is or will be:

(A) public property; or

(B) furnished or constructed under requirements of the unit and is or will be available for use by other development in the area.

(5) That is beneficial to existing development and future development in the impact zone and is not beneficial to only one (1) development.

(6) That either:

(A) allows the removal of a component of infrastructure planned for the impact zone;

(B) is a useful addition to the zone improvement plan; or

(C) is reasonably likely to be included in a future zone improvement plan for the impact zone.

(7) That is:

(A) constructed, furnished, or guaranteed by a bond or letter of credit under a request by an authorized official of the:

(i) applicable infrastructure agency; or

(ii) unit that imposed the impact fee; or

(B) required to be constructed or furnished under a written commitment that:

(i) is requested by an authorized official of the applicable infrastructure agency or the unit that imposed the impact fee;

(ii) concerns the use or developing of the development against which the impact fee is imposed; and

(iii) is made under section 1015 of this chapter.

(b) A fee payer is entitled to a credit against an impact fee if the owner or developer of the development constructs or provides:

(1) infrastructure that is an infrastructure type for which the unit imposed an impact fee in the impact zone; or

(2) an improvement.

(c) A fee payer is entitled to a credit under this section for infrastructure or an improvement that:

(1) is constructed or furnished relative to a development after January 1, 1989; and

(2) meets the requirements of this section.

(d) The amount of a credit allowed under this section shall be determined at the date the impact fee is assessed. However, if an assessment is not requested, the amount of the credit shall be determined at the time the structural building permit is issued. The amount of the credit shall be:

(1) determined by the:

(A) person constructing or providing the infrastructure or improvement; and

(B) applicable infrastructure agency; and

(2) equal to the sum of the following:

(A) The cost of constructing or providing the infrastructure or improvement.

(B) The fair market value of land, real property interests, and site improvements provided.

(e) The amount of a credit may be increased or decreased after the date the impact fee is assessed if, between the date the impact fee is assessed and the date the structural building permit is issued, there is a substantial and material change in the cost or value of the infrastructure or improvement that is constructed or furnished from the cost or value determined under subsection (d). However, at the time the amount of a credit is determined under subsection (d), the person providing the infrastructure or improvement and the applicable infrastructure agency may agree that the amount of the credit may not be changed. The person providing the infrastructure or improvement may waive the person's right to a credit under this section.

As added by P.L.221-1991, SEC.36. Amended by P.L.126-2011, SEC.43.

IC 36-7-4-1336

Fee payer credits; petition to determine amount; proceeding before impact review board

Sec. 1336. (a) If the parties cannot agree on the cost or fair market value under section 1335(d) of this chapter, the fee payer or the person constructing or providing the infrastructure or improvement may file a petition for determination of the amount of the credit with the unit's impact fee review board not later than thirty (30) days after the structural building permit is issued for the development on which the impact fee is imposed. A petition under this subsection may be made as part of an appeal proceeding under section 1334 of this chapter or may be made under this section.

(b) An impact fee review board shall prescribe the form of the petition for determination of the amount of a credit under this section. The board shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to a lay person.

(c) An impact fee review board shall prescribe a form for a response by the applicable infrastructure agency to a petition under this section for determination of a credit amount. The board shall issue instructions for completion of the form.

(d) Immediately after receiving a timely filed petition under this section for determination of a credit amount, an impact fee review board shall provide a copy of the petition to the applicable infrastructure agency. Not later than thirty (30) days after receiving a copy of the petition, the infrastructure agency shall provide to the board a response on the form prescribed under subsection (c). The board shall immediately provide the petitioner with a copy of the infrastructure agency's response.

(e) The impact fee review board shall:

(1) review a petition and response filed under this section; and

(2) determine the amount of the credit not later than thirty (30) days after the response is filed.

(f) A fee payer aggrieved by a final determination of an impact fee review board under this section:

(1) may appeal to the circuit or superior court of the county in which the unit is located; and

(2) is entitled to a trial de novo.

As added by P.L.221-1991, SEC.37.

IC 36-7-4-1337

Ordinance; allocation of credits to fee payer provisions

Sec. 1337. An impact fee ordinance shall do the following:

(1) Establish a method for reasonably allocating credits to fee payers in situations in which the person providing infrastructure or an improvement is not the fee payer.

(2) Allow the person providing infrastructure or an improvement to designate in writing a reasonable and administratively feasible method of allocating credits to future fee payers.

As added by P.L.221-1991, SEC.38.

IC 36-7-4-1338

Impact fee review board; membership; powers and duties

Sec. 1338. (a) Each unit that adopts an impact fee ordinance shall establish an impact fee review board consisting of three (3) citizen members appointed by the executive of the unit. A member of the board may not be a member of the plan commission. An impact fee ordinance must do the following:

(1) Set the terms the members shall serve on the board.

(2) Establish a procedure through which the unit's executive shall appoint a temporary replacement member meeting the qualifications of the member being replaced in the case of conflict of interest.

(b) An impact fee review board must consist of the following members:

(1) One (1) member who is a real estate broker licensed in Indiana.

(2) One (1) member who is an engineer licensed in Indiana.

(3) One (1) member who is a certified public accountant.

(c) An impact fee review board shall review the amount of an impact fee assessed, the amount of a refund, and the amount of a credit using the following procedures:

(1) The board shall fix a reasonable time for the hearing of appeals.

(2) At a hearing, each party may appear and present evidence in person, by agent, or by attorney.

(3) A person may not communicate with a member of the board before the hearing with intent to influence the member's action on a matter pending before the board.

(4) The board may reverse, affirm, modify, or otherwise

establish the amount of an impact fee, a credit, a refund, or any combination of fees, credits, or refunds. For purposes of this subdivision, the board has all the powers of the official of the unit from which the appeal is taken.

(5) The board shall decide a matter that the board is required to hear:

(A) at the hearing at which the matter is first presented; or

(B) at the conclusion of the hearing on the matter, if the matter is continued.

(6) Within five (5) days after making a decision, the board shall provide a copy of the decision to the unit and the fee payer involved in the appeal.

(7) The board shall make written findings of fact to support the board's decision.

As added by P.L.221-1991, SEC.39.

IC 36-7-4-1339

Declaratory relief; challenge of ordinance

Sec. 1339. (a) This section applies to a person having an interest in real property that may be subject to an impact fee ordinance if the development occurs on the property.

(b) A person may seek to:

(1) have a court determine under IC 34-26-1 any question of construction or validity arising under the impact fee ordinance; and

(2) obtain a declaration of rights, status, or other legal relations under the ordinance.

(c) The validity of an impact fee ordinance adopted by a unit or the validity of the application of the ordinance in a specific impact zone may be challenged under this section on any of the following grounds:

(1) The unit has not provided for a zone improvement plan in the unit's comprehensive plan.

(2) The unit did not prepare or substantially update the unit's zone improvement plan in the year preceding the adoption of the impact fee ordinance.

(3) The unit has not identified the revenue sources the unit intends to use to implement the zone improvement plan, if identification of the revenue sources is required under section 1318(c) of this chapter.

(4) The unit has not complied with the requirements of section 1318(f) of this chapter.

(5) The unit has not made adequate revenue available to complete infrastructure improvements identified in the unit's zone improvement plan.

(6) The impact fee ordinance imposes fees on new development that will not create a need for additional infrastructure.

(7) The impact fee ordinance imposes on new development fees that are excessive in relation to the infrastructure needs created by the new development.

(8) The impact fee ordinance does not allow for reasonable credits to fee payers.

(9) The unit imposed a prohibition or delay on new development to enable the unit to complete the adoption of an impact fee ordinance.

(10) The unit otherwise fails to comply with this series in the adoption of an impact fee ordinance.

As added by P.L.221-1991, SEC.40. Amended by P.L.1-1998, SEC.206.

IC 36-7-4-1340
Ordinance; effective date; duration; replacement

Sec. 1340. (a) An impact fee ordinance may take effect not earlier than six (6) months after the date on which the impact fee ordinance is adopted by a legislative body.

(b) An impact fee may not be collected under an impact fee ordinance more than five (5) years after the effective date of the ordinance. However, a unit may adopt a replacement impact fee ordinance if the replacement impact fee ordinance complies with the provisions of this series.

As added by P.L.221-1991, SEC.41.

IC 36-7-4-1341
Delay of new development pending fee process

Sec. 1341. A unit may not prohibit or delay new development to wait for the completion of all or a part of the process necessary for the development, adoption, or updating of an impact fee.

As added by P.L.221-1991, SEC.42.

IC 36-7-4-1342
Application of 1300 Series to certain towns; expiration of provision

Sec. 1342. The general assembly finds that the powers of a local governmental unit to permit and provide for infrastructure are not limited by the provisions of this chapter except as expressly provided in this chapter.

As added by P.L.221-1991, SEC.43.

IC 36-7-4-1400
1400 Series—Development Plans; application of certain amendments to chapter

Sec. 1400. (a) This section and sections 1401, 1401.5, 1402, 1403, 1404, 1405, and 1406 of this chapter apply only to development plans initially submitted after December 31, 1995.

(b) This series (sections 1400 through 1499 of this chapter) may be cited as follows: 1400 SERIES–DEVELOPMENT PLANS.

As added by P.L.320-1995, SEC.22. Amended by P.L.220-2011, SEC.662.

IC 36-7-4-1401
"Development requirement" defined

Sec. 1401. As used in this series, "development requirement" means a requirement:

(1) for development of real property in a zoning district for which a development plan is required; and

(2) that conforms to section 1403 of this chapter.

As added by P.L.320-1995, SEC.23.

IC 36-7-4-1401.5

Power of legislative body to designate zoning districts where plan required

Sec. 1401.5. (a) A legislative body may, in a zoning ordinance, designate zoning districts in which a development plan is required. If a zoning district is designated under this section, the plan commission must approve or disapprove a development plan under this series for real property within the zoning district.

(b) The plan commission has exclusive authority to approve or disapprove a development plan for real property located within the plan commission's jurisdiction.

As added by P.L.320-1995, SEC.24. Amended by P.L.126-2011, SEC.44.

IC 36-7-4-1402

Designation by zoning ordinance

Sec. 1402. (a) This section applies if a zoning district is designated in a zoning ordinance under section 1401.5(a) of this chapter.

(b) In the zoning ordinance, the legislative body adopting the ordinance must specify the following:

(1) Development requirements that must be satisfied before the plan commission may approve a development plan.

(2) Plan documentation and supporting information that must be supplied to the plan commission before the plan commission may approve a development plan.

(3) Development requirements for approval of a development plan that the plan commission may waive.

(4) Conditions under which the plan commission may waive development requirements for approval of a development plan.

(5) Procedures for submission and review of a development plan, including the nature or type of application, fees, notice, hearing, amendment, and other matters relevant to review.

(c) In the zoning ordinance, the legislative body may authorize the following to review and approve a development plan:

(1) The plan commission staff.

(2) A hearing examiner or committee of the plan commission designated under section 402(d) of this chapter.

As added by P.L.320-1995, SEC.25.

IC 36-7-4-1403

Requisites of zoning ordinance

Sec. 1403. (a) The development requirements that must be

specified under section 1402(b)(1) of this chapter may include the following:

(1) Compatibility of the development with surrounding land uses.

(2) Availability and coordination of water, sanitary sewers, storm water drainage, and other utilities.

(3) Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community.

(4) Building setback lines.

(5) Building coverage.

(6) Building separation.

(7) Vehicle and pedestrian circulation.

(8) Parking.

(9) Landscaping.

(10) Height, scale, materials, and style of improvements.

(11) Signage.

(12) Recreation space.

(13) Outdoor lighting.

(14) Other requirements considered appropriate by the legislative body.

(b) The development requirements specified under subsection (a)(3) concerning the management of traffic may ensure the following:

(1) That the design and location of proposed street and highway access points minimize safety hazards and congestion.

(2) That the capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development.

(3) That the entrances, streets, and internal traffic circulation facilities in the development plan are compatible with existing and planned streets and adjacent developments.

(c) The plan documentation and supporting information that must be supplied under section 1402(b)(2) of this chapter may include the following:

(1) The location and character of the following:

(A) Existing and proposed primary structures and accessory structures.

(B) Utilities.

(C) Signage.

(D) Landscaping.

(2) The nature and intensity of uses in the development.

(3) The condition and size of public thoroughfares and parking, vehicle, and pedestrian facilities.

(4) The location and capacity of drainage facilities and sewer systems serving the development.

(5) Other information considered appropriate by the legislative body.

(d) In specifying development requirements or plan documentation and supporting information for development plan

approval under section 1402(b)(1) through 1402(b)(2) of this chapter, the zoning ordinance may incorporate by reference provisions in the subdivision control ordinance.
As added by P.L.320-1995, SEC.26.

IC 36-7-4-1404
Review and appeal

Sec. 1404. (a) If a zoning ordinance designates a zoning district under section 1401.5(a) of this chapter and authority is delegated under section 1402(c) of this chapter, the zoning ordinance must describe the following:

(1) The duties of the plan commission staff, hearing examiner, or committee in reviewing a development plan.

(2) The procedures for review of a development plan by the plan commission staff, hearing examiner, or committee.

(3) The procedures for an appeal to the plan commission of a decision made by the plan commission staff, hearing examiner, or committee.

(b) A plan commission staff, hearing examiner, or committee to which authority has been delegated under section 1402(c) of this chapter may make a decision concerning a development plan without a public hearing if the zoning ordinance provides for an appeal of the decision directly to the plan commission.

(c) The zoning ordinance may provide for a hearing procedure for review of a development plan that is similar to the hearing procedure for review of subdivision plats under the 700 series of this chapter. If such a procedure is adopted, the zoning ordinance may provide that public notice and hearing are not required for secondary review of a development plan. If notice and hearing are not required for secondary review of a development plan, the primary approval or disapproval of a development plan is a final decision of the plan commission that may be reviewed only as provided in section 1016 of this chapter.
As added by P.L.320-1995, SEC.27.

IC 36-7-4-1405
Powers and duties of plan commission

Sec. 1405. (a) The plan commission shall review a development plan to determine if the development plan:

(1) is consistent with the comprehensive plan; and

(2) satisfies the development requirements specified in the zoning ordinance under sections 1402 and 1403 of this chapter.

(b) The plan commission may do the following:

(1) Impose conditions on the approval of a development plan if the conditions are reasonably necessary to satisfy the development requirements specified in the zoning ordinance for approval of the development plan.

(2) Provide that approval of a development plan is conditioned on the furnishing to the plan commission of a bond or written assurance that:

(A) guarantees the timely completion of a proposed public improvement in the proposed development; and

(B) is satisfactory to the plan commission.

(3) Permit or require the owner of real property to make a written commitment under section 1015 of this chapter.

As added by P.L.320-1995, SEC.28. Amended by P.L.126-2011, SEC.45.

IC 36-7-4-1406

Written findings constitute final decision

Sec. 1406. (a) A plan commission shall make written findings concerning each decision to approve or disapprove a development plan. The zoning ordinance must designate an official who is responsible for signing written findings of the plan commission.

(b) Except as provided in section 1404(c) of this chapter, a decision of the plan commission approving or disapproving a development plan or a decision made under section 1405(b) of this chapter is a final decision of the plan commission that may be reviewed only as provided in section 1016 of this chapter.

As added by P.L.320-1995, SEC.29.

IC 36-7-4-1500

1500 Series—Planned Unit Development

Sec. 1500. This series (sections 1500 through 1599 of this chapter) may be cited as follows: 1500 SERIES–PLANNED UNIT DEVELOPMENT.

As added by P.L.320-1995, SEC.30.

IC 36-7-4-1501

"Development requirement" defined

Sec. 1501. As used in this series, "development requirement" means a requirement:

(1) for development of real property in a planned unit development district that must be met; and

(2) that conforms to section 1508 of this chapter.

As added by P.L.320-1995, SEC.31.

IC 36-7-4-1502

"Planned unit development district" defined

Sec. 1502. As used in this series, "planned unit development district" means a zoning district for which a PUD district ordinance must be adopted under this series.

As added by P.L.320-1995, SEC.32.

IC 36-7-4-1503

"PUD district ordinance" defined

Sec. 1503. As used in this series, "PUD district ordinance" means a zoning ordinance that does the following:

(1) Designates a parcel of real property as a planned unit development district.

(2) Specifies uses or a range of uses permitted in the planned unit development district.
(3) Specifies development requirements in the planned unit development district.
(4) Specifies the plan documentation and supporting information that may be required.
(5) Specifies any limitation applicable to a planned unit development district.
(6) Meets the requirements of this series.

As added by P.L.320-1995, SEC.33.

IC 36-7-4-1504
Zoning ordinances

Sec. 1504. (a) A zoning ordinance may provide for and regulate planned unit development.

(b) A zoning ordinance that provides for and regulates planned unit development must meet the requirements of this series.

(c) A zoning ordinance that meets the requirements of this series is the exclusive means for exercising zoning control over planned unit development.

As added by P.L.320-1995, SEC.34.

IC 36-7-4-1505
Real property zoned by PUD district ordinance

Sec. 1505. (a) A planned unit development is allowed only for real property zoned to be a planned unit development district.

(b) A planned unit development district is established by the adoption of a PUD district ordinance.

(c) Except as provided in section 1511 of this chapter, the legislative body shall adopt and amend a PUD district ordinance in the same manner as a zone map change that is initiated under section 602(c)(1)(B) of this chapter is adopted or amended. The legislative body may not adopt or amend a PUD district ordinance unless a zoning ordinance that meets the requirements of section 1506 of this chapter is in effect.

As added by P.L.320-1995, SEC.35.

IC 36-7-4-1506
Text amendment

Sec. 1506. Before a PUD district ordinance may be adopted, a text amendment to the zoning ordinance must be adopted. The text amendment must do all of the following:

(1) Specify any limitation on planned unit development in the jurisdiction.
(2) Specify standards, requirements, and procedures that:
(A) are consistent with this series; and
(B) govern the establishment and administration of planned unit development districts;
including any appropriate regulation of reviews and the consideration of approvals and modifications to planned unit

development districts under section 1511 of this chapter.
As added by P.L.320-1995, SEC.36.

IC 36-7-4-1507
Legislative act

Sec. 1507. The adoption and amendment of a PUD district ordinance is a legislative act.
As added by P.L.320-1995, SEC.37.

IC 36-7-4-1508
Use of other authorized requirements

Sec. 1508. Development requirements specified in a PUD district ordinance may:

(1) use requirements, restrictions, provisions, and standards authorized under section 601(d)(2) of this chapter; and

(2) specify development requirements authorized under section 1403 of this chapter.

As added by P.L.320-1995, SEC.38.

IC 36-7-4-1509
Requirements of district ordinance

Sec. 1509. (a) A PUD district ordinance must do one (1) of the following with respect to all, or each different part, of a planned unit development:

(1) Express in general terms the development requirements that apply.

(2) Express in detailed terms the development requirements that apply.

(b) If development requirements are expressed in general terms under subsection (a)(1):

(1) secondary review of the PUD district ordinance must be conducted under subsection (c); and

(2) the zoning ordinance or the PUD district ordinance must specify any plan documentation or supporting information that must be supplied in connection with secondary review under subsection (c).

(c) Secondary review of a PUD district ordinance:

(1) may be conducted by the legislative body or by the person or other body given the authority to conduct secondary review under section 1511(a) of this chapter; and

(2) must be conducted in accordance with procedures established in the zoning ordinance.

(d) The person or body conducting secondary review under subsection (c) shall do the following:

(1) Consider the development requirements expressed in general terms under subsection (a)(1).

(2) If:

(A) applicable development requirements expressed in general terms under subsection (a)(1) are satisfied; and

(B) applicable requirements in the zoning ordinance are

satisfied;

grant secondary approval of the PUD district ordinance.

(3) Express in detailed terms any other development requirements that will apply to the planned unit development.

(4) Specify any plan documentation or supporting information that must be supplied before an improvement location permit may be issued for development of real property in the planned unit development district.

(e) If development requirements are expressed in detailed terms under subsection (a)(2), the zoning ordinance or the PUD district ordinance must specify any plan documentation or supporting information that must be supplied before an improvement location permit may be issued for development of real property in the planned unit development district.

As added by P.L.320-1995, SEC.39.

IC 36-7-4-1510

Written text, plan, or other drawing allowed

Sec. 1510. A PUD district ordinance may employ:

(1) written text;

(2) a plan or other drawing; or

(3) any combination of the items listed in this section;

in specifying the permitted uses and development requirements that apply to a planned unit development district.

As added by P.L.320-1995, SEC.40.

IC 36-7-4-1511

Power of legislative body to delegate authority

Sec. 1511. (a) The legislative body may, in the zoning ordinance, delegate authority to conduct secondary review of a PUD district ordinance under section 1509(c) of this chapter.

(b) The legislative body may, in the zoning ordinance, delegate authority to modify permitted uses or development requirements that are specified in a PUD district ordinance.

(c) The legislative body may, in the zoning ordinance, delegate the authority to conduct secondary reviews and grant approvals under subsection (a) and to make modifications under subsections (b) and (i) to any of the following:

(1) The plan commission.

(2) A hearing examiner or committee designated by the plan commission under section 402(d) of this chapter.

(3) At least one (1) employee designated by the plan commission.

(d) If authority is delegated under subsection (c)(1), the zoning ordinance may provide for an appeal to the legislative body of the decision of the plan commission.

(e) If authority is delegated under subsection (c)(2) or (c)(3), the zoning ordinance must provide for an appeal to the legislative body or the plan commission of the decision of the hearing examiner, committee, employee, or group of employees.

(f) If the zoning ordinance provides for an appeal under subsection (d) or (e), the zoning ordinance must specify the appeal procedure.

(g) If authority to conduct secondary reviews is delegated under subsection (a), the legislative body must establish the following in the zoning ordinance:

(1) The nature of the proceedings required for conducting secondary review.

(2) The type of notice, if any, that must be given.

(h) Except as provided in subsection (i), if authority to make modifications in permitted uses or development requirements is delegated under subsection (b), a public hearing must be held before a modification is made. A hearing under this subsection must be conducted in the manner established by the legislative body in the zoning ordinance. Notice of the hearing must be given in the same manner as notice is given under section 604(b) and 604(c) of this chapter.

(i) The legislative body may define in the zoning ordinance minor modifications that may be made without a public hearing under subsection (h). The legislative body must establish in the zoning ordinance the nature of the proceedings and any notice required for the making of a minor modification under this subsection.

(j) The legislative body may, in the zoning ordinance, delegate authority to the plan commission to establish rules governing the nature of the proceedings and any notice required to conduct secondary review, grant an approval, or make a modification under this section.

(k) A decision of the plan commission to grant or deny an approval or a modification under this section, whether made after an original hearing or the hearing of an appeal, is a final decision that may be reviewed under section 1016 of this chapter.

As added by P.L.320-1995, SEC.41.

IC 36-7-4-1512

Power of legislative body to adopt or amend ordinance

Sec. 1512. (a) When adopting or amending a PUD district ordinance, the legislative body of a unit may do the following:

(1) Impose reasonable conditions on a proposed planned unit development.

(2) Condition issuance of an improvement location permit on the furnishing of a bond or a satisfactorily written assurance guaranteeing the timely completion of a proposed public improvement in a planned unit development or serving a planned unit development.

(3) Allow or require an owner of real property to make a written commitment in the manner authorized under section 1015 of this chapter.

(b) When recommending adoption of a PUD district ordinance to the legislative body, granting an approval under section 1511 of this chapter, or making a modification under section 1511(b) of this

chapter, the bodies or persons authorized under section 1511(c) of this chapter may:

(1) impose the conditions described in subsection (a)(1) and (a)(2); and

(2) allow or require a written commitment as authorized under section 1015 of this chapter.

As added by P.L.320-1995, SEC.42. Amended by P.L.126-2011, SEC.46.

IC 36-7-4-1513

Platting procedure

Sec. 1513. The procedure for platting a parcel of real property that is zoned as a planned unit development district under this series is the same as the procedure described in the 700 series of this chapter for other platting.

As added by P.L.320-1995, SEC.43.

IC 36-7-4-1600

1600 Series-Judicial review

Sec. 1600. This series (sections 1600 through 1699 of this chapter) may be cited as follows: 1600 SERIES–JUDICIAL REVIEW.

As added by P.L.126-2011, SEC.47.

IC 36-7-4-1601

Exclusive means for judicial review of zoning decisions

Sec. 1601. (a) This series establishes the exclusive means for judicial review of zoning decisions as described in section 1003 or 1016 of this chapter, made by a board of zoning appeals, legislative body, plan commission, preservation commission, or zoning administrator (referred to as the "board" in this series).

(b) A legislative act is not subject to judicial review under this series.

As added by P.L.126-2011, SEC.48.

IC 36-7-4-1602

Initiation of judicial review; required showing

Sec. 1602. (a) Judicial review of a zoning decision is initiated by filing a petition for review in the appropriate court.

(b) Only a person who qualifies under:

(1) section 1603 of this chapter concerning standing;

(2) section 1604 of this chapter concerning exhaustion of administrative remedies;

(3) section 1605 of this chapter concerning the time for filing a petition for review; and

(4) section 1613 of this chapter concerning the time for filing the board record for review;

is entitled to judicial review of a final zoning decision.

(c) A person is entitled to judicial review of a nonfinal zoning decision only if the person establishes both of the following:

(1) Immediate and irreparable harm.

(2) No adequate remedy exists at law. The failure of a person to comply with the procedural requirements of this chapter may not be the basis for a finding of an inadequate remedy at law.

As added by P.L.126-2011, SEC.49.

IC 36-7-4-1603

Standing

Sec. 1603. (a) The following have standing to obtain judicial review of a zoning decision:

(1) A person to whom the zoning decision is specifically directed.

(2) A person aggrieved by the zoning decision who participated in the board hearing that led to the decision, either:

(A) by appearing at the hearing in person, by agent, or by attorney and presenting relevant evidence; or

(B) by filing with the board a written statement setting forth any facts or opinions relating to the decision.

(3) A person otherwise aggrieved or adversely affected by the zoning decision.

(b) A person has standing under subsection (a)(3) only if:

(1) the zoning decision has prejudiced or is likely to prejudice the interests of the person;

(2) the person was eligible for an initial notice of a hearing under this chapter, was not notified of the hearing in substantial compliance with this chapter, and did not have actual notice of the hearing before the last date in the hearing that the person could object or otherwise intervene to contest the zoning decision;

(3) the person's asserted interests are among those that the board was required to consider when it made the challenged zoning decision; and

(4) a judgment in favor of the person would substantially eliminate or redress the prejudice to the person caused or likely to be caused by the zoning decision.

As added by P.L.126-2011, SEC.50.

IC 36-7-4-1604

Exhaustion of remedies

Sec. 1604. (a) A person may file a petition for judicial review under this chapter only after exhausting all administrative remedies available within the board whose zoning decision is being challenged.

(b) A person who fails to timely object to a zoning decision or timely petition for review of a zoning decision within the period prescribed by this chapter waives the person's right to judicial review under this chapter.

As added by P.L.126-2011, SEC.51.

IC 36-7-4-1605

Timeliness of petition for review

Sec. 1605. A petition for review is timely only if the petition for review is filed not later than thirty (30) days after the date of the zoning decision that is the subject of the petition for judicial review.
As added by P.L.126-2011, SEC.52.

IC 36-7-4-1606

Venue; rules of procedure; parties; motion to intervene

Sec. 1606. (a) Venue is in the judicial district where the land affected by the zoning decision is located.

(b) If more than one (1) person may be aggrieved by the zoning decision, only one (1) proceeding for review may be had, and the court in which a petition for review is first properly filed has jurisdiction.

(c) The rules of procedure governing civil actions in the courts govern pleadings and requests under this chapter for a change of judge or change of venue to another judicial district described in subsection (a).

(d) Each person who:

(1) was a petitioner or applicant at the hearing before the board; or

(2) is aggrieved by the zoning decision and entered a written appearance as an adverse party to the petitioner or applicant before the board hearing that led to the zoning decision, as described in section 920(h) of this chapter;

is a party to the petition for review.

(e) Any other person who participated, in the manner described in section 1603(a)(2) of this chapter, in the board hearing that led to the zoning decision may, not later than five (5) days after the decision is made, file with the board a written request that the person receive notice of any petition for review that may be filed. The written request must include the person's full name and correct mailing address and a reference to the board's docket number relative to the zoning decision.

(f) Any person who has standing under section 1603(a)(2) or 1603(a)(3) of this chapter has an unconditional right to intervene in a proceeding for review. A motion to intervene in a proceeding for review shall be filed in the manner provided by the rules of procedure governing civil actions in courts.
As added by P.L.126-2011, SEC.53.

IC 36-7-4-1607

Petition for review; requirements

Sec. 1607. (a) A petition for review must be filed with the clerk of the court.

(b) A petition for review must be verified and set forth the following:

(1) The name and mailing address of the petitioner.

(2) The name and mailing address of the board whose zoning decision is at issue.

(3) Identification of the decision at issue, together with a copy, summary, or brief description of the decision.
(4) Identification of persons who participated in any hearing, as described in section 1603(a)(2) of this chapter, that led to the decision.
(5) Specific facts to demonstrate that the petitioner is entitled to obtain judicial review under section 1602 of this chapter.
(6) Specific facts to demonstrate that the petitioner has been prejudiced by one (1) or more of the grounds described in section 1614 of this chapter.
(7) A request for relief, specifying the type and extent of relief requested.

As added by P.L.126-2011, SEC.54.

IC 36-7-4-1608
Notice

Sec. 1608. (a) A petitioner for judicial review shall serve a copy of the petition upon the board making the zoning decision in the manner provided by the rules of procedure governing civil actions in the courts. Service on the board must be made to the secretary, president, or chairperson of the board.

(b) The petitioner shall use means provided by the rules of procedure governing civil actions in the courts to give notice of the petition for review:

(1) to all parties to the petition for review, as described in section 1606(d) of this chapter; and
(2) to persons who, in the manner described in section 1606(e) of this chapter, filed with the board making the zoning decision written requests that they receive notice of any petition for review, according to the public records of the board. However, if the public records of the board show that the board received written requests for notice from more than three (3) persons, the petitioner shall give notice only to the first three (3) persons who requested notice according to those records. Notice to any additional persons who requested notice is not required.

(c) This section does not require the petitioner to name as parties to the petition for review the persons who must be given notice under subsection (b)(2).

As added by P.L.126-2011, SEC.55.

IC 36-7-4-1609
Petition for order staying zoning decision pending review

Sec. 1609. (a) A person seeking judicial review may seek, by filing a verified petition, an order of the court staying the zoning decision pending review by the court. The court may enter an order staying the zoning decision pending a final determination if:

(1) the court finds that the petition for review and the petition for a stay order show a reasonable probability that the zoning decision appealed from is invalid or illegal; and
(2) a bond is filed that is conditioned upon the due prosecution

of the proceeding for review and that the petitioner will pay all court costs and abide by the zoning decision if it is not set aside. The bond must be in the amount and with the surety approved by the court. However, the amount of the bond must be at least five hundred dollars ($500).

(b) If a petition for review concerns a revocation or suspension of a previously approved variance, exception, or use, any stay ordered under subsection (a) is effective during the period of the review and any appeal from the review and until the review is finally determined, unless otherwise ordered by the court granting the stay. If the stay is granted as provided in this section and the zoning decision is approved on final determination, the revocation or suspension of the variance, exception, or use immediately becomes effective.

As added by P.L.126-2011, SEC.56.

IC 36-7-4-1610

Review of issue not previously raised

Sec. 1610. A person may obtain judicial review of an issue that was not raised before the board, only to the extent that:

(1) the issue concerns whether a person who was required to be notified by this chapter or other law of a board hearing was notified in substantial compliance with this chapter or other law; or

(2) the interests of justice would be served by judicial resolution of an issue arising from a change in controlling law occurring after the zoning decision.

As added by P.L.126-2011, SEC.57.

IC 36-7-4-1611

Review of facts confined to record

Sec. 1611. Judicial review of disputed issues of fact must be confined to the board record for the zoning decision supplemented by additional evidence taken under section 1612 of this chapter. The court may not try the cause de novo or substitute its judgment for that of the board.

As added by P.L.126-2011, SEC.58.

IC 36-7-4-1612

Additional evidence; remand for additional factfinding or preparation of adequate record

Sec. 1612. (a) The court may receive evidence, in addition to that contained in the board record for judicial review, only if the evidence relates to the validity of the zoning decision at the time the decision was made and is needed to decide disputed issues regarding one (1) or both of the following:

(1) Improper constitution as a decisionmaking body or grounds for disqualification of those making the zoning decision.

(2) Unlawfulness of procedure or of decisionmaking process.

This subsection applies only if the additional evidence could not, by

due diligence, have been discovered and raised in the board proceeding giving rise to a proceeding for judicial review.

(b) The court may remand a matter to the board before final disposition of a petition for review with directions that the board conduct further factfinding or that the board prepare an adequate record, if:

(1) the board failed to prepare or preserve an adequate record;

(2) the board improperly excluded or omitted evidence from the record; or

(3) a relevant law changed after the zoning decision and the court determines that the new provision of law may control the outcome.

As added by P.L.126-2011, SEC.59.

IC 36-7-4-1613

Transmission of board record to court; extension of time to file record; cost of copies and transcripts

Sec. 1613. (a) Within thirty (30) days after the filing of the petition, or within further time allowed by the court, the petitioner shall transmit to the court the original or a certified copy of the board record for judicial review of the zoning decision, consisting of:

(1) any board documents expressing the decision;

(2) other documents identified by the board as having been considered by the board before its decision and used as a basis for its decision; and

(3) any other material described in this chapter or other law as the board record for the type of zoning decision at issue, subject to this section.

(b) An extension of time in which to file the record shall be granted by the court for good cause shown. Inability to obtain the record from the responsible board within the time permitted by this section is good cause. Failure to file the record within the time permitted by this subsection, including any extension period ordered by the court, is cause for dismissal of the petition for review by the court, on its own motion, or on petition of any party of record to the proceeding.

(c) Upon a written request by the petitioner, the board making the zoning decision being reviewed shall prepare the board record for the petitioner. If part of the record has been preserved without a transcript, the board shall, if practicable, prepare a transcript for inclusion in the record transmitted to the court, except for parts that the parties to the judicial review proceeding stipulate to omit in accordance with subsection (e).

(d) Notwithstanding IC 5-14-3-8, the board shall charge the petitioner with the reasonable cost of preparing any necessary copies and transcripts for transmittal to the court, unless a person files with the court, under oath and in writing, the statement described by IC 33-37-3-2.

(e) By stipulation of all parties to the review proceedings, the record may be shortened, summarized, or organized.

(f) The court may tax the cost of preparing transcripts and copies for the record:

(1) against a party to the judicial review proceeding who unreasonably refuses to stipulate to shorten, summarize, or organize the record; or

(2) in accordance with the rules governing civil actions in the courts or other law.

(g) Additions to the record concerning evidence received under section 1612 of this chapter must be made as ordered by the court. The court may require or permit subsequent corrections or additions to the record.

As added by P.L.126-2011, SEC.60.

IC 36-7-4-1614

Burden of demonstrating invalidity of zoning decision; grounds for relief

Sec. 1614. (a) The burden of demonstrating the invalidity of a zoning decision is on the party to the judicial review proceeding asserting invalidity.

(b) The validity of a zoning decision shall be determined in accordance with the standards of review provided in this section, as applied to the decision at the time it was made.

(c) The court shall make findings of fact on each material issue on which the court's decision is based.

(d) The court shall grant relief under section 1615 of this chapter only if the court determines that a person seeking judicial relief has been prejudiced by a zoning decision that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(4) without observance of procedure required by law; or

(5) unsupported by substantial evidence.

As added by P.L.126-2011, SEC.61.

IC 36-7-4-1615

Finding of prejudice; judicial action

Sec. 1615. If the court finds that a person has been prejudiced under section 1614 of this chapter, the court may set aside a zoning decision and:

(1) remand the case to the board for further proceedings; or

(2) compel a decision that has been unreasonably delayed or unlawfully withheld.

As added by P.L.126-2011, SEC.62.

IC 36-7-4-1616

Appeal of court's decision

Sec. 1616. The court's decision on a petition for review of a

zoning decision is appealable in accordance with the rules governing civil appeals from the courts.

As added by P.L.126-2011, SEC.63.

IC 36-7-5
Repealed

(*Repealed by P.L.220-1986, SEC.32.)*

IC 36-7-5.1

Chapter 5.1. Joint District Planning and Zoning

IC 36-7-5.1-1

"Commission" and "plan commission" defined

Sec. 1. As used in this chapter, "commission" or "plan commission" refers to a joint district planning and zoning commission established under this chapter.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-2

"Joint district" defined

Sec. 2. As used in this chapter, "joint district" means an area of real property (whether or not the property is located within the boundaries of one (1) or more municipalities, counties, or other political subdivisions) that is established as a joint district under this chapter.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-3

Advisory planning law; application

Sec. 3. The advisory planning law portions of IC 36-7-4 apply to a commission and a joint district insofar as the advisory planning law portions of IC 36-7-4 are not inconsistent with this chapter, even if the county in which a joint district is located has adopted any part of the area planning law under IC 36-7-4.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-4

Municipal and county cooperative single and unified planning and zoning entities

Sec. 4. One (1) or more municipalities (meeting the population, proximity, and ordinance requirements under section 9 of this chapter) and one (1) or more counties may cooperatively establish single and unified planning and zoning entities as joint districts to carry out this chapter on a less than countywide basis.

As added by P.L.300-1989, SEC.2. Amended by P.L.1-1990, SEC.361.

IC 36-7-5.1-5

Municipal and county joint district planning and zoning commission

Sec. 5. (a) The legislative bodies of one (1) or more municipalities (meeting the population and proximity requirements under section 9 of this chapter) and one (1) or more counties may establish, by identical ordinances, a joint district planning and zoning commission. The ordinances must specify the following:

(1) The legal name of the commission.
(2) The boundaries of the joint district.
(3) The duration of the commission.

(4) Any other information necessary to form the commission.

(b) A municipality having a population of more than three thousand (3,000) but less than fifteen thousand (15,000) may pass an ordinance to establish a joint district for any territory that is located:

(1) in the municipality; or

(2) within five (5) miles of the municipality's corporate boundaries.

(c) A municipality having a population of more than twenty-five thousand (25,000) but less than fifty thousand (50,000) may pass an ordinance to establish a joint district for any territory that is located:

(1) in the municipality; or

(2) within ten (10) miles of the municipality's corporate boundaries.

(d) When the boundaries of a proposed joint district include real property lying within the corporate boundaries of a municipality, the municipality is subject to the jurisdiction of the joint district and the provisions of this chapter only if the municipality adopts an ordinance under subsection (a).

(e) After the boundaries and duration of a joint district have been established under subsection (a), the boundaries and the duration may not be changed.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-6

Authority of commission

Sec. 6. After a commission is established, it shall exclusively exercise all the planning, zoning, platting, and land use policy authority for real property in the joint district. The joint district commission has exclusive authority, subject to section 7 of this chapter, to adopt a zoning ordinance or a subdivision control ordinance, or both. Any planning, zoning, platting, or land use functions exercised by any other unit or entity in the joint district shall cease. Except as provided in section 7 of this chapter, an action of the commission is final and does not require a reference to or an approval by a county or municipal legislative body.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-7

Joint district council

Sec. 7. (a) A joint district council is established for each joint district formed under this chapter.

(b) The membership of the joint district council consists of:

(1) the president of the town board of trustees;

(2) the president of a second class city legislative body;

(3) the president pro tempore of a third class city legislative body;

(4) the president of a city-county legislative body (consolidated city); and

(5) one (1) member of the county executive appointed by the county executive;

of each municipality and county that enacted an ordinance creating the joint district.

(c) Notwithstanding section 6 of this chapter, before an ordinance that is passed by a commission becomes effective, the joint district council must approve the ordinance. A joint district commission shall forward a copy of each ordinance that the commission passes within three (3) business days after passage to the secretary of the joint district council.

(d) A joint district council shall conduct a hearing on an ordinance and shall publish notice of the hearing in accordance with IC 5-3-1 specifying the time and location of the meeting. A joint district council may approve, amend, or reject an ordinance of the commission at the hearing. If a joint district council does not conduct a hearing on an ordinance within twenty (20) days of receipt of the ordinance, the ordinance is considered approved by the joint district council.

(e) The auditor of the county in which a majority of the territory in a joint district is located shall be the secretary of the joint district council.

(f) A quorum consists of a majority of the entire membership of the joint district council.

(g) Action of the joint district council is not official unless it is authorized at a regular or special meeting by a majority of the members who are present at the meeting.

(h) the presiding office of the joint district council is the member who is appointed by the executive of the county that enacts an ordinance creating a joint district. However, if more than one (1) county is in a joint district, then the joint district council member who is appointed by the executive of the county having the greatest amount of land in the joint district serves as the presiding officer.

(i) Either the presiding officer or a majority of the entire membership of the joint district council may call a regular or special meeting.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-8

Comprehensive plan; joint district limits; new municipality within existing joint district

Sec. 8. (a) A commission may adopt a comprehensive plan (as provided for under the 500 Series of the advisory planning law) for the development of the joint district. The comprehensive plan, if adopted, does not have extraterritorial effect outside the defined boundaries of the joint district. However, a comprehensive plan adopted by a commission supersedes an existing or conflicting comprehensive plan governing any of the joint district.

(b) Before exercising its rights, powers, and duties under this chapter or the advisory planning law with respect to an area designated as a joint district, a commission must file with the recorder of each county in which a part of the joint district is located a description or map defining the limits of the joint district. If the

commission revises the limits, it shall file a revised description or map defining those revised limits with each recorder.

(c) Until the commission adopts a comprehensive plan, a comprehensive plan that was in effect before the formation of the joint district applies to that portion of the joint district controlled by that comprehensive plan.

(d) Whenever a new municipality is incorporated and its boundaries lie in whole or in part within a joint district, the commission continues to exercise territorial jurisdiction within the new municipality or that portion of the municipality within the joint district, until the effective date of a municipal ordinance:

(1) establishing an advisory plan commission under IC 36-7-4-202(a); or

(2) adopting the area planning law under IC 36-7-4-202(b).

Beginning on that effective date, the planning and zoning function of the municipality shall be exercised by the municipality under the advisory planning law or area planning law.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-9

Membership of commission

Sec. 9. The members of the commission shall be determined as follows:

(1) The legislative body of each county where any part of the joint district is located shall choose four (4) members.

(2) The legislative body of each municipality having a population of more than three thousand (3,000), but less than fifteen thousand (15,000), that passes an ordinance establishing a joint district and that is located within five (5) miles of the joint district shall choose three (3) members.

(3) The city plan commission (or similar body) of each municipality having a population of more than twenty-five thousand (25,000), but less than fifty thousand (50,000), that passes an ordinance establishing a joint district and that is located within ten (10) miles of the joint district shall choose two (2) members.

(4) The executive of each municipality meeting the population, proximity, and ordinance requirements of subdivision (3) shall choose one (1) member.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-10

Majority vote prerequisite to commission action

Sec. 10. Commission action may be taken only upon the vote of a majority of its members.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-11

Membership qualifications

Sec. 11. (a) Each member of the commission must have:

(1) knowledge and experience regarding affairs in the joint district;

(2) awareness of the social, economic, agricultural, and industrial conditions of the joint district; and

(3) an interest in the development of the joint district.

(b) A challenge to the appointment of a member based on the qualifications described in subsection (a) must be filed within thirty (30) days after the appointment. The challenge may be filed in the circuit court of any county that contains the entire joint district or any part of the joint district.

(c) Except as provided in subsection (d), a member must be a resident of a county where a part of the joint district is located or reside within ten (10) miles of the borders of the district.

(d) In a joint district that contains all or part of a county having a population of more than seventy-five thousand (75,000) but less than seventy-seven thousand (77,000), two (2) of the members appointed by the legislative body of that county under section 9(1) of this chapter must, in addition to the requirements of subsections (a) and (b), be residents of any township that is entirely or partially located within the joint district.

As added by P.L.300-1989, SEC.2. Amended by P.L.12-1992, SEC.167; P.L.170-2002, SEC.155; P.L.119-2012, SEC.197.

IC 36-7-5.1-12

Term

Sec. 12. Members of the commission are appointed for a three (3) year term.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-13

Office space

Sec. 13. One (1) of the counties or municipalities that adopted an ordinance creating the joint district shall provide suitable offices for the holding of commission meetings and for preserving the plans, maps, accounts, and other documents of the commission.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-14

Appropriations

Sec. 14. After one (1) or more municipalities and one (1) or more counties cooperatively establish a joint district, the units creating the joint district may make an appropriation to carry out the duties of the commission. The units may apportion appropriations for the commission in any manner the units determine appropriate.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-15

Acceptance of gifts, donations, and grants; deposit; use

Sec. 15. (a) A commission may accept gifts, donations, and grants from private or governmental services for commission purposes. The

commission shall deposit money that it receives under this section in a joint district fund (or other suitable fund). The commission shall keep these funds available for expenditures for the purpose designated.

(b) The commission shall prepare and adopt an annual budget and submit it to the joint district council for approval or revision. If the joint district council does not consider the budget within thirty (30) days after submission of the budget, the budget is considered approved by the joint district council. After approval of the budget, money may be expended only as budgeted, or as provided in this section for the use of unexpended or unencumbered funds.

(c) Any appropriated amounts remaining unexpended or unencumbered at the end of the fiscal year become part of a nonreverting cumulative joint district fund (or other suitable fund that the commission may establish) to be held in the name of the commission. The commission may authorize unbudgeted expenditures from this fund.

(d) A commission is responsible for the safekeeping and deposit of money it receives under this chapter. The state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books of the commission and shall periodically audit the commission.

(e) The secretary of the commission may receive, disburse, and handle money belonging to the commission, subject to applicable statutes and to any procedures that the commission may establish.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-16

Employees; professional counsel; delegation of authority

Sec. 16. (a) The commission shall prescribe the qualifications, appoint, remove, prescribe the duties, and fix the compensation of employees necessary for the discharge of the duties of the commission. The compensation must be in conformity with salaries and compensation fixed up to that time for similar work by the fiscal body of a municipality or county that created the joint district.

(b) The commission may contract for special or temporary services of a professional counsel.

(c) The commission shall delegate authority to its employees to perform ministerial acts in all cases unless final action of the commission is necessary.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-17

Duties of commission

Sec. 17. The commission has the duties listed in IC 36-7-4-401 to the extent those duties are consistent with this chapter.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-18

Lawsuits; process; costs

Sec. 18. A commission may sue and be sued, with service of process upon the president of the commission. No costs may be taxed against the commission or any commission members in an action.
As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-19
Duties of commission under IC 36-7-4-405

Sec. 19. The commission shall comply with IC 36-7-4-405 to the extent those duties are consistent with this chapter.
As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-20
Continuation of preexisting zoning ordinances

Sec. 20. Until the commission adopts a zoning ordinance in the manner provided for under the 600 series of the advisory planning law, the zoning ordinance, if any, that is then in effect for the portion of the joint district controlled by that zoning ordinance shall continue in effect.
As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-21
Conforming structure and location

Sec. 21. Within the joint district:

(1) a structure may not be located; and

(2) an improvement location permit for a structure on platted or unplatted land may not be issued;

unless the structure and location conform to the joint district zoning ordinance.
As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-22
Improvement location permits

Sec. 22. The joint district zoning ordinance may designate an official or employee of the commission to issue improvement location permits within the jurisdiction of the commission and in conformance with the joint district zoning ordinance.
As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-23
Board of zoning appeals

Sec. 23. (a) Notwithstanding IC 36-7-4-901, the commission shall establish a board of zoning appeals.

(b) The board of zoning appeals shall be composed of one (1) division of five (5) members who are selected according to section 24 of this chapter.

(c) The board of zoning appeals shall be known as the joint district board of zoning appeals.

(d) Except as provided in this section, a joint district board of zoning appeals has the exclusive territorial jurisdiction over all real property in the joint district.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-24
Membership of zoning appeals board

Sec. 24. Notwithstanding IC 36-7-4-902, the division of the joint district board of zoning appeals consists of five (5) members as follows:

(1) One (1) citizen member appointed by the commission who may or may not be a member of the commission.

(2) Two (2) citizen members appointed by the legislative body of the county having the most acreage of real property in the joint district.

(3) One (1) citizen member appointed by the most populous municipality that passed an ordinance creating the joint district.

(4) One (1) citizen member appointed by the second most populous municipality that passed an ordinance creating the district.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-25
Multiple office holding; residence requirement

Sec. 25. (a) A member of the joint district board of zoning appeals may hold no other elective or appointive office in municipal, county, or state government, except as permitted by IC 36-7-4-902.

(b) A member of the joint district board of zoning appeals must be a resident of a county where a part of the joint district is located or reside within ten (10) miles of the borders of the joint district.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.1-26
Variances

Sec. 26. Notwithstanding IC 36-7-4-918.4, the joint district board of zoning appeals may not grant a variance of use from the terms of the applicable zoning ordinance.

As added by P.L.300-1989, SEC.2.

IC 36-7-5.2

Chapter 5.2. Regulation of Amateur Radio Antennas

IC 36-7-5.2-1

Limited federal preemption

Sec. 1. A municipality or county may not enact or enforce an ordinance, a resolution, or an order that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2d 952 (1985)" or a regulation related to the amateur radio service adopted under 47 CFR Part 97.

As added by P.L.109-2003, SEC.1.

IC 36-7-5.2-2

Municipal or county ordinance

Sec. 2. If a municipality or county adopts an ordinance, a resolution, or an order involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance, resolution, or order must:

(1) reasonably accommodate amateur radio communications; and

(2) represent the minimal regulation practicable to accomplish the municipality's or county's legitimate purpose.

As added by P.L.109-2003, SEC.1.

IC 36-7-5.2-3

Historic district

Sec. 3. This chapter does not prohibit a municipality or county from taking action to protect or preserve a historic, a historical, or an architectural district that is established by the municipality or county or under state or federal law.

As added by P.L.109-2003, SEC.1.

IC 36-7-6
Repealed

(*Repealed by P.L.1-1995, SEC.91.)*

IC 36-7-6.1
Repealed

(*Repealed by P.L.1-1995, SEC.91.)*

IC 36-7-6.2
Repealed

(*Repealed by P.L.1-1995, SEC.91.)*

IC 36-7-7

Chapter 7. Regional Planning Commissions

IC 36-7-7-1

Application of chapter

Sec. 1. This chapter applies to any area consisting of two (2) or more counties (referred to as a "region" in this chapter).

As added by Acts 1981, P.L.309, SEC.26.

IC 36-7-7-2

Establishment

Sec. 2. (a) The legislative bodies of all the counties in a region may, by concurrent resolutions, request the establishment of a regional planning commission (referred to as a "commission" in this chapter). Official copies of the resolutions must be forwarded to the governor, who shall then appoint himself or a member of his staff to immediately notify the other members of the commission and to act as temporary chairman for the election of officers. The commission shall, by resolution, designate a name for itself that reflects the commission's role and function and that may include the words "Regional Planning Commission".

(b) This subsection applies to each commission established after July 1, 1978. A county participating in a commission is not subject to the tax imposed under section 12 of this chapter, unless all the concurrent resolutions establishing the commission accept the application of the tax.

As added by Acts 1981, P.L.309, SEC.26. Amended by P.L.144-1992, SEC.1.

IC 36-7-7-3

Counties transferring membership between commissions or joining existing commissions; procedure

Sec. 3. (a) A county may request a change in its participation from one commission to another, or request to join a commission if it is not participating, under subsection (b).

(b) The legislative body of the county must, by resolution, request the inclusion of the county in the commission. The county auditor shall transmit a copy of the resolution to the governor, the chairman of the commission, and, if applicable, the chairman of the commission that the county is requesting to leave.

(c) The commission to be joined may consider a request under subsection (b). It may, by a majority vote of all its members, adopt a resolution including the requesting county in the commission.

(d) Whenever a resolution is adopted under subsection (c), the chairman of the commission shall call a meeting to organize the enlarged commission. He shall call to this meeting all members of the commission plus:

(1) if the new county is changing its participation from one commission to another, the persons from that county who served on the commission that the county is leaving; or

(2) if the new county has not been participating, a representative of the executive of that county.

As added by Acts 1981, P.L.309, SEC.26.

IC 36-7-7-4

Members; appointment; compensation; certification; vacancies

Sec. 4. (a) The following members of the commission shall be appointed from each county in the region:

(1) A representative of the county executive who may be either a member of the executive or a person appointed by it.

(2) A representative of the county fiscal body who must be a member of the fiscal body.

(b) The following members of the commission shall be appointed from each county in the region having a population of more than fifty thousand (50,000):

(1) The county surveyor or a person appointed by the surveyor.

(2) Two (2) persons appointed by the executive of each municipality having a population of more than fifty thousand (50,000).

(3) One (1) person appointed by the executive of each of the seven (7) largest municipalities having a population of less than fifty thousand (50,000). If there are fewer than seven (7) municipalities, enough additional persons appointed by the county executive to bring the total appointed under this subdivision to seven (7).

(c) The following members of the commission shall be appointed from each county in the region having a population of less than fifty thousand (50,000):

(1) One (1) person appointed by the executive of each of the five (5) largest municipalities or of each municipality if there are fewer than five (5).

(2) If there are fewer than five (5) municipalities, enough additional persons appointed by the county executive to bring the total appointed under this subsection to five (5).

(d) One (1) voting member of the commission shall be appointed by the governor.

(e) At least two-thirds (2/3) of the commission members must be elected officials. All persons appointed to the commission must be:

(1) knowledgeable in matters of physical, social, or economic development of the region; and

(2) residents of the municipality, county, or region that they represent.

A member of the commission may also serve as a member of a plan commission in the region.

(f) Members of the commission shall serve without salary but may be reimbursed for expenses incurred in the performance of their duties.

(g) The respective appointing authorities shall certify their appointments, and the certification shall be retained as a part of the records of the commission.

(h) If a vacancy occurs by resignation or otherwise, the respective appointing authority shall appoint a member for the unexpired term. Members shall be certified annually, and their terms expire on December 31 of each year.

As added by Acts 1981, P.L.309, SEC.26. Amended by Acts 1981, P.L.310, SEC.63; P.L.144-1992, SEC.2; P.L.168-1994, SEC.1; P.L.165-2003, SEC.4.

IC 36-7-7-4.1
Repealed

(*Repealed by P.L.165-2003, SEC.7.)*

IC 36-7-7-5
Officers; meetings; notice; rules; record of proceedings; quorum

Sec. 5. (a) At its first regular meeting in each year the commission shall elect from its members a chairman, vice chairman, secretary, and a treasurer, not more than two (2) of whom may be from the same county. If the region is divided into subregions under section 10 of this chapter, there must be at least one (1) officer from each subregion. The vice chairman may act as chairman during the absence or disability of the chairman.

(b) The commission shall fix the time and place for holding regular meetings, but it shall meet at least quarterly and at such other times as may be established by the commission or the executive board. Special meetings of the commission may be called by the chairman or by five (5) members of the commission upon written request to the secretary. The secretary shall send to all the members at least forty-eight (48) hours in advance of a special meeting a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the time of the special meeting has been fixed in a regular meeting, or if all the members are present at the special meeting. Notice of any meeting may be waived by a member by a written waiver filed with the secretary.

(c) The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which is a public record.

(d) A majority of members constitutes a quorum. An action of the commission is official, however, only if it is authorized by a majority of the commission at a regular or properly called special meeting with at least one (1) member from each county in the region present.

As added by Acts 1981, P.L.309, SEC.26. Amended by Acts 1981, P.L.310, SEC.64.

IC 36-7-7-6
Executive board

Sec. 6. (a) The commission shall elect from among its members an executive board consisting of:

(1) the four (4) officers of the commission;

(2) one (1) member of the commission from each county in the region;

(3) one (1) additional member of the commission from each county in the region having a population of more than fifty thousand (50,000); and

(4) the nonvoting member of the commission appointed by the governor.

All members shall be elected by a vote of the full membership of the commission.

(b) If a vacancy occurs in the executive board a successor shall be elected from among the members in the same manner as the member whose position has been vacated.

(c) The executive board shall conduct the business of the commission, except for:

(1) the adoption and amendment of bylaws, rules, and procedures for the operation of the commission;

(2) the election of officers and members of the executive board as provided in this chapter; and

(3) the adoption of the annual appropriation budget after review by the executive board.

(d) The executive board shall meet regularly at least once each month, unless otherwise determined by its members. The executive board shall notify the full membership of the commission of all its meetings with copies of its preliminary or final agendas and shall report all its actions and determinations to the full membership of the commission.

(e) A majority of members constitutes a quorum. An action of the executive board is official, however, only if it is authorized by a majority of the board at a regular or properly called special meeting. Any action of the executive board shall be reviewed at the next regular meeting of the commission following the executive board's action, and upon the written request of a member of the commission, the action shall be brought to a vote of the full commission.

As added by Acts 1981, P.L.309, SEC.26.

IC 36-7-7-7

Powers and duties

Sec. 7. (a) The commission shall institute and maintain a comprehensive policy planning and programming and coordinative management process for the region. It shall coordinate its activities with all units in the region and shall coordinate the planning programs of all units and the state. Except when a commission exercises powers under subsection (j), the commission shall act in an advisory capacity only.

(b) The commission may provide technical assistance to any unit in the region that requests it. This technical assistance includes the provision of skills and knowledge for planning, developing, administering, improving, and securing:

(1) public and private grants-in-aid;

(2) cooperative arrangements between governments; and

(3) the performance of governmental powers and duties.

(c) The commission may divide its jurisdiction into subregions

under section 10 of this chapter for purposes appropriate to the study, analysis, or coordination of specific problems or concerns. The commission may conduct all necessary studies for the accomplishment of its duties. It may publicize and advertise its purposes, objectives, and findings and may distribute reports on them. It may provide recommendations when requested to the participating units and to other public and private agencies in matters relative to its functions and objectives and may act when requested as a coordinating agency for programs and activities of such agencies as they relate to its objectives. The commission may not implement, enter into an agreement for, or propose a program that includes interstate wastewater management or disposal.

(d) The commission may adopt by resolution any regional comprehensive or functional plan, program, or policy as its official recommendation for the development of the region, subject to the power of a county to exempt itself under section 9 of this chapter. The commission shall make an annual report of its activities to the legislative bodies of the counties and municipalities in the region.

(e) The commission may receive grants from federal, state, or local governmental entities or from individuals or foundations, and may enter into agreements or contracts regarding the acceptance or use of those grants and appropriations for the purpose of carrying out any of the activities of the commission. A county or municipality may, from time to time upon the request of the commission, assign or detail to the commission any employees to make special surveys or studies requested by the commission.

(f) For the sole purpose of providing adequate public services, the commission may acquire by grant, gift, purchase, lease, devise, or otherwise and hold, use, improve, maintain, operate, own, manage, or lease (as lessor or lessee) such real or personal property as the commission considers necessary for that purpose. The commission may apply for, receive, and expend grants, loans, or any other form of financial assistance available under any federal grant program.

(g) The commission may enter into coordinative arrangements with any adjacent county or municipality in Indiana or an adjoining state, or with an overlapping multicounty or interstate planning or development agency, state agency, or federal agency, as are appropriate to the achievement of its objectives or to address a common issue. However, the commission may not delegate any of its powers or duties.

(h) The commission may appoint advisory committees to assist in the achievement of its objectives. Members of advisory committees are not entitled to compensation for their services but may be reimbursed for expenses incurred in the performance of their duties.

(i) The commission shall act as the designated review agency and as the clearinghouse as described in federal Office of Management and Budget Circular A-95.

(j) The commission may provide administrative, management, or technical services to a unit that requests the services. The unit and the commission may enter into a contract concerning the

commission's provision of administrative, management, or technical services and the cost to the unit for the services.
As added by Acts 1981, P.L.309, SEC.26. Amended by P.L.145-1992, SEC.1.

IC 36-7-7-8
Agreements with other states

Sec. 8. Counties in the region may enter into agreements with other states, but these agreements do not affect other counties, subregions, or the region. One subregion may also contract with other subregions for services or programs.
As added by Acts 1981, P.L.309, SEC.26.

IC 36-7-7-9
Objections to program; petition

Sec. 9. Whenever the commission receives a petition signed by a majority of the commission members representing a county affected by a particular program, objecting to the establishment of the program within that county, the commission may not implement the program in that county.
As added by Acts 1981, P.L.309, SEC.26.

IC 36-7-7-10
Subregional committees

Sec. 10. (a) A commission may organize into not more than two (2) subregions and provide for the organization of two (2) subregional planning committees, and for meetings and rules of procedure of those committees. These rules of procedure shall be adopted as a part of the rules and bylaws of the commission.

(b) The actions of each subregional committee shall be referred to the other for review. The executive director and staff of the commission shall serve both subregional committees. Each subregional committee shall consider problems that do not directly affect the other subregion. Each subregional committee may hold meetings and elect a chairman and secretary from among its own members.
As added by Acts 1981, P.L.309, SEC.26.

IC 36-7-7-11
Executive director; powers and duties

Sec. 11. (a) The commission shall appoint an executive director who shall serve at the pleasure of the commission as reviewed and recommended by the executive board. The executive director must be qualified by training and experience in the management of public agencies and knowledgeable in planning.

(b) The executive director is the chief administrative officer and regular technical advisor of the commission. Subject to supervision by the commission, the executive director:

(1) shall execute the commission functions;

(2) shall appoint and remove the staff of the commission;

(3) shall submit to the commission annually, or more often if required, a status report on the operation of the agency;
(4) may, with the approval of the executive board, execute contracts, leases, or agreements on behalf of the commission with other persons;
(5) is entitled, upon his written request, to be given access by all governmental agencies to all studies, reports, surveys, records, and other information and material in their possession that are required by him for the accomplishment of the activities and objectives of the commission;
(6) shall propose annually a budget for the operation of the commission and administer the budget as approved by the commission;
(7) shall keep the records and care for and preserve all papers and documents of the commission; and
(8) shall perform other duties and may exercise other powers that the commission or the executive board delegates to him.

As added by Acts 1981, P.L.309, SEC.26.

IC 36-7-7-12
Annual appropriation budget; tax levy; use of funds

Sec. 12. (a) The commission shall prepare and adopt an annual appropriation budget for its operation, which shall be apportioned to each participating county on a pro rata per capita basis. After adoption, any amount that does not exceed an amount for each participating county equal to thirty cents ($0.30) per capita shall be certified to the respective county auditor who shall advertise the amount and establish the rate in the same manner as other county budgets. Any amount of the adopted budget that exceeds an amount equal to thirty cents ($0.30) per capita for each participating county is subject to review by the county fiscal body in the usual manner of budget review. The tax so levied and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax, as collected by the county treasurer, shall be transferred to the commission.

(b) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from the federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(c) After approval no sums may be expended except as budgeted unless the commission authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance, for payment as provided by law.

(d) Any two (2) of the following officers may allow claims:

(1) Chairman.
(2) Vice chairman.
(3) Secretary.
(4) Treasurer.

The treasurer of the commission may receive, disburse, and otherwise handle funds of the commission subject to applicable statutes and procedures established by the commission.

(e) The commission shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(f) Any appropriated money remaining unexpended or unencumbered at the end of the year becomes part of a nonreverting cumulative fund to be held in the name of the commission. Unbudgeted expenditures from this fund may be authorized by vote of the commission and upon other approval as required by statute. The commission is responsible for the safekeeping and deposit of such sums, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the commission. The books, records, and accounts of the commission shall be periodically audited by the state board of accounts, and these audits shall be paid for as provided by statute.

As added by Acts 1981, P.L.309, SEC.26. Amended by P.L.144-1992, SEC.4; P.L.165-2003, SEC.5.

IC 36-7-7-13

Economic development districts; definition; payments by counties; use of funds

Sec. 13. (a) An economic development district is a group of adjacent counties that:

(1) contains at least two (2) redevelopment counties;
(2) includes an economic development growth center; and
(3) has been officially designated as an economic development district by the federal government under Title 42, U.S.C. section 3171, on the recommendation of the state.

(b) Counties may make payments to officially designated economic development districts. The board of directors of the economic development district shall determine the amount of the payments, which may be based on the assessed valuation or the population of each county, and the method of making the payments, subject to appropriations by the fiscal bodies of the counties comprising the economic development district.

(c) The economic development district may receive and expend all sums appropriated or granted to it for purposes and activities authorized by law, and shall deposit these sums in its own name and follow all accounting, bonding, and auditing procedures required by law.

(d) The economic development district is responsible for the administration, safekeeping, and deposit of any monies appropriated or granted to it, and may delegate all or part of that responsibility to a designated financial officer.

(e) The economic development district may receive grants from federal, state, or local governments for the purpose of carrying out any of the planning and development activities of the district.

(f) Any sums appropriated to an economic development district that remain uncommitted at the end of the budget year revert on a pro rata basis to the general funds of the counties comprising the district.

As added by Acts 1981, P.L.309, SEC.26.

IC 36-7-7.5

Chapter 7.5. Multiple County Special Plan Commission for Reservoir Areas

IC 36-7-7.5-1

Application of chapter

Sec. 1. This chapter applies to a county having the following population:

(1) More than forty thousand (40,000) but less than forty-two thousand (42,000).

(2) More than nineteen thousand five hundred (19,500) but less than twenty thousand (20,000).

(3) More than ten thousand seven hundred (10,700) but less than twelve thousand (12,000).

As added by P.L.168-1990, SEC.1. Amended by P.L.12-1992, SEC.168; P.L.170-2002, SEC.156; P.L.119-2012, SEC.198.

IC 36-7-7.5-2

Establishment of commission; interlocal agreement

Sec. 2. Notwithstanding any other law, the executive of two (2) or more counties may, by interlocal agreement under IC 36-1-7, establish a multiple county special plan commission (referred to in this chapter as the "commission").

As added by P.L.168-1990, SEC.1.

IC 36-7-7.5-3

Jurisdiction; geographic area

Sec. 3. The geographic area over which a commission has jurisdiction may only consist of unincorporated territory that is in the watershed of a large scale water reservoir project.

As added by P.L.168-1990, SEC.1.

IC 36-7-7.5-4

Interlocal agreement; contents

Sec. 4. The interlocal agreement that establishes a commission must provide the following:

(1) The geographic boundaries of the territory over which the commission has jurisdiction.

(2) That the purpose of the commission is the exercise of local planning and zoning functions.

(3) The composition, selection, and terms of members for the commission.

(4) The methods to be used for adopting, enforcing, and administering commission ordinances.

(5) The methods of financing the commission.

(6) Any other matters that the executives desire to include that are pertinent to the purposes of the commission.

As added by P.L.168-1990, SEC.1.

IC 36-7-7.5-5

Powers

Sec. 5. A commission established under this chapter has the powers of an advisory plan commission under IC 36-7-4.

As added by P.L.168-1990, SEC.1.

IC 36-7-7.5-6

Prohibition of prior property use

Sec. 6. A commission may not prohibit a property use that is in existence before the establishment of the commission.

As added by P.L.168-1990, SEC.1.

IC 36-7-7.5-7

Jurisdiction; priority over planning and zoning authority

Sec. 7. Notwithstanding any other law, a planning and zoning authority other than a commission established under this chapter may not exercise jurisdiction in any territory that is under the jurisdiction of the commission.

As added by P.L.168-1990, SEC.1.

IC 36-7-7.6

Chapter 7.6. Northwestern Indiana Regional Planning Commission

IC 36-7-7.6-1

Applicability

Sec. 1. This chapter applies to the area consisting of the following counties:

(1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) A county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000).

(3) A county having a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000).

As added by P.L.165-2003, SEC.6. Amended by P.L.119-2012, SEC.199.

IC 36-7-7.6-2

"Commission"

Sec. 2. As used in this chapter, "commission" means the northwestern Indiana regional planning commission established by section 3 of this chapter.

As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-3

Establishment

Sec. 3. The northwestern Indiana regional planning commission is established for the area described in section 1 of this chapter.

As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-4

Commission membership

Sec. 4. (a) The following members shall be appointed to the commission:

(1) A member of the county executive of each county described in section 1 of this chapter, to be appointed by the county executive.

(2) A member of the county fiscal body of each county described in section 1 of this chapter, to be appointed by the county fiscal body.

(3) The county surveyor of each county described in section 1 of this chapter.

(4) For a county having a population of not more than four hundred thousand (400,000), one (1) person appointed by the executive of each of the eleven (11) largest municipalities.

(5) For a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand

(700,000), one (1) person appointed by the executive of each of the nineteen (19) largest municipalities.

(6) Beginning July 1, 2007, one (1) person appointed by the trustee of each township that:

(A) is located in a county described in section 1 of this chapter;

(B) has a population of at least eight thousand (8,000); and

(C) does not contain a municipality.

(b) One (1) voting member of the commission shall be appointed by the governor. The member appointed under this subsection may not vote in a weighted vote under section 9 of this chapter.

(c) A member of the commission who is a county surveyor may not vote in a weighted vote under section 9 of this chapter.

As added by P.L.165-2003, SEC.6. Amended by P.L.169-2006, SEC.57.

IC 36-7-7.6-5

Members; expense reimbursement; vacancies

Sec. 5. (a) All commission members must be elected officials.

(b) All persons appointed to the commission must be:

(1) knowledgeable in matters of physical, social, or economic development of the region; and

(2) residents of the municipality, county, or region that they represent.

(c) A member of the commission may also serve as a member of a plan commission in the region.

(d) Members of the commission shall serve without salary but may be reimbursed for expenses incurred in the performance of their duties.

(e) The respective appointing authorities shall certify their appointments, and the certification shall be retained as a part of the records of the commission.

(f) Each member serves at the pleasure of the appointing authority. The appointing authority shall give written notice to the commission of a change of an appointee and the effective date of that change.

(g) If a vacancy occurs by resignation or otherwise, the appointing authority shall promptly appoint a replacement member.

(h) If a member of the commission is absent for more than three (3) consecutive meetings of the full commission, the commission shall notify that member's appointing authority and request the appointing authority to do one (1) of the following:

(1) Replace the member.

(2) Take action to assure the member's conscientious attendance at meetings of the full commission.

As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-6

Offices

Sec. 6. (a) At its first regular meeting in each year, the

commission shall elect from its members a chairperson, vice chairperson, secretary, and treasurer.

(b) Not more than two (2) of the officers elected under subsection (a) may be from the same county.

(c) The vice chairperson may act as chairperson during the absence or disability of the chairperson.

As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-7

Meetings; notice

Sec. 7. (a) The commission shall fix the time and place for holding regular meetings, but it shall meet:

(1) at least quarterly; and

(2) at other times established by the commission or the executive board of the commission.

(b) The chairperson of the commission or five (5) members of the commission may call a special meeting of the commission upon written request to the secretary of the commission. The secretary shall send to all commission members at least forty-eight (48) hours in advance of a special meeting a written notice fixing the time and place of the special meeting. Written notice of a special meeting is not required if:

(1) the time of the special meeting has been fixed in a regular meeting; or

(2) all members are present at the special meeting.

(c) A commission member may waive notice of any meeting by filing a written waiver with the secretary of the commission.

As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-8

Rules; records

Sec. 8. The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations. The commission's record is a public record.

As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-9

Quorum; official action by affirmative vote of quorum or weighted affirmative vote

Sec. 9. (a) A majority of the commission members constitute a quorum.

(b) An action of the commission is official only if both the following apply:

(1) The action is authorized at a regular meeting or a properly called special meeting in which at least one (1) member from each county described in section 1 of this chapter is present.

(2) The action is authorized by:

(A) the affirmative votes of a majority of the members of the commission; or

(B) a weighted affirmative vote of more than fifty (50) if a motion is made under subsection (c).

(c) Upon a motion by any one (1) member of the commission that is properly seconded by another member at:

(1) a regular meeting; or

(2) a properly called special meeting;

the commission shall use the weighted voting process described in subsection (d).

(d) Each commission member has a weighted vote determined as follows:

(1) In the case of a member appointed by the executive of a municipality, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by one hundred (100).

(2) In the case of a member appointed by the executive of a county, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality and is not within a township described in section 4(a)(6) of this chapter as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

(3) In the case of a member appointed by a fiscal body, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality and is not within a township described in section 4(a)(6) of this chapter as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

(4) In the case of a member appointed by the trustee of a township under section 4(a)(6) of this chapter, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the township as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

As added by P.L.165-2003, SEC.6. Amended by P.L.169-2006, SEC.58; P.L.39-2007, SEC.2.

IC 36-7-7.6-10
Executive board

Sec. 10. (a) The commission shall elect from among its members, by the affirmative votes of a majority of the members serving on the commission, an executive board that consists of the following:

(1) The four (4) officers of the commission.

(2) Two (2) members of the commission from each county described in section 1 of this chapter.

(3) The member of the commission appointed by the governor.

(b) If a vacancy occurs in a position on the executive board referred to in subsection (a)(2), a successor shall be elected from among the members in the same manner as the member whose position has been vacated.

(c) The executive board shall conduct the business of the commission, except for:

(1) the adoption and amendment of bylaws, rules, and procedures for the operation of the commission;

(2) the election of officers and members of the executive board as provided in this chapter; and

(3) the adoption of the annual appropriation budget after review by the executive board.

(d) The executive board shall meet regularly at least one (1) time each month, unless otherwise determined by its members. The executive board shall notify the full membership of the commission of all its meetings with copies of its preliminary or final agendas and shall report all its actions and determinations to the full membership

of the commission.

(e) A majority of members of the executive board constitutes a quorum. An action of the executive board is official only if it is authorized by an affirmative vote of a majority of the total number of members serving on the board at a regular or properly called special meeting. Any action of the executive board shall be reviewed at the next regular meeting of the commission following the executive board's action. Upon either:

(1) a decision by the majority of the board; or

(2) written request of a member of the commission;

an issue shall be brought to a vote of the full commission.

(f) If the immediate past chairperson is not serving as a member of the executive board under subsection (a), that individual shall be a nonvoting member of the executive board.

As added by P.L.165-2003, SEC.6. Amended by P.L.39-2007, SEC.3.

IC 36-7-7.6-11

Executive director; powers and duties

Sec. 11. (a) After review and recommendation by the executive board, the commission shall appoint an executive director, who serves at the pleasure of the commission. The executive director must be qualified by training and experience in the management of public agencies and must be knowledgeable in planning.

(b) The executive director is the chief administrative officer and regular technical adviser of the commission. Subject to supervision by the commission and in furtherance of the purposes of the commission, the executive director:

(1) shall execute the commission functions;

(2) shall appoint and remove the staff of the commission;

(3) shall submit to the commission annually, or more often if required, a status report on the operation of the commission;

(4) may, with the approval of the executive board, execute contracts, leases, or agreements with other persons on behalf of the commission;

(5) shall be given access by all governmental agencies, upon the executive director's written request, to all studies, reports, surveys, records, and other information and material in their possession that are required by the executive director for the accomplishment of the activities and objectives of the commission;

(6) shall propose annually a budget for the operation of the commission and administer the budget as approved by the commission;

(7) shall keep the records and care for and preserve all papers and documents of the commission; and

(8) shall perform other duties and may exercise other powers that the commission or the executive board delegates to the executive director.

As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-12
Purpose of commission

Sec. 12. The purpose of the commission is to institute and maintain a comprehensive planning and programming process for:

(1) transportation;
(2) economic development; and
(3) environmental;

policy and provide a coordinative management process for the counties described in section 1 of this chapter. The commission shall coordinate its activities with all member units in the counties and shall coordinate and assist the planning programs of member units and the state that are related to its purpose.

As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-13
Commission powers

Sec. 13. The commission may do any of the following in support of a purpose listed under section 12 of this chapter:

(1) Transact business and enter into contracts.
(2) Receive grants or appropriations from federal, state, or local governmental entities or from individuals or foundations and enter into agreements or contracts regarding the acceptance or use of those grants and appropriations to carry out any of the activities of the commission.
(3) Apply for, receive, and disburse gifts, contributions, and grants of funds or in-kind services.
(4) Acquire by grant, purchase, gift, devise, lease, or otherwise and hold, use, sell, improve, maintain, operate, own, manage, lease, or dispose of:
    (A) real and personal property of every kind and nature; and
    (B) any right and interest;
as necessary for the exercise of, or convenient or useful for the carrying out of, the commission's purposes under this chapter.
(5) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's purposes.
(6) Employ and fix the reasonable compensation of any employees and agents the commission considers necessary.
(7) Contract for special and temporary services and for professional assistance.
(8) Hold, use, administer, and expend money that is appropriated or transferred to the commission.
(9) Make contracts and leases for facilities and services.
(10) Act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.
(11) Enter into agreements or partnerships to do the following:
    (A) Assist in coordinating activities involving state and local government, business organizations, and nonprofit organizations.

(B) Assist in the development and implementation of programs by other regional agencies and entities.

(12) Enter into coordinative arrangements with:

(A) any unit of government in Indiana or an adjoining state;

(B) an overlapping multicounty or interstate planning or development agency;

(C) a state agency;

(D) a federal agency;

(E) a private entity; or

(F) a minority business enterprise as defined by IC 4-13-16.5;

that are appropriate to the achievement of the commission's objectives or to address a common issue.

(13) Provide any administrative, management, or technical services to a unit of local government that requests the services. The local unit and the commission may enter into a contract concerning the commission's provision of administrative, management, or technical services and the cost to the local unit for the services.

(14) Conduct all necessary studies for the accomplishment of the commission's purpose.

(15) Publicize the commission's purposes, objectives, and findings, and distribute reports on those purposes, objectives, and findings.

(16) Provide recommendations to units of local government and to other public and private agencies.

(17) Make loans and issue notes as provided in section 19 of this chapter.

As added by P.L.165-2003, SEC.6. Amended by P.L.39-2007, SEC.4.

IC 36-7-7.6-14

Adoption of regional plan, program, or policy; county exemption

Sec. 14. The commission may adopt by resolution any regional comprehensive or functional plan, program, or policy as the commission's official recommendation for the development of the region, subject to the power of a county to exempt itself under section 15 of this chapter. The commission shall provide an annual report of its activities to the legislative bodies of the counties and municipalities in the region.

As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-15

Petition not to implement program

Sec. 15. If the commission receives a petition that:

(1) is signed by a majority of the commission members representing a county affected by a particular program; and

(2) objects to the establishment of the program within that county;

the commission may not implement the program in that county.

As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-16
Advisory committees

Sec. 16. (a) The commission must appoint advisory committees to assist in the achievement of its objectives. The membership of advisory committees shall not be limited to the members of the commission.

(b) At least one (1) advisory committee must be appointed with a membership that is representative of the private sector of the communities served by the commission and must include members representative of:

(1) postsecondary educational institutions;
(2) minority business enterprises;
(3) labor and workforce organizations; and
(4) manufacturing entities;

active in at least one (1) of the communities served by the commission.

(c) Members of advisory committees are not entitled to compensation for their services but may be reimbursed by the commission for expenses incurred in the performance of their duties.
As added by P.L.165-2003, SEC.6. Amended by P.L.2-2007, SEC.387.

IC 36-7-7.6-17
Surveys or studies by county or municipal employees

Sec. 17. A county or municipality may periodically, upon the request of the commission, assign or detail to the commission any employees of the county or municipality to make special surveys or studies requested by the commission.
As added by P.L.165-2003, SEC.6.

IC 36-7-7.6-18
Annual appropriation budget; tax levy; use of funds

Sec. 18. (a) The commission shall prepare and adopt an annual appropriation budget for its operation. The appropriation budget shall be apportioned to each participating county on a pro rata per capita basis. After adoption of the appropriation budget, any amount that does not exceed an amount for each participating county equal to seventy cents ($0.70) per capita for each participating county shall be certified to the respective county auditor.

(b) A county's portion of the commission's appropriation budget may be paid from any of the following, as determined by the county fiscal body:

(1) Property tax revenue as provided in subsections (c) and (d).
(2) Any other local revenue, other than property tax revenue, received by the county, including local option income tax revenue under IC 6-3.5, excise tax revenue, riverboat admissions tax revenue, riverboat wagering tax revenue, riverboat incentive payments, and any funds received from the state that may be used for this purpose.

(c) The county auditor shall:

(1) advertise the amount of property taxes that the county fiscal body determines will be levied to pay the county's portion of the commission's appropriation budget, after the county fiscal body determines the amount of other local revenue that will be paid under subsection (b)(2); and

(2) establish the rate necessary to collect that property tax revenue;

in the same manner as for other county budgets.

(d) The tax levied under this section and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax collected by the county treasurer shall be transferred to the commission.

(e) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(f) After the budget is approved, amounts may not be expended except as budgeted unless the commission authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance for payment as provided by law.

(g) Any two (2) of the following officers may allow claims:

(1) Chairperson.

(2) Vice chairperson.

(3) Secretary.

(4) Treasurer.

(h) The treasurer of the commission may receive, disburse, and otherwise handle funds of the commission, subject to applicable statutes and to procedures established by the commission.

(i) The commission shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(j) Any appropriated money remaining unexpended or unencumbered at the end of a year becomes part of a nonreverting cumulative fund to be held in the name of the commission. Unbudgeted expenditures from this fund may be authorized by vote of the commission and upon other approval as required by statute. The commission is responsible for the safekeeping and deposit of the amounts in the nonreverting cumulative fund, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the commission. The books, records, and accounts of the commission shall be audited periodically by the state board of accounts, and those audits shall be paid for as provided by statute.

As added by P.L.165-2003, SEC.6. Amended by P.L.39-2007, SEC.5.

IC 36-7-7.6-19
Making of loans and issuing of notes

Sec. 19. (a) The commission may adopt a resolution to make loans or issue notes to obtain money to pay current operating expenses of the commission in anticipation of the payment to the commission of the appropriation budget apportioned to participating counties under section 18 of this chapter.

(b) The terms and form of a loan or notes shall be set forth in the resolution. The resolution must specify:

(1) subject to subsection (c), the term of the loan or notes;
(2) the interest rate of the loan or notes;
(3) the medium of payment of the loan or notes;
(4) the place and manner of payment of the loan or notes;
(5) the manner of execution of the loan or notes;
(6) the terms of redemption of the loan or notes; and
(7) the funds or sources of funds from which the loan or notes are payable, which may be any funds available to the commission.

(c) A loan or notes under this section must mature in the calendar year in which the loan is made or the notes are issued. The commission may use proceeds of the loan or notes only to pay current operating expenses of the commission in anticipation of the payment to the commission of the appropriation budget apportioned to participating counties under section 18 of this chapter.

(d) The total amount of all outstanding loans and notes under this section in a particular calendar year may not exceed the total amount of the appropriation budget apportioned to participating counties and to be paid to the commission under section 18 of this chapter for the calendar year.

(e) The loan contract or the notes must plainly state that the loan or notes:

(1) are not an indebtedness of the state;
(2) constitute a corporate obligation solely of the commission; and
(3) are payable solely from:
    (A) payments to the commission of the appropriation budget apportioned to participating counties under section 18 of this chapter for the calendar year; and
    (B) any other revenues of the commission.

(f) This section contains full and complete authority for the making of loans and the issuance of notes by the commission under this section. No other procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the commission or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to make loans or issue notes under this section.

As added by P.L.39-2007, SEC.6.

IC 36-7-8

Chapter 8. County Building Department and Building Standards

IC 36-7-8-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by Acts 1981, P.L.309, SEC.27.

IC 36-7-8-2

Establishment of buildings department

Sec. 2. The legislative body of a county may, by ordinance, establish a county department of buildings, with an office of building commissioner and inspectors.

As added by Acts 1981, P.L.309, SEC.27.

IC 36-7-8-3

Establishment of building, heating, ventilating, electrical, plumbing, and sanitation standards; ordinances

Sec. 3. (a) The legislative body of a county having a county department of buildings or joint city-county building department may, by ordinance, adopt building, heating, ventilating, air conditioning, electrical, plumbing, and sanitation standards for unincorporated areas of the county. These standards take effect only on the legislative body's receipt of written approval from the fire prevention and building safety commission.

(b) An ordinance adopted under this section must be based on occupancy, and it applies to:

(1) the construction, alteration, equipment, use, occupancy, location, and maintenance of buildings, structures, and appurtenances that are on land or over water and are:

(A) erected after the ordinance takes effect; and

(B) if expressly provided by the ordinance, existing when the ordinance takes effect;

(2) conversions of buildings and structures, or parts of them, from one occupancy classification to another; and

(3) the movement or demolition of buildings, structures, and equipment for the operation of buildings and structures.

(c) The rules of the fire prevention and building safety commission are the minimum standards upon which ordinances adopted under this section must be based.

(d) An ordinance adopted under this section does not apply to private homes that are built by individuals and used for their own occupancy.

As added by Acts 1981, P.L.309, SEC.27. Amended by P.L.8-1984, SEC.125.

IC 36-7-8-4

Establishment of minimum housing standards; ordinances

Sec. 4. (a) The legislative body of a county having a county

department of buildings or a joint city-county building department may, by ordinance, adopt minimum housing standards for unincorporated areas of the county. These standards must be consistent with the rules of the fire prevention and building safety commission.

(b) An ordinance adopted under this section applies to:

(1) residential buildings;

(2) residential parts of mixed occupancy buildings; and

(3) conversions of buildings from nonresidential to residential or partly residential.

(c) A municipality may elect, by ordinance, to make itself subject to an ordinance adopted under this section.

(d) This section does not affect IC 16-41-26.

As added by Acts 1981, P.L.309, SEC.27. Amended by P.L.8-1984, SEC.126; P.L.1-1996, SEC.86.

IC 36-7-8-5
Repealed

(*Repealed by P.L.245-1987, SEC.22.)*

IC 36-7-8-6
Employment of inspectors, agents, and deputies; appropriations

Sec. 6. The county executive may employ the inspectors, agents, and deputies it considers necessary to enforce ordinances adopted under this chapter and under applicable statutes and state rules. The county fiscal body shall make appropriations from the county general fund to pay these employees and to pay all other expenses incurred under this chapter.

As added by Acts 1981, P.L.309, SEC.27.

IC 36-7-8-7
Municipalities and counties; designation of enforcement agencies

Sec. 7. One (1) or more municipalities and a county may designate, by ordinance or resolution of their legislative bodies, a single agency of a municipality or the county to administer and enforce:

(1) the ordinances adopted under section 3 of this chapter; and

(2) the standards imposed by section 5 of this chapter;

throughout the county on behalf of the municipalities and the county.

As added by Acts 1981, P.L.309, SEC.27.

IC 36-7-8-8
Enforcement by city located within county

Sec. 8. A county that has adopted an ordinance under section 4 of this chapter may contract with any city located in the county to have the city administer and enforce that ordinance. The contract must be for a stated and limited period, and may be renewed. All actions, notices, or other writings under such a contract must be performed as the county building commissioner would perform them, and may not be performed in the name of the city.

As added by Acts 1981, P.L.309, SEC.27.

IC 36-7-8-9
Appeals

Sec. 9. A person aggrieved by a decision of the county department of buildings or other regulating agency under this chapter may appeal as in other civil actions. The appellant must, by registered mail, give the county executive a fifteen (15) day written notice of his intention to appeal. The notice must concisely state the appellant's grievance.
As added by Acts 1981, P.L.309, SEC.27.

IC 36-7-8-10
Violations and penalties; fees

Sec. 10. An ordinance adopted under section 3 or 4 of this chapter may provide a reasonable penalty for violations. An ordinance adopted under section 3 of this chapter may also include a reasonable fee for permits, registration, renewal, examination, and reexamination.
As added by Acts 1981, P.L.309, SEC.27.

IC 36-7-8-11
Repealed

(*Repealed by P.L.74-1987, SEC.28.)*

IC 36-7-9

Chapter 9. Unsafe Building Law

IC 36-7-9-1

Application of chapter

Sec. 1. This chapter applies to each consolidated city and its county. This chapter also applies to any other municipality or county that adopts an ordinance under section 3 of this chapter.

As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1982, P.L.33, SEC.33.

IC 36-7-9-2

Definitions

Sec. 2. As used in this chapter:

"Community organization" means a citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:

(1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;

(2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;

(3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;

(4) has been incorporated for at least two (2) years; and

(5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

"Continuous enforcement order" means an order that:

(1) is issued for compliance or abatement and that remains in full force and effect on a property without further requirements to seek additional:

(A) compliance and abatement authority; or

(B) orders for the same or similar violations;

(2) authorizes specific ongoing compliance and enforcement activities if a property requires reinspection or additional periodic abatement;

(3) can be enforced, including assessment of fees and costs, without the need for additional notice or hearing; and

(4) authorizes the enforcement authority to assess and collect ongoing costs for continuous enforcement order activities from any party that is subject to the enforcement authority's order.

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of metropolitan development, subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by the director is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.

"Known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser" means any fee interest, life estate interest, or equitable interest of a contract purchaser held by a person whose identity and address may be determined from:

(1) an instrument recorded in the recorder's office of the county where the unsafe premises is located;

(2) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); or

(3) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.

"Known or recorded substantial property interest" means any right in real property, including a fee interest, a life estate interest, a future interest, a mortgage interest, a lien as evidenced by a certificate of sale issued under IC 6-1.1-24, or an equitable interest of a contract purchaser, that:

(1) may be affected in a substantial way by actions authorized by this chapter; and

(2) is held by a person whose identity and address may be determined from:

(A) an instrument recorded in:

(i) the recorder's office of the county where the unsafe premises is located; or

(ii) the office of the county auditor of the county where the unsafe premises are located in the case of a lien evidenced by a certificate of sale issued under IC 6-1.1-24;

(B) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); or

(C) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.

"Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.4; P.L.177-2003, SEC.3; P.L.169-2006, SEC.59; P.L.88-2009, SEC.7; P.L.73-2010, SEC.10.

IC 36-7-9-3
Ordinances adopting this chapter

Sec. 3. The legislative body of a municipality or county may adopt this chapter by ordinance. The ordinance must specify the executive department of the unit responsible for the administration of this chapter or establish such a department. However, in a municipality in which a commissioner of buildings was appointed to administer IC 18-5-5 (before its repeal on September 1, 1981), the commissioner of buildings is responsible for the administration of this chapter. The ordinance must also incorporate by reference the definition of "substantial property interest" in this chapter.
As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1982, P.L.33, SEC.34; P.L.3-1990, SEC.126.

IC 36-7-9-4
Unsafe buildings and unsafe premises described

Sec. 4. (a) For purposes of this chapter, a building or structure, or any part of a building or structure, that is:

(1) in an impaired structural condition that makes it unsafe to a person or property;
(2) a fire hazard;
(3) a hazard to the public health;
(4) a public nuisance;
(5) dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
(6) vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance;

is considered an unsafe building.

(b) For purposes of this chapter:

(1) an unsafe building; and
(2) the tract of real property on which the unsafe building is located;

are considered unsafe premises.

(c) For purposes of this chapter, a tract of real property that does not contain a building or structure, not including land used for production agriculture, is considered an unsafe premises if the tract of real property is:

(1) a fire hazard;
(2) a hazard to public health;
(3) a public nuisance; or
(4) dangerous to a person or property because of a violation of a statute or an ordinance.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.14-1991, SEC.9; P.L.66-2005, SEC.1.

IC 36-7-9-4.5
Legislative findings; vacant or deteriorated structures

Sec. 4.5. (a) In Indiana, especially in urban areas, there exist a large number of unoccupied structures that are not maintained and that constitute a hazard to public health, safety, and welfare.

(b) Vacant structures often become dilapidated because the structures are not maintained and repaired by the owners or persons in control of the structures.

(c) Vacant structures attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to be damaged by vandals or set ablaze by arsonists.

(d) Unkept grounds surrounding vacant structures invite dumping of garbage, trash, and other debris.

(e) Many vacant structures are situated on narrow city lots and in close proximity to neighboring structures, thereby increasing the risk of conflagration and spread of insect and rodent infestation.

(f) Vacant, deteriorated structures contribute to blight, cause a decrease in property values, and discourage neighbors from making improvements to properties.

(g) Structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood, and encouraging persons to move out of the neighborhood.

(h) Vacant structures often continue to deteriorate to the point that demolition of the structure is required, thereby decreasing available housing in a community and further contributing to the decline of the neighborhood.

(i) The blighting influence of vacant, deteriorated structures adversely affects the tax revenues of local government.

(j) The general assembly finds that vacant, deteriorated structures create a serious and substantial problem in urban areas and are public nuisances.

(k) In recognition of the problems created in a community by vacant structures, the general assembly finds that vigorous and disciplined action should be taken to ensure the proper maintenance and repair of vacant structures and encourages local governmental bodies to adopt maintenance and repair standards appropriate for the community in accordance with this chapter and other statutes.

As added by P.L.14-1991, SEC.10. Amended by P.L.1-1992, SEC.186.

IC 36-7-9-5

Orders; contents; notice; expiration

Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

(1) vacating of an unsafe building;

(2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;

(3) extermination of vermin in and about the unsafe premises;

(4) removal of trash, debris, fire hazardous material, or a public health hazard in and about the unsafe premises;

(5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or

maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;

(6) demolition and removal of part of an unsafe building;

(7) demolition and removal of an unsafe building if:

(A) the general condition of the building warrants removal; or

(B) the building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and an order; and

(8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:

(A) sealing against intrusion by unauthorized persons and the effects of weather;

(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

(1) the name of the person to whom the order is issued;

(2) the legal description or address of the unsafe premises that are the subject of the order;

(3) the action that the order requires;

(4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days, but not more than sixty (60) days, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under section 8 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.5; P.L.14-1991, SEC.11; P.L.177-2003, SEC.4; P.L.88-2006, SEC.8; P.L.88-2009, SEC.8; P.L.1-2010, SEC.149.

IC 36-7-9-6

Modification or rescission of orders

Sec. 6. (a) The enforcement authority may issue an order that modifies the order previously issued.

(b) The enforcement authority may rescind an order previously issued, even if the order has been affirmed by the hearing authority.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.6.

IC 36-7-9-7

Hearings; hearing authority findings and action; additional period for ordered actions; continuous enforcement order; performance bond; record of findings; collection of penalties

Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter. An order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a fee interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the

manner prescribed by section 25 of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

(1) affirm the order;

(2) rescind the order; or

(3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

(e) In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed five thousand dollars ($5,000). The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section 17 of this chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination related to the civil penalty. In the hearing authority's exercise of continuing jurisdiction, the hearing authority may, in addition to reducing or striking the civil penalty, impose one (1) or more additional civil penalties in an amount not to exceed five thousand dollars ($5,000) per civil penalty. An additional civil penalty may be imposed if the hearing authority finds that:

(1) significant work on the premises to comply with the affirmed order has not been accomplished; and

(2) the premises have a negative effect on property values or the quality of life of the surrounding area or the premises require the provision of services by local government in excess of the services required by ordinary properties.

(f) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action

required by the order is not completed within the additional period.

(g) If an order is affirmed or modified, the hearing authority shall issue a continuous enforcement order (as defined in section 2 of this chapter).

(h) The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (f).

(i) The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

(j) If a civil penalty under subsection (e) is unpaid for more than fifteen (15) days after payment of the civil penalty is due, the civil penalty may be collected from any person against whom the hearing officer assessed the civil penalty or fine. A civil penalty or fine may be collected under this subsection in the same manner as costs under section 13 or 13.5 of this chapter. The amount of the civil penalty or fine that is collected shall be deposited in the unsafe building fund.

As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1981, P.L.45, SEC.26; P.L.59-1986, SEC.7; P.L.14-1991, SEC.12; P.L.177-2003, SEC.5; P.L.169-2006, SEC.60; P.L.88-2009, SEC.9.

IC 36-7-9-8

Appeals

Sec. 8. (a) An action taken under section 7(d) or 7(e) of this chapter is subject to review by the circuit or superior court of the county in which the unsafe premises are located, on request of:

(1) any person who has a substantial property interest in the unsafe premises; or

(2) any person to whom that order was issued.

(b) A person requesting judicial review under this section must file a verified complaint including the findings of fact and the action taken by the hearing authority. The complaint must be filed within ten (10) days after the date when the action was taken.

(c) An appeal under this section is an action de novo. The court may affirm, modify, or reverse the action taken by the hearing authority.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.169-2006, SEC.61.

IC 36-7-9-9

Emergency action; recovery of costs; challenge of determination of emergency

Sec. 9. (a) If the enforcement authority finds it necessary to take emergency action concerning an unsafe premises in order to protect

life, safety, or property, it may take that action without issuing an order or giving notice. However, this emergency action must be limited to removing any immediate danger.

(b) The department, acting through the enforcement authority, may recover the costs incurred by the enforcement authority in taking emergency action, by filing a civil action in the circuit court or superior court of the county against the persons who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises at the time the enforcement authority found it necessary to take emergency action. The department is not liable for the costs of this civil action.

(c) If an unsafe premises poses an immediate danger to the life or safety of persons occupying or using nearby property, the enforcement authority may, without following this chapter's requirements for issuing an order and giving notice, take emergency action to require persons to vacate and not use the nearby property until the danger has passed. However, any person required to vacate an unsafe premises under this subsection may challenge in an emergency court proceeding the enforcement authority's determination that the premises poses an immediate danger to the life or safety of any person. In an emergency court proceeding, the enforcement authority has the burden of proving that emergency action is necessary to protect from immediate danger the life or safety of persons occupying or using nearby property.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.8.

IC 36-7-9-10

Action to enforce orders

Sec. 10. (a) The enforcement authority may cause the action required by an order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter to be performed by a contractor if:

(1) the order has been served, in the manner prescribed by section 25 of this chapter, on each person having a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises that are the subject of the order;

(2) the order has not been complied with;

(3) a hearing was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and

(4) the order is not being reviewed under section 8 of this chapter.

(b) The enforcement authority may cause the action required by an order, other than an order under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter, to be performed if:

(1) service of an order under section 5(a)(1) of this chapter, in the manner prescribed by section 25 of this chapter, has been made on each person having a known or recorded substantial property interest or present possessory interest in the unsafe

premises that are the subject of the order;

(2) service of an order under section 5(a)(6), 5(a)(7), or 5(a)(8) of this chapter, in the manner prescribed by section 25 of this chapter, has been made on each person having a known or recorded substantial property interest in the unsafe premises that are the subject of the order;

(3) the order has been affirmed or modified at the hearing in such a manner that all persons having a known or recorded substantial property interest, and persons holding a present possessory interest, as required, in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action;

(4) the order, as affirmed or modified at the hearing, has not been complied with; and

(5) the order is not being reviewed under section 8 of this chapter.

(c) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement by publication and indicate that the enforcement authority intends to perform the work, unless the authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.9; P.L.177-2003, SEC.6; P.L.169-2006, SEC.62.

IC 36-7-9-11

Liability for costs for performance of work required by orders

Sec. 11. (a) The work required by an order of the enforcement authority may be performed in the following manner:

(1) If the work is being performed under an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, and if the cost of this work is estimated to be less than ten thousand dollars ($10,000), the department, acting through the unit's enforcement authority or other agent, may perform the work by means of the unit's own workers and equipment owned or leased by the unit. Notice that this work is to be performed must be given to all persons with a known or recorded substantial property interest, in the manner prescribed in subsection (c), at least ten (10) days before the date of performance of the work by the enforcement authority. This notice must include a statement that an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter and performing the work may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(2) If the work is being performed under an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, and if the estimated cost of this work is ten thousand dollars ($10,000) or more, this work must be let at public bid to a

contractor licensed and qualified under law. The obligation to pay costs imposed by section 12 of this chapter is based on the condition of the unsafe premises at the time the public bid was accepted. Changes occurring in the condition of the unsafe premises after the public bid was accepted do not eliminate or diminish this obligation.

(3) If the work is being performed under an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, the work may be performed by a contractor who has been awarded a base bid contract to perform the work for the enforcement authority, or by the department, acting through the unit's enforcement authority or other governmental agency and using the unit's own workers and equipment owned or leased by the unit. Work performed under an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter may be performed without further notice to the persons holding a fee interest, life estate interest, or equitable interest of a contract purchaser, and these persons are liable for the costs incurred by the enforcement authority in processing the matter and performing the work, as provided by section 12 of this chapter.

(b) Bids may be solicited and accepted for work on more than one (1) property if the bid reflects an allocation of the bid amount among the various unsafe premises in proportion to the work to be accomplished. The part of the bid amount attributable to each of the unsafe premises constitutes the basis for calculating the part of the costs described by section 12(a)(1) of this chapter.

(c) All persons who have a known or recorded substantial property interest in the unsafe premises and are subject to an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter must be notified about the public bid in the manner prescribed by section 25 of this chapter, by means of a written statement including:

(1) the name of the person to whom the order was issued;

(2) a legal description or address of the unsafe premises that are the subject of the order;

(3) a statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;

(4) a description of work to be accomplished;

(5) a statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter of the unsafe premises may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;

(6) the time of the bid opening;

(7) the place of the bid opening; and

(8) the name, address, and telephone number of the enforcement authority.

(d) If the notice of the statement that public bids are to be let is served by publication, the publication must include the information required by subsection (c), except that it need only include a general description of the work to be accomplished. The publication must also state that a copy of the statement of public bid may be obtained from the enforcement authority.

(e) Notice of the statement that public bids are to be let must be given, at least ten (10) days before the date of the public bid, to all persons who have a known or recorded substantial property interest in the property and are subject to an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter.

(f) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that public bids are to be let by publication, unless the enforcement authority has received information in writing that enables the unit to make service under section 25 of this chapter by a method other than publication.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.11; P.L.255-1996, SEC.26; P.L.169-2006, SEC.63.

IC 36-7-9-12

Liability for costs for performance of work required by orders

Sec. 12. (a) When action required by an order is performed by the enforcement authority or by a contractor acting under section 11 of this chapter, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was issued to the time that the work was completed is jointly and severally responsible for the following costs:

(1) The actual cost of the work performed by the enforcement authority or the bid price of work accomplished by the contractor under section 11 of this chapter.

(2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this chapter so that the action required by an order may be performed by a contractor under section 11 of this chapter. In calculating the amount of the average processing expense, the following costs may be considered:

(A) The cost of obtaining reliable information about the identity and location of persons who own a substantial property interest in the unsafe premises.

(B) The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the enforcement authority intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record, in accordance with section 25 of this chapter.

(C) Salaries for employees.

(D) The cost of supplies, equipment, and office space.

(b) The board or commission having control over the department shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is required for other official action of the board or commission. In determining the average processing expense, the board or commission may fix the amount at a full dollar amount that is an even multiple of ten (10).

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.11; P.L.68-2010, SEC.4.

IC 36-7-9-13

Notice of unpaid costs; filing with clerk of court; hearing; judgment lien

Sec. 13. (a) If all or any part of the costs listed in section 12 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than fifteen (15) days after the completion of the work, the enforcement authority does not act under section 13.5 of this chapter, and the enforcement authority determines that there is a reasonable probability of obtaining recovery, the enforcement authority shall prepare a record stating:

(1) the name and last known address of each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time the order requiring the work to be performed was recorded to the time that the work was completed;

(2) the legal description or address of the unsafe premises that were the subject of work;

(3) the nature of the work that was accomplished;

(4) the amount of the unpaid bid price of the work that was accomplished; and

(5) the amount of the unpaid average processing expense.

The record must be in a form approved by the state board of accounts.

(b) The enforcement authority, or its head, shall swear to the accuracy of the record before the clerk of the circuit court and deposit the record in the clerk's office. Notice that the record has been filed and that a hearing on the amounts indicated in the record may be held must be sent in the manner prescribed by section 25 of this chapter to all of the following:

(1) The persons named in the record.

(2) Any mortgagee that has a known or recorded substantial property interest.

(c) If, within thirty (30) days after the notice required by subsection (b), a person named in the record or a mortgagee files with the clerk of the circuit court a written petition objecting to the claim for payment and requesting a hearing, the clerk shall enter the cause on the docket of the circuit or superior court as a civil action, and a hearing shall be held on the question in the manner prescribed

by IC 4-21.5. However, issues that could have been determined under section 8 of this chapter may not be entertained at the hearing. At the conclusion of the hearing, the court shall either sustain the petition or enter a judgment against the persons named in the record for the amounts recorded or for modified amounts.

(d) If no petition is filed under subsection (c), the clerk of the circuit court shall enter the cause on the docket of the court and the court shall enter a judgment for the amounts stated in the record.

(e) A judgment under subsection (c) or (d), to the extent that it is not satisfied under IC 27-2-15, is a debt and a lien on all the real and personal property of the person named, or a joint and several debt and lien on the real and personal property of the persons named in the record prepared under subsection (a). The lien on real property is perfected against all creditors and purchasers when the judgment is entered on the judgment docket of the court. The lien on personal property is perfected by filing a lis pendens notice in the appropriate filing office, as prescribed by the Indiana Rules of Trial Procedure.

(f) Judgments rendered under this section may be enforced in the same manner as all other judgments are enforced.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.12; P.L.7-1987, SEC.167; P.L.247-1989, SEC.3; P.L.31-1994, SEC.12; P.L.169-2006, SEC.64.

IC 36-7-9-13.5

Unpaid costs for unsafe premises repairs; notice; certification as special assessment; collection as delinquent taxes; disposition of collections

Sec. 13.5. (a) This section does not apply to the collection of an amount if a court determines under section 13 of this chapter that the enforcement authority is not entitled to the amount.

(b) If all or any part of the costs listed in section 12 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than fifteen (15) days after completion of the work, the enforcement authority may send notice under section 25 of this chapter to each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. If the notice is sent, the enforcement authority shall also send notice to any mortgagee with a known or recorded substantial property interest. The notice must require full payment of the amount owed within thirty (30) days.

(c) If full payment of the amount owed is not made less than thirty (30) days after the notice is delivered, the enforcement officer may certify the following information to the county auditor:

(1) The name of each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(2) The description of the unsafe premises, as shown by the records of the county auditor.

(3) The amount of the delinquent payment, including all costs described in section 12 of this chapter.

(d) The county auditor shall place the total amount certified under subsection (c) on the tax duplicate for the affected property as a special assessment. The total amount, including accrued interest, shall be collected as delinquent taxes are collected.

(e) An amount collected under subsection (d), after all other taxes have been collected and disbursed, shall be disbursed to the unsafe building fund.

(f) A judgment entered under section 13, 19, 21, or 22 of this chapter may be certified to the auditor and collected under this section. However, a judgment lien need not be obtained under section 13 of this chapter before a debt is certified under this section. *As added by P.L.31-1994, SEC.13. Amended by P.L.169-2006, SEC.65.*

IC 36-7-9-14
Unsafe building fund; deposits and expenditures

Sec. 14. (a) The enforcement authority shall establish in its operating budget a fund designated as the unsafe building fund. Any balance remaining at the end of a fiscal year shall be carried over in the fund for the following year and does not revert to the general fund.

(b) Money for the unsafe building fund may be received from any source, including appropriations by local, state, or federal governments, and donations. The following money shall be deposited in the fund:

(1) Money received as payment for or settlement of obligations or judgments established under sections 9 through 13 and 17 through 22 of this chapter.

(2) Money received from bonds posted under section 7 of this chapter.

(3) Money received in satisfaction of receivers' notes or certificates that were issued under section 20 of this chapter and were purchased with money from the unsafe building fund.

(4) Money received for payment or settlement of civil penalties or fines imposed under section 7 of this chapter.

(5) Money received from the collection of special assessments under section 13.5 of this chapter.

(c) Money in the unsafe building fund may be used for the expenses incurred in carrying out the purposes of this chapter, including:

(1) the cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in unsafe premises;

(2) the cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the department;

(3) the cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located;

(4) the cost of giving notice of orders, notice of statements of

rescission, notice of continued hearing, and notice of statements that public bids are to be let in the manner prescribed by section 25 of this chapter;

(5) the bid price of work by a contractor under section 10 or sections 17 through 22 of this chapter;

(6) the cost of emergency action under section 9 of this chapter; and

(7) the cost of notes or receivers' certificates issued under section 20 of this chapter.

(d) Payment of money from the unsafe building fund must be made in accordance with applicable law.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.14-1991, SEC.13; P.L.31-1994, SEC.14; P.L.169-2006, SEC.66.

IC 36-7-9-15

Transfer of money to unsafe building fund

Sec. 15. The board or commission having control over the department may transfer all or part of the money in a building, demolition, repair, and contingent fund that was established by IC 18-5-5-7 (before its repeal on September 1, 1981) to the unsafe building fund.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.3-1990, SEC.127.

IC 36-7-9-16

Inspection warrants

Sec. 16. (a) If the owners or those in possession of a building refuse inspection, an inspection officer of the enforcement authority may obtain an inspection warrant from any court of record in the county in which the building is located in order to determine if the building is an unsafe building. The court shall issue the warrant subject to the following conditions:

(1) The person seeking the warrant must establish that the building to be searched or inspected is to be searched or inspected as part of a legally authorized program of inspection that naturally includes the building, or that there is probable cause for believing that a condition, object, activity, or circumstance legally justifies a search or inspection of that building.

(2) An affidavit establishing one (1) of the grounds described in subdivision (1) must be signed under oath or affirmation by the affiant.

(3) The court must examine the affiant under oath or affirmation to verify the accuracy of the affidavit.

(b) The warrant is valid only if it:

(1) is signed by the judge of the court and bears the date and hour of its issuance above that signature, with a notation that the warrant is valid for only forty-eight (48) hours after its issuance;

(2) describes (either directly or by reference to the affidavit) the

building where the search or inspection is to occur so that the executor of the warrant and owner or the possessor of the building can reasonably determine what property the warrant authorizes an inspection of;

(3) indicates the conditions, objects, activities, or circumstances that the inspection is intended to check or reveal; and

(4) is attached to the affidavit required to be made in order to obtain the warrant.

(c) A warrant issued under this section is valid for only forty-eight (48) hours after its issuance, must be personally served upon the owner or possessor of the building, and must be returned within seventy-two (72) hours.

As added by Acts 1981, P.L.309, SEC.28.

IC 36-7-9-17

Civil actions regarding unsafe premises; treble damages under second or subsequent judgment

Sec. 17. (a) The department, acting through its enforcement authority, a person designated by the enforcement authority, or a community organization may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. The department is not liable for the costs of such an action. The court may grant one (1) or more of the kinds of relief authorized by sections 18 through 22 of this chapter.

(b) A civil action may not be initiated under this section before the final date of an order or an extension of an order under section 5(c) of this chapter requiring:

(1) the completion; or

(2) a substantial beginning toward accomplishing the completion;

of the required remedial action.

(c) A community organization may not initiate a civil action under this section if:

(1) the enforcement authority or a person designated by the enforcement authority has filed a civil action under this section regarding the unsafe premises; or

(2) the enforcement authority has issued a final order that the required remedial action has been satisfactorily completed.

(d) A community organization may not initiate a civil action under this section if the real property that is the subject of the civil action is located outside the specific geographic boundaries of the area defined in the bylaws or articles of incorporation of the community organization.

(e) At least sixty (60) days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:

(1) specifies:

(A) the nature of the alleged nuisance;

(B) the date the nuisance was first discovered;

(C) the location on the property where the nuisance is

allegedly occurring;
(D) the intent of the community organization to bring a civil action under this section; and
(E) the relief sought in the action; and
(2) is provided to:
(A) the owner of record of the premises;
(B) tenants located on the premises;
(C) the enforcement authority; and
(D) any person that possesses an interest of record.

(f) In any action filed by a community organization under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party.

(g) If a second or subsequent civil judgment is entered under this section:
(1) against an owner of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser of property; and
(2) during any two (2) year period;
a court may order the owner to pay treble damages based on the costs of the ordered action. The second or subsequent civil judgment may relate to the same property or a different property held by the owner.
As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.31-1994, SEC.15; P.L.177-2003, SEC.7; P.L.88-2009, SEC.10.

IC 36-7-9-18
Injunctions

Sec. 18. A court acting under section 17 of this chapter may grant a mandatory or prohibitory injunction against any person that will cause the order to be complied with, if it is shown that:
(1) an order, which need not set a hearing date, was issued to the person;
(2) the person has a property interest in the unsafe premises that are the subject of the order that would allow the person to take the action required by the order;
(3) the building that is the subject of the order is an unsafe building; and
(4) the order is not being reviewed under section 8 of this chapter.
As added by Acts 1981, P.L.309, SEC.28.

IC 36-7-9-18.1
Performance bond

Sec. 18.1. (a) A court acting under section 17 of this chapter may condition the granting of a period of time to accomplish the action required by an order on the posting of a performance bond that will be forfeited if the action required by the order is not completed within the period the court allows. Before granting a period of time that is conditioned on the posting of a bond, the court may require that the requesting person justify the request with a workable and financially supported plan. If the court determines that a significant

amount of work must be accomplished to comply with the order, the court may require that the bond specify interim completion standards and provide that the bond is forfeited if any of these interim completion standards are not substantially met.

(b) An amount collected under subsection (a) on a forfeited bond shall be deposited in the unsafe building fund.

As added by P.L.169-2006, SEC.67.

IC 36-7-9-19

Civil forfeitures

Sec. 19. (a) A court acting under section 17 of this chapter may impose a civil penalty not to exceed five thousand dollars ($5,000) against any person if the conditions of section 18 of this chapter are met. The penalty imposed may not be substantially less than the cost of complying with the order, unless that cost exceeds two thousand five hundred dollars ($2,500). The effective date of the penalty may be postponed for a period not to exceed thirty (30) days, after which the court may order the penalty reduced or stricken if it is satisfied that all work necessary to fully comply with the order has been done.

(b) On request of the enforcement authority the court shall enter a judgment in the amount of the penalty. If there is more than one (1) party defendant, the penalty is separately applicable to each defendant. The amount of a penalty that is collected shall be deposited in the unsafe building fund.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.169-2006, SEC.68.

IC 36-7-9-20

Appointment of receiver; conditions; rehabilitation of property by owner, mortgagee, or person with substantial interest

Sec. 20. (a) A court acting under section 17 of this chapter may appoint a receiver for the unsafe premises, subject to the following conditions:

(1) The purpose of the receivership must be to take possession of the unsafe premises for a period sufficient to accomplish and pay for repairs and improvements.

(2) The receiver may be a nonprofit corporation the primary purpose of which is the improvement of housing conditions in the county where the unsafe premises are located, or may be any other capable person residing in the county.

(3) Notwithstanding any prior assignments of the rents and other income of the unsafe premises, the receiver must collect and use that income to repair or remove the defects as required by the order, and may, upon approval by the court, make repairs and improvements in addition to those specified in the order or required by applicable statutes, ordinances, codes, or regulations.

(4) The receiver may make any contracts and do all things necessary to accomplish the repair and improvement of the unsafe premises.

(5) A receiver that expends money, performs labor, or furnishes materials or machinery, including the leasing of equipment or tools, for the repair of an unsafe premises may have a lien that is equal to the total expended. When a lien exists, the receiver may sell the property:

(A) to the highest bidder at auction under the same notice and sale provisions applicable to a foreclosure sale of mechanic's liens or mortgages; or

(B) for fair market value if all persons having a substantial property interest in the unsafe premises agree to the amount and procedure.

The transferee in either a public or private sale must first demonstrate the necessary ability and experience to rehabilitate the premises within a reasonable time to the satisfaction of the receiver.

(6) The court may, after a hearing, authorize the receiver to obtain money needed to accomplish the repairs and improvement by the issuance and sale of notes or receiver's certificates to the receiver or any other person or party bearing interest fixed by the court. The notes or certificates are a first lien on the unsafe premises and the rents and income of the unsafe building. This lien is superior to all other assignments of rents, liens, mortgages, or other encumbrances on the property, except taxes, if, within sixty (60) days following the sale or transfer for value of the notes by the receiver, the holder of the notes files a notice containing the following information in the county recorder's office:

(A) The legal description of the tract of real property on which the unsafe building is located.

(B) The face amount and interest rate of the note or certificate.

(C) The date when the note or certificate was sold or transferred by the receiver.

(D) The date of maturity.

(7) Upon payment to the holder of a receiver's note or certificate of the face amount and interest, and upon filing in the recorder's office of a sworn statement of payment, the lien of that note or certificate is released. Upon a default in payment on a receiver's note or certificate, the lien may be enforced by proceedings to foreclose in the manner prescribed for mechanic's liens or mortgages. However, the foreclosure proceedings must be commenced within two (2) years after the date of default.

(8) The receiver is entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages. The fees, commissions, and expenses shall be paid out of the rents and incomes of the property in receivership.

(b) The issuance of an order concerning unsafe premises is not a prerequisite to the appointment of a receiver nor does such an order prevent the appointment of a receiver.

(c) If the enforcement authority or the enforcement authority's

designee requests the appointment of a receiver, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(d) A court, when granting powers and duties to a receiver, shall consider:

(1) the occupancy of the unsafe premises;

(2) the overall condition of the property;

(3) the hazard to public health, safety, and welfare;

(4) the number of persons having a substantial property interest in the unsafe premises; and

(5) other factors the court considers relevant.

(e) Instead of appointing a receiver to sell or rehabilitate an unsafe premises, the court may permit an owner, a mortgagee, or a person with substantial interest in the unsafe premises to rehabilitate the premises if the owner, mortgagee, or person with substantial interest:

(1) demonstrates ability to complete the rehabilitation within a reasonable time, but not to exceed sixty (60) days;

(2) agrees to comply within a specified schedule for rehabilitation; and

(3) posts a bond as security for performance of the required work in compliance with the specified schedule in subdivision (2).

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.31-1994, SEC.16; P.L.177-2003, SEC.8.

IC 36-7-9-21

Court order authorizing performance of work; judgment for costs

Sec. 21. (a) A court acting under section 17 of this chapter may authorize the department, acting through its enforcement authority, to cause the action required by the order to be performed by a contractor licensed and qualified under law, if it is shown that:

(1) an order was issued to each person having a substantial property interest in the unsafe premises;

(2) each of the orders has been affirmed or modified at a hearing in such a manner that all persons having substantial property interest in the unsafe premises that are the subject of the orders are currently subject to an order requiring substantially identical action;

(3) the order, as affirmed or modified at the hearing, has not been complied with;

(4) the building that is the subject of the order is an unsafe building; and

(5) the order is not being reviewed under section 8 of this chapter.

(b) If the enforcement authority requests permission to cause the action required by the order to be performed by a contractor, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(c) The cost of the work and the processing expenses incurred by the enforcement authority computed under section 12 of this chapter,

may, after a hearing, be entered by the court as a judgment against persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.
As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.13.

IC 36-7-9-22
Emergencies; court order authorizing action to make premises safe; judgment for costs

Sec. 22. (a) A court acting under section 17 of this chapter may set a hearing to be held within ten (10) days after the filing of a complaint alleging the existence of unsafe premises presenting an immediate danger to the health and safety of the surrounding community sufficient to warrant emergency action. Upon a finding at the hearing in favor of the department, the court may:

(1) permit the enforcement authority to cause the action necessary to make the premises safe to be immediately performed by a contractor licensed and qualified under law;

(2) permit the enforcement authority to cause the action necessary to make the premises safe to be immediately performed by a contractor licensed and qualified under law after the defendants have had a reasonable time, as established by the court, to make the unsafe premises safe and have failed to complete the necessary action; or

(3) grant a mandatory injunction relative to the unsafe premises that would require a defendant who has an interest in the premises that allows the defendant to take corrective action to immediately make the premises safe.

In granting relief under subdivision (2) or (3) the court shall set a date certain for the completion of the necessary action and shall hold a hearing within ten (10) days after that date to determine whether the necessary action has been completed.

(b) The issuance of an order concerning the unsafe premises is not a prerequisite to permission by the court to cause action to be performed on the unsafe premises. If an order has been issued concerning the unsafe premises, it does not prevent the permission by the court to cause action to be performed on the unsafe premises.

(c) If the enforcement authority requests authority to cause action on the unsafe premises to be performed by a contractor, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(d) The cost of accomplishing the work may, after a hearing, be entered by the court as a judgment against persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.
As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.14.

IC 36-7-9-23
Change of venue and judge

Sec. 23. A change of venue may not be allowed in an action filed under section 8, 13, or 17 of this chapter, but a change of judge shall be allowed in the same manner as is provided for other civil matters.
As added by Acts 1981, P.L.309, SEC.28.

IC 36-7-9-24
Priority of actions

Sec. 24. An action filed under section 8 or 17 of this chapter takes precedence over other pending litigation, and shall be tried and determined by the court at as early a date as possible.
As added by Acts 1981, P.L.309, SEC.28.

IC 36-7-9-25
Manner of serving notice

Sec. 25. (a) Notice of orders, notice of continued hearings without a specified date, notice of a statement that public bids are to be let, and notice of claims for payment must be given by:

(1) sending a copy of the order or statement by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested;
(2) delivering a copy of the order or statement personally to the person to be notified;
(3) leaving a copy of the order or statement at the dwelling or usual place of abode of the person to be notified and sending by first class mail a copy of the order or statement to the last known address of the person to be notified; or
(4) sending a copy of the order or statement by first class mail to the last known address of the person to be notified.

If a notice described in subdivision (1) is returned undelivered, a copy of the order or statement must be given in accordance with subdivision (2), (3), or (4).

(b) If service is not obtained by a means described in subsection (a) and the hearing authority concludes that a reasonable effort has been made to obtain service, service may be made by publishing a notice of the order or statement in accordance with IC 5-3-1 in the county where the unsafe premises are located. However, publication may be made on consecutive days. If service of an order is made by publication, the publication must include the information required by subdivisions (1), (2), (4), (5), (6), (7), and (9) of section 5(b) of this chapter, and must also include a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the enforcement authority. The hearing authority may make a determination about whether a reasonable effort has been made to obtain service by the means described in subsection (a) on the basis of information provided by the department (or, in the case of a consolidated city, the enforcement authority). The hearing authority is not required to make the determination at a hearing. The hearing authority must make the determination in writing.

(c) When service is made by any of the means described in this section, except by mailing or by publication, the person making service must make an affidavit stating that the person has made the service, the manner in which service was made, to whom the order or statement was issued, the nature of the order or statement, and the date of service. The affidavit must be placed on file with the enforcement authority.

(d) The date when notice of the order or statement is considered given is as follows:

(1) If the order or statement is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at the person's dwelling or usual place of abode.

(2) If the order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the enforcement authority.

(3) Notice by publication is considered given on the date of the second day that publication was made.

(e) A person with a property interest in an unsafe premises who does not:

(1) record an instrument reflecting the interest in the recorder's office of the county where the unsafe premises is located; or

(2) if an instrument reflecting the interest is not recorded, provide to the department (or, in the case of a consolidated city, the enforcement authority) in writing the person's name and address and the location of the unsafe premises;

is considered to consent to reasonable action taken under this chapter for which notice would be required and relinquish a claim to notice under this chapter.

(f) The department (or, in the case of a consolidated city, the enforcement authority) may, for the sake of administrative convenience, publish notice under subsection (b) at the same time notice is attempted under subsection (a). If published notice is given as described in subsection (b), the hearing authority shall subsequently make a determination about whether a reasonable effort has been made to obtain service by the means described in subsection (a).

As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1981, P.L.45, SEC.27; P.L.59-1986, SEC.15; P.L.169-2006, SEC.69; P.L.194-2007, SEC.12.

IC 36-7-9-26

Recording of orders, statements of rescission, statements of public bids, and records of actions taken by hearing authority

Sec. 26. (a) The enforcement authority shall record in the office of the county recorder orders issued under section 5(a)(6), 5(a)(7), or 6(a) of this chapter. If the enforcement authority records an order issued under section 5(a)(6), 5(a)(7), or 6(a) of this chapter, statements of rescission issued under section 6(b) of this chapter,

statements that public bids are to be let under section 11 of this chapter, and records of action in which the order is affirmed, modified, or rescinded taken by the hearing authority under section 7 of this chapter shall be recorded. The recorder shall charge the fee required under IC 36-2-7-10 for recording these items.

(b) A person who takes an interest in unsafe premises that are the subject of a recorded order takes that interest, whether or not a hearing has been held, subject to the terms of the order and other documents recorded under subsection (a) and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing, in other documents recorded under subsection(a), and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.

(c) A person who takes an interest in unsafe premises that are the subject of a recorded statement that public bids are to be let takes the interest subject to the terms of the statement and in such a manner that the notice of the statement required by section 11 of this chapter is considered given to the person.

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.290-1985, SEC.9; P.L.59-1986, SEC.16; P.L.177-2003, SEC.9.

IC 36-7-9-27

Transfers of property by persons not complying with orders

Sec. 27. (a) A person who has been issued and has received notice of an order relative to unsafe premises and has not complied with that order:

(1) must supply full information regarding the order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest; and

(2) must, within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, supply the enforcement authority with written copies of:

(A) the full name, address, and telephone number of the person taking a substantial property interest in the unsafe premises; and

(B) the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

(b) If a judgment is obtained against the department, enforcement authority, or other governmental entity for the failure of that entity to provide notice to persons holding an interest in unsafe premises in an action taken by the entity under this chapter, a person who failed to comply with this section is liable to the entity for the amount of the judgment if it can be shown that the entity's failure to give notice was a result of that person's failure.

As added by Acts 1981, P.L.309, SEC.28.

IC 36-7-9-28
Violations; penalties

Sec. 28. A person who:

(1) remains in, uses, or enters a building in violation of an order made under this chapter;

(2) knowingly interferes with or delays the carrying out of an order made under this chapter;

(3) knowingly obstructs, damages, or interferes with persons engaged or property used in performing any work or duty under this chapter; or

(4) fails to comply with section 27 of this chapter;

commits a Class C infraction. Each day that the violation continues constitutes a separate offense.

As added by Acts 1981, P.L.309, SEC.28.

IC 36-7-9-29
Order of action related to unsafe premise; written information required

Sec. 29. (a) This section applies to a person if:

(1) an order is issued to the person under this chapter requiring action related to an unsafe premises:

(A) owned by the person and leased to another person; or

(B) being purchased by the person under a contract and leased to another person;

(2) a hearing on the order was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and

(3) either:

(A) the order is not being reviewed under section 8 of this chapter; or

(B) after review by the circuit or superior court, the court entered a judgment against the person.

(b) A person described in subsection (a) must provide to the department (or, in the case of a consolidated city, the enforcement authority) in writing the person's name, street address (excluding a post office box address), and phone number.

As added by P.L.194-2007, SEC.13.

IC 36-7-10

Chapter 10. Miscellaneous Property Restrictions

IC 36-7-10-1

Application of chapter

Sec. 1. This chapter applies to the units indicated in each section.

As added by Acts 1981, P.L.309, SEC.29. Amended by Acts 1981, P.L.310, SEC.68.

IC 36-7-10-2

Restricted fire limits

Sec. 2. (a) This section applies to the following units:

(1) Municipalities.

(2) Counties.

(b) A unit may adopt ordinances that define as restricted fire limits those areas in which congestion of buildings would be conducive to the spread of fire and that prevent the spread of fires within those limits by:

(1) specifying the types of buildings that may not be constructed;

(2) requiring a license for construction of buildings;

(3) limiting the height to which buildings may be constructed;

(4) regulating the type of foundations, walls, roofs, doors, windows, and floors used in buildings that are constructed;

(5) requiring the inspection of buildings and structures that have been, are being, or are to be constructed;

(6) authorizing the revocation of the license for the construction of a building; and

(7) authorizing the condemnation of a completed or partially completed building, either by:

(A) ordinance providing the method of condemnation; or

(B) appropriate action in the name of the municipality, brought when the works board, safety board, or other proper authority finds that the building is dangerous, insecure, or constructed in violation of an ordinance.

(c) A municipality may enforce ordinances adopted under this section within its corporate boundaries and in the contiguous unincorporated area, to the same extent as and in the same area that is under the jurisdiction of the municipal plan commission. However, the municipal ordinance may not be enforced in an unincorporated area if that area is subject to a county ordinance adopted under this section.

As added by Acts 1981, P.L.309, SEC.29. Amended by Acts 1981, P.L.310, SEC.69.

IC 36-7-10-3

Repealed

(*Repealed by P.L.89-1991, SEC.4.)*

IC 36-7-10.1

Chapter 10.1. Removal of Weeds and Rank Vegetation

IC 36-7-10.1-1

Application of chapter

Sec. 1. This chapter applies to each municipality or county.

As added by P.L.89-1991, SEC.3.

IC 36-7-10.1-2

Exclusions from application

Sec. 2. This chapter does not apply to the following:

(1) An ordinance adopted before May 15, 1991.

(2) An action taken by a municipal corporation under IC 36-1-6-2.

As added by P.L.89-1991, SEC.3.

IC 36-7-10.1-3

Ordinance; notice requirement

Sec. 3. (a) The legislative body of a municipality or county may by ordinance require the owners of real property located within the municipality or the unincorporated area of the county to cut and remove weeds and other rank vegetation growing on the property. As used in this chapter, "weeds and other rank vegetation" does not include agricultural crops, such as hay and pasture.

(b) An ordinance adopted under subsection (a) must specify the following:

(1) The department of the municipality or county responsible for the administration of the ordinance.

(2) The definitions of weeds and rank vegetation.

(3) The height at which weeds or rank vegetation becomes a violation of the ordinance, specifying the appropriate heights for various types of weeds and rank vegetation.

(4) The procedure for issuing notice to the owner of real property of a violation of the ordinance, including any procedures for issuing a continuous abatement notice under subsection (d).

(5) The procedure under which the municipality or county, or its contractors, may enter real property to abate a violation of the ordinance if the owner fails to abate the violation.

(6) The procedure for issuing a bill to the owner of real property for the costs incurred by the municipality or county in abating the violation, including administrative costs and removal costs. The cost of sending notice under subsection (c) is an administrative cost that may be billed to the owner under this subdivision.

(7) The procedure for appealing a notice of violation or a bill issued under the ordinance.

(c) An ordinance adopted under subsection (a) must provide that a notice sent to the property owner must be sent by certified mail, return receipt requested, or an equivalent service permitted under

IC 1-1-7-1 to:

(1) the owner of record of real property with a single owner; or

(2) at least one (1) of the owners of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice.

(d) If an initial notice of the violation of an ordinance adopted under this section was provided by certified mail or equivalent service under subsection (c), a continuous abatement notice may be posted at the property at the time of abatement instead of by certified mail or equivalent service as required under subsection (c). A continuous abatement notice serves as notice to the real property owner that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the municipality or county, or its contractors.

As added by P.L.89-1991, SEC.3. Amended by P.L.113-2010, SEC.130; P.L.137-2012, SEC.119.

IC 36-7-10.1-4

Failure of real property owner to pay bill; collection of bill as delinquent taxes; disbursement of collections

Sec. 4. If the owner of real property fails to pay a bill issued under section 3 of this chapter within the time specified in the ordinance, the department specified in the ordinance shall certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipality or county.

As added by P.L.89-1991, SEC.3.

IC 36-7-10.1-5

Disbursement of bill collections to general fund of department enforcing ordinance

Sec. 5. Notwithstanding section 4 of this chapter, the municipality or county may provide that the amounts collected shall be disbursed to the general fund of the department specified to enforce the ordinance.

As added by P.L.89-1991, SEC.3.

IC 36-7-11
Chapter 11. Historic Preservation Generally

IC 36-7-11-1
Application of chapter

Sec. 1. This chapter applies to all units except:
(1) counties having a consolidated city;
(2) municipalities in counties having a consolidated city; and
(3) townships.

As added by Acts 1981, P.L.309, SEC.30.

IC 36-7-11-1.5
"Commission" defined

Sec. 1.5. As used in this chapter, "commission" refers to a historic preservation commission established through the adoption of an ordinance under section 4 of this chapter.

As added by P.L.227-1997, SEC.1.

IC 36-7-11-2
Continuation of existing historical preservation commissions; new commissions; commissions for the preservation of historic street area

Sec. 2. (a) If before July 1, 1977, a unit established by ordinance a commission for the purpose of historic preservation, that commission may continue to operate, regardless of whether that ordinance is subsequently amended or is consistent with this chapter. If the unit wants to operate a historic preservation commission under this chapter, it must adopt an ordinance under section 4 of this chapter, and this chapter then provides the exclusive method for operation of a historic preservation agency in the unit.

(b) If a unit did not establish a commission for the purpose of historic preservation before July 1, 1977, this chapter provides the exclusive method for operation of a historic preservation agency in the unit.

(c) Subsections (a) and (b) do not limit the power of a municipality to establish a commission for the preservation of a historic street area under IC 36-7-11.3.

As added by Acts 1981, P.L.309, SEC.30. Amended by Acts 1982, P.L.77, SEC.3; P.L.1-1995, SEC.80; P.L.227-1997, SEC.2.

IC 36-7-11-3
Legislative intent; conflicts between zoning districts and historic districts

Sec. 3. The historic district regulation provided in this chapter is intended to preserve and protect the historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, squares, and neighborhoods of the historic districts. Zoning districts lying within the boundaries of the historic district are subject to the regulations for both the zoning district and the historic district. If there is conflict between the requirements of the zoning district and the requirements

of the historic district, the more restrictive requirements apply.
As added by Acts 1981, P.L.309, SEC.30.

IC 36-7-11-4
Commission; establishment

Sec. 4. (a) A unit may establish, by ordinance, a historic preservation commission with an official name designated in the ordinance. The commission must have not less than three (3) nor more than nine (9) voting members, as designated by the ordinance. The voting members shall be appointed by the executive of the unit, subject to the approval of the legislative body. Voting members shall each serve for a term of three (3) years. However, the terms of the original voting members may be for one (1) year, two (2) years, or three (3) years in order for the terms to be staggered, as provided by the ordinance. A vacancy shall be filled for the duration of the term. In the case of a commission with jurisdiction in a city having a population of more than one hundred thousand (100,000) but less than one hundred ten thousand (110,000), the commission must after June 30, 2001, include as a voting member the superintendent of the largest school corporation in the city.

(b) The ordinance may provide qualifications for members of the commission, but members must be residents of the unit who are interested in the preservation and development of historic areas. The members of the commission should include professionals in the disciplines of architectural history, planning, and other disciplines related to historic preservation, to the extent that those professionals are available in the community. The ordinance may also provide for the appointment of advisory members that the legislative body considers appropriate.

(c) The ordinance may:

(1) designate an officer or employee of the unit to act as administrator;

(2) permit the commission to appoint an administrator who shall serve without compensation except reasonable expenses incurred in the performance of the administrator's duties; or

(3) provide that the commission act without the services of an administrator.

(d) Members of the commission shall serve without compensation except for reasonable expenses incurred in the performance of their duties.

(e) The commission shall elect from its membership a chairman and vice chairman, who shall serve for one (1) year and may be reelected.

(f) The commission shall adopt rules consistent with this chapter for the transaction of its business. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. All meetings of the commission must be open to the public, and a public record of the commission's resolutions, proceedings, and actions must be kept. If the commission has an administrator, the administrator shall act as the commission's

secretary, otherwise, the commission shall elect a secretary from its membership.

(g) The commission shall hold regular meetings, at least monthly, except when it has no business pending.

(h) A final decision of the commission is subject to judicial review under IC 36-7-4 as if it were a final decision of a board of zoning appeals.

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.7-1987, SEC.168; P.L.227-1997, SEC.3; P.L.158-2001, SEC.2; P.L.170-2002, SEC.157; P.L.126-2011, SEC.64; P.L.119-2012, SEC.200.

IC 36-7-11-4.3

Commission; authority to grant or deny certificate of appropriateness

Sec. 4.3. (a) An ordinance that establishes a historic preservation commission under section 4 of this chapter may authorize the staff of the commission, on behalf of the commission, to grant or deny an application for a certificate of appropriateness.

(b) An ordinance adopted under this section must specify the types of applications that the staff of the commission is authorized to grant or deny. The staff may not be authorized to grant or deny an application for a certificate of appropriateness for the following:

(1) The demolition of a building.

(2) The moving of a building.

(3) The construction of an addition to a building.

(4) The construction of a new building.

As added by P.L.227-1997, SEC.4.

IC 36-7-11-4.6

Commission; acquisition and disposition of property

Sec. 4.6. An ordinance that establishes a historic preservation commission under section 4 of this chapter may:

(1) authorize the commission to:

(A) acquire by purchase, gift, grant, bequest, devise, or lease any real or personal property, including easements, that is appropriate for carrying out the purposes of the commission;

(B) hold title to real and personal property; and

(C) sell, lease, rent, or otherwise dispose of real and personal property at a public or private sale on the terms and conditions that the commission considers best; and

(2) establish procedures that the commission must follow in acquiring and disposing of property.

As added by P.L.227-1997, SEC.5.

IC 36-7-11-5

Concern for visual quality in historic district

Sec. 5. The commission shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in the historic district. However, the commission

may not consider details of design, interior arrangements, or building features if those details, arrangements, or features are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in the historic district obviously incongruous with the historic district. A commission established by a county may not take any action that affects property located in a municipality.
As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.227-1997, SEC.6.

IC 36-7-11-6
Maps of historic districts; classification of historic buildings and structures

Sec. 6. (a) The commission shall conduct a survey to identify historic buildings, structures, and sites located within the unit. Based on its survey, the commission shall submit to the legislative body a map describing the boundaries of a historic district or historic districts. A district may be limited to the boundaries of a property containing a single building, structure, or site. The map may divide a district into primary and secondary areas.

(b) The commission shall also classify and designate on the map all buildings, structures, and sites within each historic district described on the map. Buildings, structures, and sites shall be classified as historic or nonhistoric in the manner set forth in subsections (c) and (e).

(c) Buildings, structures, and sites classified as historic under this section must possess identified historic or architectural merit of a degree warranting their preservation. They may be further classified as:

(1) outstanding;
(2) notable; or
(3) contributing.

(d) In lieu of the further classifications set forth in subsection (c), the commission may devise its own system of further classification for historic buildings, structures, and sites.

(e) Nonhistoric buildings and structures are those not classified on the map as historic under subsection (b).
As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.227-1997, SEC.7.

IC 36-7-11-7
Approval of maps of historic districts

Sec. 7. The map setting forth the historic district boundaries and building classifications must be submitted to, and approved in an ordinance by, the legislative body of the unit before the historic district is established and the building classifications take effect.
As added by Acts 1981, P.L.309, SEC.30.

IC 36-7-11-8
Additional surveys and maps

Sec. 8. The commission may conduct additional surveys, and draw and submit additional maps for approval of the legislative body, as it considers appropriate.

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.227-1997, SEC.8.

IC 36-7-11-8.5

Interim protection

Sec. 8.5. (a) When submitting a map to the legislative body under section 7 or 8 of this chapter, the commission may declare one (1) or more buildings or structures that are classified and designated as historic on the map to be under interim protection.

(b) Not more than two (2) working days after declaring a building or structure to be under interim protection under this section, the commission shall, by personal delivery or first class mail, provide the owner or occupant of the building or structure with a written notice of the declaration. The written notice must:

(1) cite the authority of the commission to put the building or structure under interim protection under this section;

(2) explain the effect of putting the building or structure under interim protection; and

(3) indicate that the interim protection is temporary.

(c) A building or structure put under interim protection under subsection (a) remains under interim protection until:

(1) in a county other than a county described in subdivision (2), the map is:

(A) submitted to; and

(B) approved in an ordinance or rejected by;

the legislative body of the unit; or

(2) in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), the earlier of:

(A) thirty (30) days after the building or structure is declared to be under interim protection; or

(B) the date the map is:

(i) submitted to; and

(ii) approved in an ordinance or rejected by;

the legislative body of the unit.

(d) While a building or structure is under interim protection under this section:

(1) the building or structure may not be demolished or moved; and

(2) the exterior appearance of the building or structure may not be conspicuously changed by:

(A) addition;

(B) reconstruction; or

(C) alteration.

As added by P.L.227-1997, SEC.9. Amended by P.L.158-2001, SEC.3; P.L.119-2012, SEC.201.

IC 36-7-11-9
Assistance from unit officials; legal counsel

Sec. 9. (a) Each official of the unit who has responsibility for building inspection, building permits, planning, or zoning shall provide any technical, administrative, or clerical assistance requested by the commission.

(b) The attorney for the unit is the attorney for the commission. However, the commission may employ other legal counsel authorized to practice law in Indiana if it considers it to be necessary or desirable.

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.146-1992, SEC.1; P.L.227-1997, SEC.10.

IC 36-7-11-10
Construction projects within historic districts; certificates of appropriateness required; exception

Sec. 10. Except as provided in sections 19 and 20 of this chapter, a certificate of appropriateness must be issued by or on behalf of the commission before a permit is issued for or work is begun on any of the following:

(1) Within all areas of the historic district:
(A) the demolition of any building;
(B) the moving of any building;
(C) a conspicuous change in the exterior appearance of historic buildings by additions, reconstruction, alteration, or maintenance involving exterior color change; or
(D) any new construction of a principal building or accessory building or structure subject to view from a public way.

(2) Within a primary area of the historic district:
(A) a change in walls and fences or the construction of walls and fences along public ways; or
(B) a conspicuous change in the exterior appearance of nonhistoric buildings subject to view from a public way by additions, reconstruction, alteration, or maintenance involving exterior color change.

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.146-1992, SEC.2; P.L.227-1997, SEC.11.

IC 36-7-11-11
Applications for certificates of appropriateness

Sec. 11. Application for a certificate of appropriateness may be made in the office of the commission on forms provided by that office. Detailed drawings, plans, or specifications are not required. However, to the extent reasonably required for the commission to make a decision, each application must be accompanied by sketches, drawings, photographs, descriptions, or other information showing the proposed exterior alterations, additions, changes, or new construction.

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.227-1997,

SEC.12.

IC 36-7-11-12
Approval or denial of application for certificates of appropriateness

Sec. 12. (a) The commission may advise and make recommendations to the applicant before acting on an application for a certificate of appropriateness.

(b) If an application for a certificate of appropriateness:

(1) is approved by the commission; or

(2) is not acted on by the commission;

within thirty (30) days after it is filed, a certificate of appropriateness shall be issued. If the certificate is issued, the application shall be processed in the same manner as applications for building or demolition permits required by the unit, if any, are processed. If no building or demolition permits are required by the unit, the applicant may proceed with the work authorized by the certificate.

(c) If the commission denies an application for a certificate of appropriateness within thirty (30) days after it is filed, the certificate may not be issued. The commission must state its reasons for the denial in writing, and must advise the applicant. An application that has been denied may not be processed as an application for a building or demolition permit and does not authorize any work by the applicant.

(d) The commission may grant an extension of the thirty (30) day limit prescribed by subsections (b) and (c) if the applicant agrees to it.

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.227-1997, SEC.13.

IC 36-7-11-13
Reconstruction, alteration, maintenance, and removal of historic buildings and structures; preservation of historic character

Sec. 13. (a) A historic building or structure or any part of or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance.

(b) A historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with subsection (a).

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.227-1997, SEC.14.

IC 36-7-11-14
Demolition of buildings following failure to secure certificates of appropriateness; notice

Sec. 14. (a) The purpose of this section is to preserve historic buildings that are important to the education, culture, traditions, and

economic values of the unit, and to afford the unit, historical organizations, and other interested persons the opportunity to acquire or to arrange for the preservation of these buildings.

(b) If a property owner shows that a historic building is incapable of earning an economic return on its value, as appraised by a qualified real estate appraiser, and the commission fails to approve the issuance of a certificate of appropriateness, the building may be demolished. However, before a demolition permit is issued or demolition proceeds, notice of proposed demolition must be given for a period fixed by the commission, based on the commission's classification on the approved map but not less than sixty (60) days nor more than one (1) year. Notice must be posted on the premises of the building proposed for demolition in a location clearly visible from the street. In addition, notice must be published in a newspaper of general local circulation at least three (3) times before demolition, with the first publication not more than fifteen (15) days after the application for a permit to demolish is filed, and the final publication at least fifteen (15) days before the date of the permit.

(c) The commission may approve a certificate of appropriateness at any time during the notice period under subsection (b). If the certificate is approved, a demolition permit shall be issued without further delay, and demolition may proceed.

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.227-1997, SEC.15.

IC 36-7-11-15

Conformance to statutory requirements for buildings

Sec. 15. Historic buildings shall be maintained to meet the applicable requirements established under statute for buildings generally so as to prevent the loss of historic material and the deterioration of important character defining details and features.

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.227-1997, SEC.16.

IC 36-7-11-16

New buildings and nonhistoric buildings within historic districts; compatibility required; exception

Sec. 16. Except as provided in section 20 of this chapter, the construction of a new building or structure, and the moving, reconstruction, alteration, major maintenance, or repair involving a color change conspicuously affecting the external appearance of any nonhistoric building, structure, or appurtenance within the primary area must be generally of a design, form, proportion, mass, configuration, building material, texture, color, and location on a lot compatible with other buildings in the historic district, particularly with buildings designated as historic, and with squares and places to which it is visually related.

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.146-1992, SEC.3.

IC 36-7-11-17
Compatibility factors; exception

Sec. 17. Except as provided in section 20 of this chapter, within the primary area of the historic district, new buildings and structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings, squares, and places to which they are visually related generally in terms of the following visual compatibility factors:

(1) Height. The height of proposed buildings must be visually compatible with adjacent buildings.

(2) Proportion of building's front facade. The relationship of the width of a building to the height of the front elevation must be visually compatible to buildings, squares, and places to which it is visually related.

(3) Proportion of openings within the facility. The relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.

(4) Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building must be visually compatible with buildings, squares, and places to which it is visually related.

(5) Rhythm of spacing of buildings on streets. The relationship of a building to the open space between it and adjoining buildings must be visually compatible to the buildings, squares, and places to which it is visually related.

(6) Rhythm of entrances and porch projections. The relationship of entrances and porch projections to sidewalks of a building must be visually compatible to the buildings, squares, and places to which it is visually related.

(7) Relationship of materials, texture, and color. The relationship of the materials, texture, and color of the facade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.

(8) Roof shapes. The roof shape of a building must be visually compatible with the buildings to which it is visually related.

(9) Walls of continuity. Appurtenances of a building, such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street if necessary to ensure visual compatibility of the building to the buildings, squares, and places to which it is visually related.

(10) Scale of a building. The size of a building and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares, and places to which it is visually related.

(11) Directional expression of front elevation. A building must be visually compatible with the buildings, squares, and places

to which it is visually related in its directional character, including vertical character, horizontal character, or nondirectional character.

As added by Acts 1981, P.L.309, SEC.30. Amended by P.L.146-1992, SEC.4.

IC 36-7-11-18

Ordinances; penalties for violations

Sec. 18. Ordinances adopted under this chapter may provide for penalties for violations, subject to IC 36-1-3-8.

As added by Acts 1981, P.L.310, SEC.71.

IC 36-7-11-19

Phases; certificate of appropriateness; objections

Sec. 19. (a) In an ordinance approving the establishment of a historic district, a unit may provide that the establishment occur in two (2) phases. Under the first phase, which lasts three (3) years from the date the ordinance is adopted, a certificate of appropriateness is required only for the activities described in section 10(1)(A), 10(1)(B), and 10(1)(D) of this chapter. At the end of the first phase, the district becomes fully established, and, subject to subsection (b), a certificate of appropriateness must be issued by the commission before a permit may be issued for or work may begin on an activity described in section 10 of this chapter.

(b) The first phase described in subsection (a) continues and the second phase does not become effective if a majority of the property owners in the district object to the commission, in writing, to the requirement that certificates of appropriateness be issued for the activities described in section 10(1)(C), 10(2)(A), and 10(2)(B) of this chapter. The objections must be received by the commission not earlier than one hundred eighty (180) days or later than sixty (60) days before the third anniversary of the adoption of the ordinance.

As added by P.L.146-1992, SEC.5. Amended by P.L.227-1997, SEC.17.

IC 36-7-11-20

Changes in paint colors; exclusion from activities requiring certificate of appropriateness

Sec. 20. In an ordinance approving the establishment of a historic district, a unit may exclude changes in paint colors from the activities requiring the issuance of a certificate of appropriateness under section 10 of this chapter before a permit may be issued or work begun.

As added by P.L.146-1992, SEC.6.

IC 36-7-11-21

"Interested party" defined; private rights of action; allegations; bond; liability; attorney's fees and costs; revenue; other remedies

Sec. 21. (a) As used in this section, "interested party" means one (1) of the following:

(1) The executive of the unit.
(2) The legislative body of the unit.
(3) The agency having land use planning jurisdiction over a historic district designated by the ordinance adopted under this chapter.
(4) A neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of a historic district designated by an ordinance adopted under this chapter.
(5) An owner or occupant owning or occupying property located in a historic district established by an ordinance adopted under this chapter.
(6) Historic Landmarks Foundation of Indiana, Inc., or any of its successors.
(7) The state historic preservation officer designated under IC 14-21-1-19.

(b) Every interested party has a private right of action to enforce and prevent violation of a provision of this chapter or an ordinance adopted by a unit under this chapter, and with respect to any building, structure, or site within a historic district, has the right to restrain, enjoin, or enforce by restraining order or injunction, temporarily or permanently, any person from violating a provision of this chapter or an ordinance adopted by a unit under this chapter.

(c) The interested party does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this section.

(d) The interested party bringing an action under this section does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.

(e) The interested party that brings an action under this section is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this chapter, or an ordinance adopted by a unit under this chapter, had been, or was about to be violated or breached.

(f) An interested party who obtains a favorable judgment in an action under this section may recover reasonable attorney's fees and court costs from the person against whom judgment was rendered.

(g) An action arising under this section must be brought in the circuit or superior court of the county in which the historic district lies and no change of venue from the county shall be allowed in the action.

(h) The remedy provided in this section is in addition to other remedies that may be available at law or in equity.

As added by P.L.146-1992, SEC.7. Amended by P.L.1-1995, SEC.81.

IC 36-7-11-22

Removal of classifications in certain counties

Sec. 22. (a) This section applies only to a county having a population of more than two hundred fifty thousand (250,000) but

less than two hundred seventy thousand (270,000).

(b) Notwithstanding any other provision, in the case of a building or structure owned by a political subdivision that is classified by a commission as historic and for which the classification is approved by the legislative body of the unit that established the commission, the commission may remove the historic classification of the building or structure without the adoption of an ordinance by the legislative body of the unit if the commission determines that removal of the classification is in the best interest of the unit and the political subdivision.

As added by P.L.158-2001, SEC.4. Amended by P.L.119-2012, SEC.202.

IC 36-7-11.1

Chapter 11.1. Historic Preservation in Marion County

IC 36-7-11.1-1

Application of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by Acts 1982, P.L.77, SEC.6.

IC 36-7-11.1-2

Definitions

Sec. 2. As used in this chapter:

"Commission" refers to the historic preservation commission appointed under section 3 of this chapter.

"Historic area" means an area, within the county, declared by resolution of the historic preservation commission to be of historic or architectural significance and designated as a "historic area" by the historic preservation plan. This area may be of any territorial size or configuration, as delineated by the plan, without a maximum or minimum size limitation, and may consist of a single historic property, landmark, structure, or site, or any combination of them, including any adjacent properties necessarily a part of the historic area because of their effect on and relationship to the historic values and character of it.

"Historic preservation plan" means a plan designating one (1) or more historic areas, prepared and setting forth a plan for historic preservation by the historic preservation commission under this chapter, and adopted by the metropolitan development commission as a part of the county's comprehensive plan.

As added by Acts 1982, P.L.77, SEC.6.

IC 36-7-11.1-3

Historic preservation commission; appointments; terms; vacancies; salary; officers; procedural rules; quorum; absentee members voting

Sec. 3. (a) The executive and the legislative body of the consolidated city shall appoint a commission of nine (9) members to be known as the "_____ Historic Preservation Commission" (including the name of the city).

(b) The following apply to the appointment of members:

(1) The executive shall appoint five (5) members of the commission. The executive:

(A) may select two (2) members from lists of names submitted by the Historic Landmarks Foundation of Indiana and the historical society of the consolidated city's county;

(B) may select one (1) member who is a member of the metropolitan development commission; and

(C) may select one (1) member from a list of names submitted by the local chapter of the American Institute of Architects.

(2) The legislative body shall appoint four (4) members of the commission. The legislative body:

(A) shall select one (1) member who is a resident of a historic area of the consolidated city;

(B) may select one (1) member from lists of names submitted by the Historic Landmarks Foundation of Indiana and the historical society of the consolidated city's county; and

(C) may select one (1) member from a list of names submitted by the local chapter of the American Institute of Architects.

(c) Each appointment to the commission is for a term of four (4) years, commencing on January 1 following the appointment, and until a successor is appointed and is qualified. A member is eligible for reappointment.

(d) If a vacancy occurs in the commission during any term, a successor shall be appointed by the appointing authority to serve for the remainder of the vacated term. Any member of the commission may be removed for cause by the appointing authority. All members must be residents of the county.

(e) The members receive no salary, but are entitled to reimbursement for any expenses necessarily incurred in the performance of their duties.

(f) At its first scheduled meeting each year, the commission shall hold a meeting for the purpose of organization. The commission shall elect from its membership a president, vice president, secretary, and treasurer who shall perform the duties pertaining to those offices. The officers serve from the date of their election until their successors are elected and qualified. The commission may adopt bylaws and rules for the proper conduct of its proceedings, the carrying out of its duties, and the safeguarding of its funds and property. A majority of the members of the commission constitute a quorum, and the concurrence of a majority of the commission is necessary to authorize any action.

(g) A member of the commission is not disqualified from hearing and voting upon any matter coming before the commission because that member owns or occupies property within or adjacent to a historic area, unless that property is the subject property or located within two hundred (200) feet of it.

(h) A member of the commission who is absent from three (3) consecutive regular meetings of the commission shall be treated as if the member had resigned, unless the appointing authority reaffirms the member's appointment. However, the counting of such a member toward a quorum requirement or the voting by such a member does not invalidate any official action taken by the commission before the time that the minutes of the commission reflect that the member has resigned.

As added by Acts 1982, P.L.77, SEC.6. Amended by P.L.88-2009, SEC.11.

IC 36-7-11.1-3.1

Terms of certain members of commission; appointment of successor; expiration of section

Sec. 3.1. (a) A member appointed to the commission under section 3 of this chapter before July 1, 2009, shall continue to serve as a member of the commission after June 30, 2009, until:

(1) the end of the term for which the member was appointed; or

(2) the executive removes the member for cause.

If the executive removes the member for cause, the executive shall appoint a successor to serve for the remainder of the vacated term.

(b) This section expires July 1, 2014.

As added by P.L.88-2009, SEC.12.

IC 36-7-11.1-4

Administrator; staff; work program; information; offices and facilities; annual budget

Sec. 4. (a) After consulting with the executive of the consolidated city and the director of the department of metropolitan development, the commission may appoint or remove an administrator. The administrator shall, in accordance with the personnel policies and practices of the city, hire and discharge additional staff, following the standards and qualifications established by the commission. No consideration may be given to political affiliation in the selection and tenure of the staff. The commission shall determine the compensation of the administrator and other staff consistent with ordinances of the legislative body adopted under IC 36-3-6-3.

(b) Before December 1 each year, the commission shall adopt a work program defining the activities that are proposed to be carried out by staff during the next calendar year. At least forty-five (45) days before the commission desires to adopt a work program, it shall submit a copy of the proposed work program to the executive of the consolidated city and to the director of the department of metropolitan development. The executive and director shall, within thirty (30) days after submission, review and provide comments to the commission regarding the proposed work program. After comments have been received from the executive and the director and considered by the commission or after thirty (30) days have elapsed from the date of submission (whichever occurs first), the commission shall adopt a work program. Activities carried out during the calendar year must conform to or not substantially depart from the work program. The work program may be modified during the applicable calendar year in the same manner as the adoption of the original work program, except that the executive and the director have only ten (10) days in which to review and comment on the proposed work program modification, and the commission may then immediately adopt a work program modification.

(c) The administrator shall provide information that will allow the director of the department of metropolitan development to coordinate the activities of the department of metropolitan development with the activities of the commission and its staff. In order to achieve

consistency in administrative practices and policies between the consolidated city and the staff of the commission, the administrator shall seek the advice and guidance of the director regarding such matters as budgeting and fiscal control, personnel administration, and purchasing.

(d) The commission shall establish and maintain offices and facilities as may be necessary for the performance of its duties, the activities of its staff, and the preservation of its records, documents, and accounts. The location of the offices must be approved by the executive of the consolidated city.

(e) The commission shall prepare and submit annually to the fiscal officer of the consolidated city its estimate of the expenditures required for its operations and fiscal responsibilities for the ensuing fiscal year. The budget of the commission and its staff constitutes a part of the consolidated city budget and shall be determined in accordance with IC 36-3-6, and the county comprises the taxing district for the commission.

As added by Acts 1982, P.L.77, SEC.6.

IC 36-7-11.1-5
Powers and duties of commission

Sec. 5. (a) The commission may do the following:

(1) Acquire by purchase, gift, grant, bequest, devise, or lease any real or personal property needed for carrying out any of the purposes of this commission. Title to or interest in any real property acquired or held by the commission must be in the name of the consolidated city for the use and benefit of the commission.

(2) Hold, use, sell, lease, rent, or otherwise dispose of any property acquired for use in the carrying out of any of the purposes of the commission at public or private sale and on terms and conditions as the commission considers best, notwithstanding any other law.

(3) Preserve and restore areas and structures of historic or architectural significance.

(4) Conduct research and prepare a countywide comprehensive survey and inventory, and review and evaluate areas, structures, and sites of historic importance in the county for use by planning agencies and governmental officials.

(5) Identify by declaratory resolution areas, structures, and sites in the county having historic or architectural significance, and prepare historic preservation plans for them. The commission may prepare proposed historic district zoning classifications, including proposals for controlling the use and development of any historic area or areas, including standards and restrictions regarding permitted uses, and development, performance, and maintenance standards for public and private structures and sites, and prepare criteria and architectural standards of historical significance.

(6) Submit proposed historic preservation plans to the

metropolitan development commission for consideration for adoption as a segment of the comprehensive plan of the county.
(7) After adoption of a historic preservation plan, assist in the plan's administration and implementation, including the issuance of permits and licenses, together with other governmental agencies, and hear and determine applications for certificates of appropriateness as provided in this chapter.
(8) Manage and operate historic structures and areas for any purpose consistent with the applicable historic preservation plan, authorize necessary agents and employees to convey or lease any properties for any purpose or use to further the plan, and do all necessary acts and things incidental to operations, management, and leasing, including charging reasonable admission fees to any of these properties.
(9) Assist other governmental agencies regarding historic preservation, including the development of a state preservation plan as the plan relates to the county, and work with other governmental agencies in the development and carrying out of plans to preserve, restore, and rehabilitate any historic area, including the elimination of blight and deterioration, the demolition and removal of unsafe, unhealthful structures, and the repair and appropriate alteration of structures.
(10) Acquire any properties, structures, or sites for any purpose of the commission by conveyance from the redevelopment commission or from any other person or governmental agency, upon such terms and conditions, and with or without compensation, as may be agreed upon.
(11) Establish and maintain a register of historic properties in the county.
(12) Make any recommendation and reports the commission considers appropriate to the executive of the consolidated city, metropolitan development commission, or other governmental agency concerning historic preservation in the county.
(13) Prepare, publish, present, or distribute, with or without charge, any information, reports, graphic or audiovisual presentations, documents, or other materials relative to historic preservation.
(14) Conduct, attend, or participate in any conferences, presentations, seminars, or programs regarding historic preservation.
(15) Encourage and promote historic preservation, particularly preservation by private means, provide technical assistance to local preservation or historical associations, individuals, or groups, in accordance with the historic preservation plan, and recognize excellence in historic preservation efforts by awarding citations.
(16) Establish citizens advisory councils or special committees regarding historic preservation.
(17) Prescribe the duties and qualifications of its administrator and other staff in accordance with section 4 of this chapter.

(18) Contract with architects, engineers, attorneys, urban planners, or any other consultants in connection with any purpose of the commission, such as the conducting of a survey of historic properties, preparation of proposed plans, ordinances, reports, surveys, drawings, maps of historic areas, or any other project provided in this chapter.

(19) Appoint a hearing officer (who may be a commission member, a member of the staff, or any other person) to hear and determine, on behalf of the commission, applications for certificates of appropriateness.

(20) Prepare and submit an annual budget in the manner prescribed by section 4 of this chapter.

(21) Participate, in conjunction with the consolidated city, in a retirement system for commission employees.

(22) Accept or contract with the consolidated city or with other persons for the furnishing of professional staff or any other services, office facilities, equipment, and supplies to the extent and for compensation as may be agreed upon, with or without compensation, and to receive and expend any funds, grants, or gifts for carrying out any function of the commission under this chapter.

(23) Enter into and carry out contracts with federal or state agencies, subject to the approval of the city executive, regarding grants of financial or other assistance to the county, city, or commission, accept and expend grant money or other assistance, and enter into and carry out contracts with other persons or governmental agencies for any purpose of the commission.

(24) Exercise the powers of a board of zoning appeals in a historic area or historic zoning district, if authorized by a zoning ordinance adopted under IC 36-7-4.

(25) Conduct public hearings required to be held by the metropolitan development commission under the 600 series of IC 36-7-4 relative to territory included in a historic area or historic zoning district, if designated by the metropolitan development commission.

(b) The commission shall provide technical services and advice about historic preservation to the consolidated city when necessary or useful in connection with the planning, development, or redevelopment of the county.

(c) This subsection applies to the sale or disposal of real property by the commission. If the property is sold by acceptance of bids, a bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

As added by Acts 1982, P.L.77, SEC.6. Amended by P.L.336-1989(ss), SEC.49; P.L.321-1995, SEC.6.

Proposed historic preservation plans; recommendations; approval proceedings; official markers

Sec. 6. (a) The commission shall have its staff prepare proposed historic preservation plans for all appropriate areas of the county. Upon the commission's declaratory resolution of the historic or architectural significance of any area, structure, or site designated in it, the proposed historic preservation plan shall be presented to the metropolitan development commission for public hearing and adoption as a part of the comprehensive plan of the county.

(b) The proposed historic preservation plan must officially designate and delineate historic areas and identify any individual structures or sites in it of particular historic or architectural significance, which structures and sites must be listed on the county register of historic places.

(c) With the designation of a historic structure, the plan may additionally expressly identify and designate the interior, or any interior architectural or structural feature of it, having exceptional historic or architectural significance.

(d) The historic preservation plan may include any of the material listed in IC 36-7-4-503 as it relates to historic preservation. Any plan designating one (1) or more historic areas, and any historic structures and sites located in it, must include a historic and architectural or design analysis supporting the significance of the historic area, general or specific criteria for preservation, restoration, rehabilitation, or development, including architectural and design standards, and a statement of preservation objectives.

(e) In preparing a proposed historic preservation plan, the staff of the commission shall inform, consult, and cooperate with the staff of the department of metropolitan development. In carrying out its planning and redevelopment responsibilities in an area for which a historic preservation plan is being prepared or is in effect, the staff of the department of metropolitan development shall inform, consult, and cooperate with the staff of the commission. To the extent possible, commission staff and department staff shall carry out a joint planning effort relative to proposed historic areas with the resulting information and conclusions relating to historic preservation being placed in the proposed historic preservation plan.

(f) Concurrently or subsequently, the commission may prepare and recommend to the metropolitan development commission, for its initiation, approval, and recommendation to the legislative body for adoption, a historic district zoning ordinance or ordinances to implement the historic preservation plan.

(g) Each historic area or historic zoning district must be of such territorial extent and configuration as will best serve the purposes of this chapter, there being no maximum or minimum size limitations thereon whether applied to single or multiple historic properties or sites, and may include any adjacent area necessarily a part thereof because of its effect upon and relationship to the historic values and character of the area.

(h) The proposed historic preservation plan, if approved and

adopted by the metropolitan development commission, constitutes part of the comprehensive plan of the county.

(i) The proceeding for approval of this plan, including notice and hearing requirements, is governed by the same rules and requirements applicable to petitions to the metropolitan development commission for amendment of zoning ordinances and for creation of new district classifications, and by all statutory requirements relative to the metropolitan development commission; however, individual notice of the hearing shall be given each owner of property in any proposed historic area, according to the metropolitan development commission's rules and requirements or, alternatively, the owner's consent to the proposed historical area designation may be obtained and filed with the metropolitan development commission.

(j) Amendments to any historic preservation plan, or any segment of it, shall be made in the same manner as the original plan.

(k) The commission shall receive and consider any pertinent information or exhibits such as historical data, architectural plans, drawings and photographs, regarding any proposed or designated historic area, structure, or site, and any request for historic designation or for the exclusion of any property or structure from any proposed or designated historic area.

(l) The commission may adopt any operating guidelines for the evaluation and designation of historic areas, structures, and sites, so long as they are in conformity with the objectives of this chapter.

(m) Upon the adoption of the historic preservation plan, the commission may at any time identify by appropriate markers any historic areas, structures, and sites designated by the plan, or any historic area properties in the process of restoration under the plan. These markers may be erected on public right-of-ways or, with the consent of the owner, on any subject historic property. These official informational or identification markers, whether permanent or temporary, constitute an exception to any codes and ordinances establishing sign regulations, standards, and permit requirements applicable to the area.

As added by Acts 1982, P.L.77, SEC.6.

IC 36-7-11.1-7

Categories of work exempted by historic preservation plan; premature issuance of permits for work

Sec. 7. (a) The historic preservation plan may provide that certain categories of work accomplished in the historic area are exempt from the requirement imposed by section 9 of this chapter that a certificate of appropriateness be issued. Categories of work that may be exempted by a historic preservation plan include the construction, reconstruction, alteration, or demolition of a structure or feature. Various historic preservation plans may exempt different categories of work.

(b) After the commission has adopted a declaratory resolution relative to a historic area and presented the historic preservation plan to the metropolitan development commission for adoption or

rejection as a segment of the comprehensive plan of the county, no permits may be issued by the department of metropolitan development for the construction, reconstruction, or alteration of any exterior architectural structure or feature in the area or the demolition of any structure or feature in the area until the metropolitan development commission has taken official action on the proposed plan or within ninety (90) days after the date of adoption of the declaratory resolution by the commission, whichever occurs first. If such a permit has been issued before the adoption of a declaratory resolution by the commission, the agency issuing the permit may order that the work allowed by the permit, or a part of the work, be suspended until the metropolitan development commission has adopted or rejected the historic preservation plan.
As added by Acts 1982, P.L.77, SEC.6.

IC 36-7-11.1-8
Permits for work; application; certificate of appropriateness

Sec. 8. (a) After adoption of the historic preservation plan for any historic area, permits may be issued by the department of metropolitan development for the construction of any structure in the area or the reconstruction, alteration, or demolition of any structure in the area only if the application for the permit is accompanied by a certificate of appropriateness issued under section 10 of this chapter.

(b) Notwithstanding subsection (a), if the historic preservation plan for the historic area specifically exempts certain categories of work involving the construction, reconstruction, alteration, or demolition of structures in that area from the requirement that a certificate of appropriateness be issued, then a permit for the work may be obtained from the department of metropolitan development without the issuance of a certificate of appropriateness.

(c) After the adoption of the historic preservation plan for any area, all governmental agencies shall be guided by and give due consideration to the plan in any official acts affecting the area.

(d) On application by any governmental agency or interested party in accordance with section 9 of this chapter, the commission shall make a determination of the appropriateness of any proposed governmental action affecting a historic area. Any official action in conflict with the plan or determined by the commission to be inappropriate is presumed to be not in the public interest and is subject to the enforcement provisions of section 12 of this chapter.

(e) The commission's determination of appropriateness is a prerequisite to any governmental order or action to alter or demolish any designated historic site or any structure in a historic area. No rezoning or variance applicable to a historic area, or any part of it, may be approved by the metropolitan development commission or granted by a board of zoning appeals, except on the commission's prior issuance of a certificate of appropriateness.
As added by Acts 1982, P.L.77, SEC.6.

IC 36-7-11.1-9

Necessity of certificate of appropriateness; filing application; issuance procedure

Sec. 9. (a) A person may not construct any exterior architectural structure or feature in any historic area, or reconstruct, alter, or demolish any such exterior or designated interior structure or feature in the area, until the person has filed with the secretary of the commission an application for a certificate of appropriateness in such form and with such plans, specifications, and other material as the commission may from time to time prescribe and a certificate of appropriateness has been issued as provided in this section. However, this chapter does not:

(1) prevent the ordinary maintenance or repair of any such exterior or designated interior architectural structure or feature that does not involve a change in design, color or outward appearance of it;

(2) prevent any structural change certified by the department of metropolitan development as immediately required for the public safety because of a hazardous condition; or

(3) require a certificate of appropriateness for work that is exempted by a historic preservation plan under section 7 of this chapter.

(b) The commission shall hold a public hearing on any application for certificate of appropriateness. At least ten (10) days before the date set for the hearing, notice shall be published in accordance with IC 5-3-1, and notice shall be given additionally to the affected parties in accordance with the commission's rules of procedure.

(c) Upon hearing the application for a certificate of appropriateness, the commission shall determine whether the proposal will be appropriate to the preservation of the area and to the furtherance and development of historic preservation.

(d) In determining appropriateness of any proposed construction, reconstruction, or alteration, the commission shall consider, in addition to any other pertinent factors, the visual compatibility, general design, arrangement, color, texture, and materials in relation to the architectural or other design standards prescribed by the plan or any applicable zoning regulation, the design and character of the historic area, and the architectural factors of other structures in it. In determining appropriateness of any proposed demolition, the commission shall consider, in addition to any other pertinent factors, the character and significance of the subject structure in relation to the historic area and any other structures or sites in it, including its relative contribution to the historic and architectural values and significance of the area.

(e) However, if the commission finds under subsection (d) any application to be inappropriate, but that its denial would result in substantial hardship or deprive the owner of all reasonable use and benefit of the subject property, or that its effect upon the historic area would be insubstantial, the commission shall issue a certificate of authorization, which constitutes a certificate of appropriateness for

purposes of this chapter.

(f) Issuance of a certificate of appropriateness is subject to review by the metropolitan development commission as to its appropriateness in relation to the comprehensive plan. This review must be in accordance with the same procedures and limitations applicable to appeals of decisions of boards of zoning appeals, as provided in IC 36-7-4, and must be initiated only upon notice of appeal by the division of planning and zoning certifying that this determination interferes with the comprehensive plan. All proceedings and work on the subject premises under the certificate of appropriateness are automatically stayed upon notice of the appeal.

As added by Acts 1982, P.L.77, SEC.6.

IC 36-7-11.1-10

Certificate of appropriateness; determination of commission

Sec. 10. (a) If the commission determines that the proposed construction, reconstruction, alteration, or demolition will be appropriate, the secretary of the commission shall forthwith issue to the applicant a certificate of appropriateness.

(b) The commission may impose any reasonable conditions, consistent with the historic preservation plan, upon the issuance of a certificate of appropriateness, including the requirement of executing and recording covenants or filing a maintenance or performance bond. If the commission determines that a certificate of appropriateness should not be issued, the commission shall forthwith place upon its records the reasons for the determination and may include recommendations respecting the proposed construction, reconstruction, alteration, or demolition. The secretary of the commission shall forthwith notify the applicant of the determination transmitting to the applicant an attested copy of the reasons and recommendations, if any, of the commission.

(c) A final determination of the commission upon an application for certificate of appropriateness is subject to judicial review in the same manner and subject to the same limitations as a final decision of a board of zoning appeals under IC 36-7-4. However, notwithstanding IC 36-7-4-1609, upon notice of the filing of the petition for judicial review, all proceedings and work on the subject premises are automatically stayed.

As added by Acts 1982, P.L.77, SEC.6. Amended by P.L.126-2011, SEC.65.

IC 36-7-11.1-11

Hearing officer; powers and duties

Sec. 11. (a) A hearing officer designated by the commission may conduct the public hearing provided for in this chapter on applications for a certificate of appropriateness. The commission may limit by rule or resolution the applications that a hearing officer may hear and determine.

(b) The hearing officer shall hold a public hearing under the same

notice and procedural requirements as are applicable to a hearing before the commission. After the hearing on an application for a certificate of appropriateness, the hearing officer shall make a determination.

(c) The hearing officer may not issue a certificate of authorization.

(d) The hearing officer shall set forth the reasons for the determination and may impose conditions in accordance with section 10 of this chapter.

(e) The commission shall provide reasonable opportunity by rules for the applicant, any commission member, the administrator, or any interested person to file exceptions to the determination of the hearing officer. If an exception is properly filed, the commission shall hold a de novo hearing and make a determination. If such an exception is not filed, the determination of the hearing officer constitutes the final decision of the commission.

As added by Acts 1982, P.L.77, SEC.6.

IC 36-7-11.1-12

Enforcement of chapter, ordinance, and covenants; notice to correct failures or violations

Sec. 12. (a) Whenever the commission finds that the owner of property in any historic area has neglected to keep the property and premises in a clean, sanitary, and tidy condition or has failed to maintain any structure in a good state of repair and in a safe condition, the commission may give the owner written notice to correct the failures or violations within thirty (30) days after receipt of notice, and if the owner fails to comply, then the commission may bring appropriate enforcement actions as provided by subsection (b).

(b) The commission, or any enforcement official of the consolidated city designated by the commission, may enforce this chapter, any ordinance adopted under it, and any covenants or conditions required or imposed by the commission by civil action in the circuit or superior court. Any legal, equitable, or special remedy may be invoked, including mandatory or prohibitory injunction or a civil fine. These enforcement actions (except those seeking a civil fine) may also be brought by any interested person or affected owner.

(c) Ordinances adopted under this chapter may provide for penalties for violations, subject to IC 36-1-3-8.

(d) No costs may be taxed against the commission or any of its members in any action.

(e) In actions brought under subsection (b), there may not be changes of venue from the county.

As added by Acts 1982, P.L.77, SEC.6. Amended by P.L.16-1995, SEC.14.

IC 36-7-11.1-13

Nonconforming uses

Sec. 13. (a) Except as provided in section 13.1 of this chapter, any building, structure, or land use in existence at the time of the

adoption of the historic preservation plan that is not in conformity to or within the zoning classification or restrictions or requirements or architectural standards of this plan, shall be considered to be a nonconforming use and may continue, but only so long as the owner or owners continuously maintain this use.

(b) Except as provided in section 13.1 of this chapter, in addition to the requirements pertaining to certificates of appropriateness, the ownership of a nonconforming use is subject to the additional restriction that a nonconforming use may not be reconstructed or structurally altered to an extent exceeding in aggregate cost fifty percent (50%) of the market value thereof unless the structure is changed to a conforming use.

As added by Acts 1982, P.L.77, SEC.6. Amended by P.L.113-1998, SEC.2.

IC 36-7-11.1-13.1

Agricultural nonconforming use

Sec. 13.1. (a) The definitions used in this section apply only to this section.

(b) As used in this section, "agricultural use" refers to land that is used for:

(1) the production of livestock or livestock products, commercial aquaculture, equine or equine products, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and apiary products, tobacco, or other agricultural crops, in the case of land that was not subject to a comprehensive plan or zoning ordinance before the most recent plan or zoning ordinance, including any amendments, was adopted; or

(2) agricultural purposes as defined in or consistent with a comprehensive plan or zoning ordinance that:

(A) the land was subject to; and

(B) was repealed before the adoption of the most recent comprehensive plan or zoning ordinance, including any amendments.

(c) As used in this section, "agricultural nonconforming use" means the agricultural use of the land is not permitted under the most recent comprehensive plan or zoning ordinance, including any amendments, for the area where the land is located.

(d) An agricultural use of land that constitutes an agricultural nonconforming use may be changed to another agricultural use of land without losing agricultural nonconforming use status.

(e) A county or municipality may not, through the county or municipality's zoning authority, do any of the following:

(1) Terminate an agricultural nonconforming use if the agricultural nonconforming use is maintained for at least any three (3) year period in a five (5) year period.

(2) Restrict an agricultural nonconforming use.

(3) Require any of the following for the agricultural nonconforming use of the land:

(A) A variance for the land.
(B) A special exception for the land.
(C) A special use for the land.
(D) A contingent use for the land.
(E) A conditional use for the land.
(F) A permit for work under section 8 of this chapter.
(G) A certificate of appropriateness.

(f) Notwithstanding subsection (e), this section does not prohibit a county, a municipality, or the state from requiring an agricultural nonconforming use to be maintained and operated in compliance with all:

(1) state environmental and state health laws and rules; and
(2) requirements to which conforming agricultural use land is subject under the county's comprehensive plan or zoning ordinance.

As added by P.L.113-1998, SEC.3. Amended by P.L.106-1999, SEC.3.

IC 36-7-11.1-14
Effect of chapter on existing laws

Sec. 14. This chapter does not supersede IC 36-7-11.2 or IC 36-7-11.3 and is intended to supplement the following:

(1) IC 36-7-4.
(2) IC 36-7-11.2.
(3) IC 36-7-11.3.

As added by Acts 1982, P.L.77, SEC.6. Amended by P.L.1-1995, SEC.82.

IC 36-7-11.2

Chapter 11.2. Meridian Street Preservation

IC 36-7-11.2-1

Purpose of chapter

Sec. 1. (a) The purpose of this chapter is to preserve:

(1) from deterioration;

(2) from improperly conceived or implemented change; and

(3) for the continued health, safety, enjoyment, and general welfare of the citizens of Indiana;

a historic, scenic, esthetically pleasing, and unique part of a street lying within Indianapolis constituting the backbone of a unique residential area.

(b) The general assembly intends, by passage of this chapter, to:

(1) encourage private efforts to maintain and preserve that part of the street and other similar streets and areas in Indiana;

(2) promote orderly and proper land usage; and

(3) preserve significant tourist attractions of historical and economic value in Indiana;

by limiting and restricting unhealthful, unsafe, unaesthetic, or other use of unique areas that would be inconsistent with their character as tourist attractions and with the general welfare of the public.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-2

"Bordering property" defined

Sec. 2. As used in this chapter, "bordering property" means a parcel of land:

(1) of which any part lies within one thousand (1,000) feet from any part of the right-of-way of Meridian Street; and

(2) that:

(A) is within a radius of seven hundred fifty (750) feet from; and

(B) lies north or south of;

the north or south terminus of Meridian Street.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-3

"Commission" defined

Sec. 3. As used in this chapter, "commission" refers to the Meridian Street preservation commission established by this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-4

"Department of metropolitan development" defined

Sec. 4. As used in this chapter, "department of metropolitan development" refers to the department of metropolitan development established by IC 36-3-5-4, subject to IC 36-3-4-23.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-5
"Development commission" defined

Sec. 5. As used in this chapter, "development commission" refers to the metropolitan development commission.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-6
"Family" defined

Sec. 6. (a) As used in this chapter, "family" means any number of individuals who:

(1) are all related to each other by marriage, consanguinity, or legal adoption; and

(2) live together as a single household with a single head of the household.

(b) The term includes the following:

(1) Live-in paid domestic employees.

(2) Not more than two (2) nontransient guests of the household.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-7
"Interested party" defined

Sec. 7. As used in this chapter, "interested party" means the following:

(1) The governor.

(2) The Indiana department of transportation.

(3) The department of natural resources.

(4) The executive of Indianapolis.

(5) The department of metropolitan development.

(6) The society.

(7) Each neighborhood association.

(8) Each owner or occupant owning or occupying Meridian Street or bordering property to a depth of two (2) ownerships of the perimeter of the property.

(9) An owner, occupant, or other person having a legal or equitable interest in the subject property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-8
"Meridian Street" defined

Sec. 8. As used in this chapter, "Meridian Street" means that part of a north-south meridian street in the city of Indianapolis, Marion County, known as Meridian Street, that lies:

(1) north of 40th Street; and

(2) south of Westfield Boulevard;

at the points where the latter two (2) streets intersect with Meridian Street.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-9
"Meridian Street property" defined

Sec. 9. As used in this chapter, "Meridian Street property" means a parcel of land of which any part lies within one hundred (100) feet due west or east of any part of the right-of-way for Meridian Street. *As added by P.L.1-1995, SEC.83.*

IC 36-7-11.2-10
"Neighborhood association" defined

Sec. 10. As used in this chapter, "neighborhood association" means each of the following, including any successors whether an incorporated or unincorporated association:

(1) The Butler-Tarkington neighborhood association.
(2) The Meridian Street foundation.
(3) The Meridian-Kessler neighborhood association.
(4) The Riverview-Kessler neighborhood association.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-11
"Notice" defined

Sec. 11. As used in this chapter, "notice" means written notice:

(1) served personally upon the person, official, or office entitled to the notice; or

(2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered served if mailed in the manner prescribed by this subdivision properly addressed to the following:

(A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.

(B) The Indiana department of transportation, to the commissioner.

(C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.

(D) The department of metropolitan development.

(E) An occupant, to:

(i) the person by name; or

(ii) if the name is unknown, the "Occupant" at the address of the Meridian Street or bordering property occupied by the person.

(F) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as the address appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in:

(i) the offices of the township assessors; or

(ii) the office of the county assessor;

in Marion County.

(G) A neighborhood association or the society, to the organization at the latest address as shown in the records of

the commission.
As added by P.L.1-1995, SEC.83. Amended by P.L.219-2007, SEC.121.

IC 36-7-11.2-12
"Occupant" defined
Sec. 12. As used in this chapter, "occupant" means a person:
(1) occupying:
(A) under a written lease; or
(B) as an owner; and
(2) using for residential purposes;
a single family or double family residential dwelling located on Meridian Street or bordering property.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-13
"Owner" defined
Sec. 13. As used in this chapter, "owner" means a person who owns a legal or an equitable interest in Meridian Street or bordering property.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-14
"Person" defined
Sec. 14. As used in this chapter, "person" means an individual, a corporation, a partnership, an association, a trust, a governmental body or agency, or other entity, public or private, capable of entering into an enforceable contract.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-15
"Single family or double family residential dwellings" defined
Sec. 15. As used in this chapter, "single family or double family residential dwellings" means residential structures that:
(1) do not share a common wall with any other residential structures;
(2) were designed and built for occupancy by not more than two
(2) separate families; and
(3) contain not more than two (2) separate living quarters.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-16
"Society" defined
Sec. 16. As used in this chapter, "society" refers to the Indiana historical society or the successor to the society.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-17
"Subject property" defined
Sec. 17. As used in this chapter, "subject property" means

Meridian Street or bordering property or existing or proposed construction on the property:

(1) that is the subject of:

(A) a filing made with;

(B) a hearing or meeting of; or

(C) an appeal from;

the commission; or

(2) with respect to which there is claimed to be a violation of this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-18

Establishment of commission

Sec. 18. The Meridian Street preservation commission is established.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-19

Number of members of commission

Sec. 19. The commission consists of nine (9) members as follows:

(1) Five (5) members are Class 1 members whose terms of office expire June 30 of each even-numbered year.

(2) Four (4) members are Class 2 members whose terms of office expire June 30 of each odd-numbered year.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-20

Appointment of architect and professional city planner

Sec. 20. The executive of Indianapolis shall appoint the following members of the commission not later than thirty (30) days after the term of the prior member appointed under this section expires:

(1) As a Class 1 member, an architect registered under IC 25-4-1 who at the time of appointment is a practicing architect residing in Marion County.

(2) As a Class 2 member, an employee of the department of metropolitan development who is employed by the department at the time as a professional city planner. If the individual ceases to be an employee of the department, the individual is considered to have resigned as a member of the commission.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-21

Appointment of member with knowledge of historic preservation and owner of dwelling on Meridian Street property

Sec. 21. The governor shall appoint the following members of the commission not later than thirty (30) days after the term of the prior member appointed under this section expires:

(1) As a Class 1 member, an individual with a demonstrated interest in and knowledge of historic preservation.

(2) As a Class 1 member, an owner and occupant of a single or

double family residential dwelling situated on Meridian Street property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-22

Appointment of additional members from lists submitted by neighborhood associations and society

Sec. 22. (a) The governor shall appoint five (5) additional members of the commission by selecting one (1) name from each of five (5) separate lists submitted by four (4) neighborhood associations and the society. Each list must contain the names of at least two (2) nominees. The members appointed under this section are classified as follows:

(1) As Class 1 members, the members submitted by the following:

(A) Butler-Tarkington Neighborhood Association.

(B) The Meridian-Kessler Neighborhood Association.

(2) As Class 2 members, the members submitted by the following:

(A) The Meridian Street Foundation.

(B) The Riverview-Kessler Neighborhood Association.

(C) The Indiana historical society.

(b) The successor to a member selected from a list shall be selected from a list of at least two (2) nominees submitted by the same organization.

(c) If:

(1) the term of a member of the commission appointed from a list of nominees submitted by an organization has expired or a member has died or resigned during a term; and

(2) the organization has not submitted a list of nominees for a successor not later than thirty (30) days after the expiration, death, or resignation;

the governor shall immediately appoint an interim member of the commission to serve until the organization submits a list of nominees and an appointment is made.

(d) The governor shall, not later than thirty (30) days after the receipt of a list from an organization, appoint as a member of the commission one (1) of the nominees set forth in the list.

(e) If an organization ceases to exist and is without a successor, the governor shall appoint to the commission in place of the member who would otherwise have been nominated by the organization a person who is an owner and occupant of any Meridian Street or bordering property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-23

Holding over membership upon expiration of member's term

Sec. 23. Each member of the commission, upon the expiration of the member's term, holds over as a member with all rights of membership until a successor is appointed and qualified.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-24
Death or resignation of member

Sec. 24. (a) If a member of the commission dies or resigns during a term, a successor with the same qualifications shall be appointed to complete the term not later than thirty (30) days after the death or resignation. The appointment shall be made in the same manner as the original appointment.

(b) For purposes of this section, failure to attend three (3) consecutive regular meetings of the commission is considered a resignation.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-25
Service without compensation

Sec. 25. Members of the commission serve without compensation.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-26
Chairman

Sec. 26. The commission member who is an employee of the department of metropolitan development serves as chairman of the commission.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-27
Adoption of rules

Sec. 27. The commission shall prepare, adopt, and promulgate the rules and regulations that are necessary, desirable, or convenient to the orderly administration of commission affairs and to the implementation of this chapter in accordance with the intent and purpose. The rules and regulations shall be made available in writing to any person requesting a copy.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-28
Filing and records

Sec. 28. Notices, petitions, requests, or other written materials to be filed with the commission shall be filed with the department of metropolitan development and directed to the attention of the commission. The department of metropolitan development shall:

(1) maintain; and

(2) make available for public inspection;

all records of the commission at the offices of the department of metropolitan development.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-29
Alternate persons on whom notice may be served

Sec. 29. (a) A public officer or office entitled to receive notice may designate in writing filed with the commission alternate or additional persons to whom notice required to be served upon the officer or office shall also be served. The commission shall maintain a complete list of the persons and their addresses.

(b) A person, an official, or an office who or that is not served notice in the manner prescribed by this chapter is not considered properly notified unless the person has waived notice in writing.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-30

Attorney for commission

Sec. 30. The attorney general, or a deputy attorney general selected by the attorney general, is the attorney for the commission. The commission may employ other legal counsel that the commission considers necessary, convenient, or desirable.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-31

Regular meetings

Sec. 31. (a) The rules and regulations of the commission must specify a particular time on a particular day of the week in a particular week of the month for holding regular meetings to consider any matters properly coming before the commission. Except as provided in subsection (b), the commission shall regularly meet at the designated time, if there is any matter requiring consideration or determination as specified in this chapter.

(b) The commission may designate in the rules and regulations July or August as a vacation month during which the commission will not hold a regular meeting despite the existence of matters requiring consideration or determination. A person desiring the commission to consider or determine any matter that is within the commission's jurisdiction under this chapter must, at least thirty (30) days before a regular meeting date of the commission upon which the person desires the commission to determine or consider the matter, file with the commission a petition that does the following:

(1) Specifies in detail the matter the petitioner desires the commission to consider or determine.

(2) Requests that the matter be placed upon the commission's docket for matters to be considered and determined at the meeting.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-32

Special meetings

Sec. 32. (a) The chairman of the commission:

(1) may, in the chairman's discretion; or

(2) shall, at the written request of at least two (2) members of the commission;

call a special meeting of the commission to consider or determine a

matter for which a petition has been filed.

(b) The meeting shall be scheduled for a date:

(1) not less than thirty (30); and

(2) not more than forty-five (45);

days after the filing of the petition.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-33

Continuance of matters on docket

Sec. 33. For good cause shown the chairman of the commission may, at or before a regular or special meeting, continue any matter docketed for consideration or determination at the meeting until:

(1) the next regular meeting of the commission; or

(2) a special meeting set for a date not more than thirty (30) days following the date of the meeting for which the matter was previously docketed.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-34

Evidence required

Sec. 34. The commission may, before a hearing on a petition filed with the commission, require the person filing the petition or a person whose interests appear adverse to those of the petitioner to file with the commission before the hearing the following:

(1) Maps, plot plans, structural drawings and specifications, landscaping plans, floor plans, elevations, cross-sectional plans, architectural renderings, diagrams, or any other technical or graphic materials.

(2) Additional information concerning the petitioner's or the adverse person's intentions or interest with respect to Meridian Street or bordering property.

(3) Any other additional information that the commission considers relevant to the matters concerning the petition.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-35

Quorum

Sec. 35. (a) A quorum of the commission consists of six (6) members. A quorum must be present for a public hearing on and the determination of a matter coming before the commission for which a public hearing is required under this chapter.

(b) Except as otherwise provided in this chapter, a majority vote of the members of the commission present and voting is required for the commission to take action.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-36

Members not disqualified from hearing and voting on matters

Sec. 36. (a) A member of the commission is not disqualified from hearing and voting upon a matter coming before the commission

because the member:

(1) owns or occupies a Meridian Street or bordering property; or

(2) belongs to a neighborhood association.

(b) A member of the commission may abstain from voting on a matter if the member states the reasons in the record.

(c) A member of the commission is disqualified from voting if:

(1) the member is an owner or occupant of:

(A) the subject property; or

(B) Meridian Street or bordering property of which a part lies within one hundred (100) feet of the subject property; or

(2) the member is a person described by section 56(a)(2)(D) of this chapter.

(d) If by virtue of the abstention of a member of the commission there is not present at a hearing upon a matter at least six (6) members of the commission able to vote on the matter, the chairman shall redocket the matter for a hearing or rehearing at:

(1) the next regular meeting of the commission; or

(2) a special meeting set for a date not more than thirty (30) days following the date of the meeting at which the matter was or was to be heard.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-37
Private deliberations

Sec. 37. (a) Upon the conclusion of the hearing on a matter and before the voting, the commission members shall, if requested by:

(1) the petitioner;

(2) an interested party; or

(3) a commission member;

deliberate in private before voting.

(b) The commission shall, before voting, consider conditions proposed to the commission at the hearing by a person, including a commission member, concerning the restrictions, limitations, commitments, or undertakings that might be required by the commission as the condition of a vote favorable to the petitioner.

(c) The commission may:

(1) on the commission's own motion; or

(2) at the request of a person;

before voting on a matter, continue the matter to a future meeting so that the petitioner and a person appearing adverse to the petitioner might privately agree upon the restrictions, limitations, commitments, or undertakings to be proposed to the commission as a condition to a vote by the commission favorable to the petitioner.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-38
Written final orders

Sec. 38. (a) Not later than thirty (30) days after a vote by the commission finally determining a matter, the commission shall enter

a written final order stating the following:

(1) The names of the members present and voting.

(2) Whether the vote cast by each member was negative or affirmative.

(3) The basic facts found by the members whose vote for or against the petitioner determined the matter.

(b) If a tie vote occurs, the petition is considered to be determined adversely to the petitioner, with the members casting a vote adverse to the petitioner considered to be the majority.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-39

Temporary orders

Sec. 39. (a) If the commission determines affirmatively a matter conditioned upon:

(1) the observance by a person of a restriction or limitation; or

(2) the commitment made by or the undertaking of a person;

the commission shall, not later than ten (10) days after the vote determining the matter conditionally, enter a temporary order setting forth the restriction, limitation, commitment, or undertaking.

(b) The commission shall enter a final order approving the petition upon and after a hearing at which the petitioner must satisfy the commission that the restriction, limitation, commitment, or undertaking has been formalized so that an interested party may enforce the restriction, limitation, commitment, or undertaking in a private action.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-40

Proposed temporary or final orders

Sec. 40. (a) Not later than five (5) days after the commission has determined a matter by vote, other than a rezoning matter referred to the commission by the development commission, a party who appeared at the hearing shall, upon request of the commission, file with the commission a proposed temporary or final order.

(b) A proposed final order must state in detail the basic facts that could have been found by the commission based upon substantial evidence of probative value actually introduced into evidence before the commission at a hearing on the matter.

(c) A proposed temporary order must state the basic facts:

(1) that could have been found by the commission based upon substantial evidence of probative value actually introduced into evidence before the commission at a hearing on the matter; and

(2) upon which the commission could properly have required a restriction, a limitation, a commitment, or an undertaking as a condition to a final affirmative determination of the matter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-41

Action based on verbal assurances or unwritten agreements

Sec. 41. The commission may not take action on a petition, approve a proposed rezoning or zoning variance, or issue a certificate of appropriateness based upon verbal assurances or unwritten agreements or commitments made by a person concerning any of the following:

(1) A future use or development of the subject property.

(2) A restriction or limitation in the character, nature, or style of a contingent, possible, or proposed use or construction:

(A) for which the person seeks; or

(B) that would be permitted by;

the rezoning, zoning variance, or certificate of appropriateness.

(3) An undertaking concerning the planning, design, or implementation of a contingent or possible use or proposed construction.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-42

Written agreement required

Sec. 42. (a) The commission may, by the vote of at least six (6) of the members, or for a certificate of appropriateness by a majority of the members, as a condition of approval of a zoning variance or of issuance of a certificate of appropriateness, require:

(1) the petitioner;

(2) a person described by section 56(a)(2)(D) of this chapter; and

(3) the owner of the land for which the zoning variance or certificate of appropriateness is sought;

to prepare and execute in a form acceptable by the commission and to file with the commission a written agreement notarized by each signatory party.

(b) By the agreement signed under subsection (a) each party agrees for the party and for the party's heirs, successors, and assigns, and for a party with a legal or equitable interest in the subject property, covenants for the party and for a successor to the legal or equitable interest in the property, to be bound by the following:

(1) The restrictions or limitations that the commission has, in furtherance of the intent and purpose of this chapter, specified concerning the future use or development of or construction upon the subject property.

(2) The restrictions or limitations that the commission has, in furtherance of the intent and purpose of this chapter, specified concerning the character, nature, or style of a proposed, contingent, or possible use or construction:

(A) for which the zoning variance or certificate of appropriateness is sought; or

(B) that would be permitted by the zoning variance or certificate of appropriateness.

(3) Undertakings that the commission has, in the furtherance of the intent and purpose of this chapter, required concerning the planning, design, or implementation of a proposed, contingent,

or possible use or construction.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-43
Requirements of written agreement

Sec. 43. An agreement signed under section 42 of this chapter must do the following:

(1) Refer to the proceeding before the commission.

(2) Contain a full legal description of the subject property.

(3) Specifically provide for the following:

(A) That the agreement is contingent upon the grant of a variance for or issuance of a certificate of appropriateness concerning the subject property.

(B) That the agreement will be construed strictly against those parties from whom the agreement is required by the commission.

(C) That the agreement, if executed by a party with a legal or equitable interest in the subject property, is intended to create a covenant that:

(i) runs with the subject property; and

(ii) is binding upon the successors to the fee or to an interest in the fee.

(D) That the agreement is intended to benefit and to be enforced by a person who, under this chapter, would be considered an interested party concerning the subject property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-44
Filing of agreement

Sec. 44. A petitioner shall do the following:

(1) File an agreement signed under section 42 of this chapter, including a request for a public hearing, at least fourteen (14) days before the regular meeting of the commission at which the petitioner requests the hearing.

(2) On or before the date of the filing, serve in the manner notices must be served under this chapter a copy of the request and the agreement upon the following:

(A) Each neighborhood association.

(B) Each interested party who, not later than five (5) days after the hearing for which the commission entered a temporary order concerning the zoning variance or the certificate of appropriateness sought by the petitioner, filed with the commission a request that the agreement or request be served upon the interested party.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-45
Voting on agreement

Sec. 45. (a) If after a public hearing the commission approves in

form and substance, by the vote of:

(1) at least six (6) members; or

(2) for a certificate of appropriateness, a majority of the members present;

the agreement as filed, the commission shall enter a final order expressing the commission's approval of the zoning variance or issuance of the certificate of appropriateness as sought by the petitioner.

(b) The commission shall, at the petitioner's expense, immediately file the agreement with the Marion County recorder.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-46

Amended agreement

Sec. 46. (a) If after a public hearing the commission disapproves the agreement in form or substance, the petitioner shall, under a temporary order of the commission, make and cause to be executed an amended agreement meeting the commission's requirements as to form and substance.

(b) If the petitioner fails or refuses, for longer than sixty (60) days after entry of a temporary order requiring the petitioner to do so, to file an amended agreement meeting with commission requirements for form and substance, the commission may require the petitioner to appear at a meeting of the commission and show cause why the petition of the petitioner should not be dismissed.

(c) If the petitioner fails:

(1) to appear at the meeting; or

(2) to show good and sufficient cause why the petition should not be dismissed;

the commission shall, upon the vote of a majority of the members, dismiss the petition.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-47

Abrogation of agreement

Sec. 47. (a) A covenant or an agreement made under this chapter may be abrogated by six (6) affirmative votes of the commission upon petition and after notice to all interested parties and a public hearing if the commission determines that the covenant or agreement no longer accomplishes in a substantial manner any of the purposes of this chapter.

(b) A covenant or agreement is considered abrogated upon dissolution of the commission under section 66 of this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-48

Minutes of meetings

Sec. 48. (a) The commission shall keep complete minutes of meetings. The minutes must reflect the following:

(1) Action taken by the commission.

(2) The reasons for the action.

(3) The factors considered by the commission in taking the action.

(b) Copies of the minutes of a meeting shall be provided to a person requesting a copy.

(c) An interested party who desires a transcript of a matter heard by the commission may, at the interested party's expense, have a transcript prepared.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-49

Fees

Sec. 49. (a) The commission shall, by rule adopted under section 27 of this chapter, set fees to be paid by a person filing a petition with the commission. If the commission has not set a fee by rule for a type of petition, the fee is twenty-five dollars ($25).

(b) A person filing a petition with the commission shall pay the fee required for the filing to the department of metropolitan development. The department shall pay the fee to the treasurer of the commission.

(c) The department of metropolitan development has no duty regarding the fees collected under this section except those imposed under subsection (b). Fees collected under this section:

(1) do not belong to the consolidated city created under IC 36-3; and

(2) are not subject to any of the following:

(A) IC 5-11-10.

(B) IC 36-2-6.

(C) IC 36-3.

(D) IC 36-4-8.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-50

Acceptance of money for administration

Sec. 50. The commission may accept money from any source for use in administering this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-51

Approval for zoning variance

Sec. 51. An administrative, a legislative, or other governmental body may not grant a zoning variance relating to the use of Meridian Street or bordering property without the prior approval of the commission upon the affirmative vote of at least six (6) members. The commission may approve the variance only if:

(1) the petition establishes by substantial evidence of probative value the correctness of the conclusions stated in section 53 of this chapter; and

(2) notices of the hearing have been given to all interested parties in the manner required by this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-52
Conditions to be met before petition approval

Sec. 52. (a) The development commission may not:

(1) approve a petition for the amendment or adoption of a zoning ordinance pertaining or applying to Meridian Street or bordering property; or

(2) adopt or amend an ordinance to the extent the ordinance pertains or applies to Meridian Street or bordering property;

until the conditions required by section 51 of this chapter have been met.

(b) The following must occur before the development commission may take action under subsection (a):

(1) Notice of the filing of the petition before the development commission has been given by the petitioner to all interested parties not later than ten (10) days after the filing.

(2) The matter has been referred to the commission, which has:

(A) considered the matter applying the standards stated in section 53 of this chapter and made a recommendation to the development commission; or

(B) failed to make a recommendation for one hundred twenty (120) days following the referral of the matter to the commission for the commission's recommendations, unless the time has been extended by the development commission for good cause shown.

(3) A duly advertised public hearing on the matter has been held by the development commission.

(4) The conclusions stated in section 53 of this chapter have been established by substantial evidence of probative value.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-53
Prohibited results of variance or ordinance

Sec. 53. The conclusions required by sections 51 and 52 of this chapter are that the requested variance, the proposed new zoning ordinance, or the amendment to an existing zoning ordinance will not do any of the following:

(1) Tend to undermine or detract from the general residential character of the following:

(A) Meridian Street.

(B) Meridian Street property.

(C) Bordering property lying between Meridian Street property and the property for which the new zoning ordinance, zoning ordinance amendment, or zoning variance is sought.

(2) Affect in an adverse manner the value for single family residential usage of the following:

(A) Meridian Street property.

(B) Bordering property lying between Meridian Street

property and the property for which the new zoning ordinance, zoning ordinance amendment, or zoning variance is sought.

(3) Alter or adversely affect, either in inherent nature or method of implementation, the historic or architectural character or style of the area comprised of:

(A) Meridian Street and bordering property; or

(B) the part of the area comprised of the property lying within five hundred (500) feet of the subject property.

(4) If the request is a zoning variance, violate a rule or regulation that the commission has adopted to accomplish the purposes of this chapter.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-54

Notice of filing of petition; referral to commission; reconsideration

Sec. 54. (a) Notice of:

(1) the filing of a petition with the commission for approval of a proposed use variance; and

(2) the filing of a petition with the development commission for approval of an amendment or the adoption of a zoning ordinance pertaining or applying to Meridian Street or bordering property;

is jurisdictional.

(b) Before referral of a matter to the commission, the development commission or other referring body must be satisfied of the following:

(1) That proper notice of the filing of the petition as required by this chapter has been given.

(2) That copies of:

(A) all petitions, exhibits, drawings, pictures, and other documents intended to be offered in support of the proposed new zoning ordinance or amendment to an existing zoning ordinance; and

(B) the contract described by section 56 or 57 of this chapter;

have been made available to the commission without expense to the commission.

(c) If the development commission discovers, upon hearing, substantial departure from, addition to, or modification of materials presented to the commission, the matter shall be remanded to the commission for an additional sixty (60) day period for reconsideration and further recommendation, if any. The commission may, however, take additional evidence that the commission considers necessary for the purpose of making recommendations on the proposed new zoning ordinance or amendment to an existing zoning ordinance.

(d) The development commission or other referring body:

(1) shall thoughtfully consider the recommendations of the commission; and

(2) may overrule or ignore the recommendations only if the recommendations are:

(A) unsupported by substantial evidence; or

(B) contradicted by a clear preponderance of the evidence;

presented before the development commission.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-55

Provisions inapplicable to considerations of rezoning matters; procedures

Sec. 55. (a) The provisions of this chapter concerning:

(1) meetings and hearings of the commission; and

(2) the manner in which matters will be taken up and considered by the commission;

do not apply in the commission's consideration of rezoning matters referred to the commission by the development commission.

(b) With respect to the matters described in subsection (a), the commission may by rule determine procedures to dispose of the matters within the mandatory one hundred twenty (120) day period.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-56

Requirements of petition for zoning variance or for subject property

Sec. 56. (a) A petition that is filed by a person seeking approval of the commission for a zoning variance of or for subject property must:

(1) be under oath; and

(2) state the following:

(A) The full name and address of the petitioner and of each attorney acting for and on behalf of the petitioner.

(B) The street address.

(C) The name of the owner of the property.

(D) The full name and address of and the type of business, if any, conducted by:

(i) a person who at the time of the filing is a party to; and

(ii) a person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(E) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(F) The date of the regular meeting of the commission at which the petitioner requests the petition be considered and determined.

(G) A detailed description of the proposed use for which the zoning variance is sought.

(H) Other information that the commission requires by rule or regulation.

(b) A petition must be accompanied by the following:

(1) A true copy of each contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement described in the petition.

(2) The maps, plot plans, structural drawings and specifications, landscaping plans, floor plans, elevations, cross-sectional plans, architectural renderings, diagrams, or other technical or graphic materials that the commission requires by rule or regulation.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-57

Additional requirements for petition for amended zoning ordinance for Meridian Street or bordering property

Sec. 57. (a) A petition that is filed by a person requesting the adoption of a new zoning ordinance or the amendment of an existing zoning ordinance directly pertaining to or affecting Meridian Street or bordering property must, in addition to all other applicable requirements concerning the petitions generally:

(1) be under oath; and

(2) state the following:

(A) The street address of the Meridian Street or bordering property to which the new zoning ordinance or amendment to an existing zoning ordinance would directly pertain or affect.

(B) The name of each owner of the property.

(C) The name and address of each person, including principals, if any, who at the time of filing is a party to a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement, excluding insurance policies, mortgage deeds, fuel service contracts, and similar documents, concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property. The petition must also describe all businesses in which the persons, jointly or severally, are engaged.

(D) A detailed description of the proposed use for which the new zoning ordinance or amendment of an existing zoning ordinance is sought.

(E) Other information that the development commission requires by rule or regulation.

(b) The petition must be accompanied by the following:

(1) A complete copy of each contract described by subsection (a)(2)(C) or a description of the contract sufficient to disclose

the full nature of the interest of the party and principals, if any, in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(2) Other documents that the development commission requires by rule or regulation.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-58

Notice of petition for new or amended zoning ordinance

Sec. 58. (a) A person who has filed a petition under section 56 or 57 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

(1) The full name and address of the following:

(A) The petitioner.

(B) Each attorney acting for and on behalf of the petitioner.

(2) The street address of the Meridian Street and bordering property for which the petition was filed.

(3) The name of the owner of the property.

(4) The full name and address of, and the type of business, if any, conducted by:

(A) each person who at the time of the filing is a party to; and

(B) each person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical properties of the proposed use.

(7) The date of the filing of the petition.

(8) The date, time, and place of the next regular meeting of the commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the

petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in:

(1) the offices of the township assessors (if any); or

(2) the office of the county assessor;

as of the date of filing are considered determinative of the persons who are owners.

As added by P.L.1-1995, SEC.83. Amended by P.L.219-2007, SEC.122; P.L.146-2008, SEC.719.

IC 36-7-11.2-59

Prohibited new or altered structures on Meridian Street

Sec. 59. A new structure may not be erected upon a parcel of Meridian Street property or an existing structure upon the property may not be altered if the structure would do any of the following:

(1) Permit a residential usage that, in relation to the parcel upon which situated, would be of a substantially greater density than the average residential density of Meridian Street property lying within one thousand (1,000) feet of the property in question, excluding for purposes of determining the average Meridian Street property used for multiple family residential or commercial purposes.

(2) Appear substantially smaller or larger in size and scale than the average size and scale of the single and double family residential dwellings situated upon Meridian Street property lying within one thousand (1,000) feet of the property in question.

(3) Have a set-back from Meridian Street significantly less than the average set-back of structures facing upon Meridian Street that are situated upon Meridian Street property lying within one thousand (1,000) feet of the property in question.

(4) Have side lots measuring less than fifteen (15) feet from the property line of the subject property to the wall of the structure erected or altered.

(5) If primarily a residential dwelling, have a ground floor area of less than two thousand (2,000) square feet or forty percent (40%) of the total area of the parcel of land upon which the dwelling lies, whichever is less.

(6) Including all other structures upon the parcel, have a total ground floor area greater than fifty percent (50%) of the total area of the parcel of land upon which the structure lies.

(7) Substantially encroach upon the view and exposure of a residential structure on a neighboring property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-60

Subdivision of Meridian Street property

Sec. 60. A parcel of Meridian Street property may not be

subdivided into lots having:

(1) an area of less than fifteen thousand (15,000) square feet; or

(2) frontage of less than one hundred (100) feet upon Meridian Street or upon an east-west street intersecting with Meridian Street.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-61

Conditions for constructing, reconstructing, altering, or demolishing Meridian Street property

Sec. 61. (a) A person may not construct on Meridian Street property a structure or feature or reconstruct, alter, or demolish Meridian Street property unless the following conditions have been met:

(1) The person has previously filed with the commission an application for a certificate of appropriateness in the form and with the plans, specifications, and other materials that the commission prescribes.

(2) A certificate of appropriateness has been issued by the commission as provided in this section.

(b) After the filing of an application for a certificate of appropriateness, the commission shall determine whether the proposed construction, reconstruction, or alteration of the structure in question:

(1) will be appropriate to the preservation of the area comprised of Meridian Street and bordering property; and

(2) complies with the architectural and construction standards then existing in the area.

(c) In determining appropriateness, the commission shall consider, in addition to other factors that the commission considers pertinent, the historical and architectural style, general design, arrangement, size, texture, and materials of the proposed work and the relation of the proposed work to the architectural factor of other structures in the area. The department of metropolitan development may not issue a permit for the construction, reconstruction, alteration, or demolition of a structure in the area unless the application for the permit is accompanied by a certificate of appropriateness.

(d) The issuance of or refusal to issue a permit is a final determination appealable under section 64 of this chapter. With respect to a certificate of appropriateness, the commission may, by rule or regulation, provide for:

(1) the public hearings;

(2) notice of the hearings; or

(3) the filing of the application for the certificate;

that the commission considers necessary.

(e) Notwithstanding this section, the commission may, by rule or regulation:

(1) define; and

(2) exempt from the application of this section;

specific types and categories of construction, reconstruction,

alterations, and demolition for which the commission determines commission action and review are not necessary or desirable to effect the purposes of this chapter.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-62
Restrictions on owners and occupants of Meridian Street or bordering property

Sec. 62. (a) As used in this section, "bedroom" means a room that:
(1) consists of not less than eighty (80) usable square feet and one (1) built-in closet; and
(2) is located on or above the first floor of a structure.

(b) Each owner and occupant of Meridian Street or bordering property shall do the following:
(1) Permit not more than one (1) family to inhabit a single family dwelling.
(2) Permit not more than two (2) families to inhabit a double family dwelling.
(3) Permit to inhabit a dwelling unit not more than the number of individuals derived by multiplying the total number of bedrooms in the unit by three (3).
(4) Maintain and prevent cleared areas from becoming overgrown.
(5) Permit no trash, scrap, refuse, dead matter, or other debris of any kind to accumulate on the property so as to make:
(A) the property unhealthful, unsightly, or dangerous; or
(B) a residential structure or other structure appurtenant to a residential structure unsuitable for the residential or appurtenant purposes.
(6) Maintain in good repair and appearance all exterior surfaces.
(7) Maintain in good and safe repair all walls, roofs, foundations, ceilings, floors, stairways, or other structures upon the property.
(8) Repair promptly broken windows or panes of glass in a structure upon the property.
(9) Secure from unauthorized access an unused or unoccupied structure upon the property.
(10) Maintain in a safe, habitable condition each residential structure upon the property.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-63
Private right of action with respect to Meridian Street or bordering property

Sec. 63. (a) Each interested party:
(1) has a private right of action to:
(A) enforce; and
(B) prevent violation of;
this chapter; and
(2) may, with respect to Meridian Street or bordering property:

(A) restrain or enjoin, temporarily or permanently, a person from violating; and

(B) enforce by restraining order or injunction;

this chapter.

(b) The powers described in subsection (a) include the following:

(1) To enforce written commitments, agreements, or covenants made in accordance with or under this chapter.

(2) To prevent and obtain full relief from a threatened or existing violation of section 59, 60, 61, or 62 of this chapter.

(3) To prevent:

(A) a person from seeking or having the benefits of; or

(B) a governmental body from granting;

a rezoning of or zoning variance for Meridian Street or bordering property for which the commission or development commission for rezoning has not granted prior approval in the manner required by this chapter.

(4) To:

(A) prevent construction, reconstruction, alteration, or demolition work upon; and

(B) obtain full relief from work previously done upon;

Meridian Street property for which a certificate of appropriateness was required but was not issued by the commission. A showing that issuance of certificates of appropriateness for the work could not properly have been denied by the commission if a proper application had been made is a complete defense to an action under this subdivision.

(5) To prevent further construction work upon and obtain full relief from construction work previously done upon Meridian Street property that fails in a substantial manner to comply with all the terms and conditions:

(A) of a certificate of appropriateness issued by the commission; or

(B) of the petition and documents filed with the commission upon which the commission is presumed to have based approval of the certificate.

(6) To prevent usage of Meridian Street or bordering property for which a rezoning or zoning variance:

(A) would be required; and

(B) has not been obtained.

(7) To prevent a violation of the terms and conditions of the approval by the commission of a zoning variance as petitioned for and obtained from the commission.

(c) For purposes of obtaining relief sought under this section, it is not necessary to allege or prove irreparable harm or injury to a person or property. A person entitled to bring an action under this section is not required to post a bond unless the court, after a hearing, determines that a bond should be required in the interests of justice. A person who brings an action under this section is not, however, liable to a person for any damages resulting from the bringing or prosecuting of the action unless the action was not brought:

(1) in good faith; or
(2) in the reasonable belief that:
(A) this chapter; or
(B) a commitment, an agreement, or a covenant entered into under section 42 of this chapter;
had been or was about to be violated or breached.

(d) The person against whom an action is brought under subsection (a) is liable to the interested party bringing the action for reasonable attorney's fees and court costs if judgment is entered by the court against the person.

(e) An action arising under this section must be brought in the circuit or superior court of Marion County, and a change of venue from the county is not permitted.

(f) The remedy provided in this section is not exclusive but is cumulative to any other remedies available at law or equity.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-64
Judicial review

Sec. 64. A final determination by the commission is subject to judicial review in the same manner and subject to the same limitations as a final decision of a board of zoning appeals under IC 36-7-4. However, notwithstanding IC 36-7-4-1609, upon notice of the filing of the petition for judicial review, all proceedings and work on the subject premises are automatically stayed.

As added by P.L.1-1995, SEC.83. Amended by P.L.126-2011, SEC.66.

IC 36-7-11.2-65
Appeals

Sec. 65. An appeal may be taken to the court of appeals from the final judgment of the court under section 64 of this chapter reversing, affirming, or modifying the determination of the commission in the same manner and upon the same terms, conditions, and limitations as appeals in other civil actions.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-66
Dissolution of commission

Sec. 66. (a) The city-county legislative body may dissolve the commission under this section. Upon dissolution, this chapter ceases to have any force or effect, except with respect to actions previously commenced under section 62 of this chapter.

(b) At least one hundred fifty (150) owners of Meridian Street property or owners of fifty-one percent (51%) of Meridian Street property, whichever is less, may commence a proceeding to dissolve the commission by presenting a petition to do so to the city-county legislative body and by filing a duplicate of the petition with the commission. For purposes of a petition all of the persons having a legal or equitable interest in one (1) parcel of Meridian Street

property are considered in the aggregate to be the single owner. For purposes of a petition one (1) parcel of Meridian Street property is considered to include at least two (2) contiguous parcels if the parcels are owned directly or indirectly by the same person. A person is considered an indirect owner of a contiguous parcel if the parcel is owned as follows:

(1) Jointly with another person.

(2) By the person with the person's spouse in tenancy by the entireties.

(3) Directly or indirectly by the person's spouse.

(4) By a child or grandchild, natural or adopted, unless the child or grandchild is the fee owner and an occupant of the parcel.

(5) By a trust or an estate of which:

(A) the person is a trustee, an executor, or an administrator; or

(B) the person is empowered to direct the disposition of the parcel.

(6) By a partnership of which the person is a limited or general partner.

(7) By a corporation of which:

(A) the person;

(B) the person's spouse;

(C) the person's children or grandchildren, natural or adopted;

(D) a trust or an estate described in subdivision (5); or

(E) a partnership described in subdivision (6);

owns at least fifty percent (50%) of the voting stock.

(c) A petition presented to the city-county legislative body must state fully and precisely the grounds upon which the petitioners rely in seeking dissolution of the commission. The petition must, with respect to each of the petitioning owners, state accurately and completely the following:

(1) The street address and the legal description of the property owned.

(2) The names, addresses, and precise interest in the property of each person who with any other person constitutes the owner for purposes of this section. Each owner must sign the petition and acknowledge the execution before an officer legally entitled to take acknowledgements. If one (1) person signs a petition for or on behalf of another person, the individual signing must establish in a writing filed with the petition the power and authority to act for the person. A writing may include the following:

(A) For a corporation, a certified copy of a resolution by the board of directors specifically authorizing the person to execute the petition.

(B) For an individual, an executed and acknowledged power of attorney.

(C) For a partnership, a certificate of authorization executed and acknowledged by each partner.

(D) For an estate, a certified copy of a court order authorizing the action.

(E) For a trust, a certified copy of the trust instrument showing the authorization.

(d) Not later than ten (10) days after presenting a petition to the city-county legislative body, the petitioning owners shall serve notice of the petition upon all interested parties, except the petitioning owners. For purposes of the notice all parcels of Meridian Street property are considered, in the aggregate, to be the subject property. The notice must specify the following:

(1) The date of presentation.

(2) The names of the petitioning owners.

(3) The street address of the property of which each is the owner.

(e) The city-county legislative body may not consider a petition until more than sixty (60) days have elapsed since the date of presentation and shall at all times make the petition available for examination by any person. The city-county legislative body shall, not less than ten (10) days before the date of the meeting at which the city-county legislative body proposes to consider the petition, do the following:

(1) Give public notice.

(2) Serve notice upon each neighborhood association and the commission.

(f) Before taking action on a petition, the city-county legislative body shall permit the petitioning owners and all parties appearing in opposition to the petition to have a full and adequate hearing.

(g) If the city-county legislative body dissolves the commission by resolution, the action is void unless the following conditions are met:

(1) The petitioning owners have complied fully with this section.

(2) The city-county legislative body's action is based upon a competent, substantial, and convincing showing that the continued existence of the commission and the continued operation of this chapter will not with any likelihood or to any significant degree accomplish purposes for which this chapter was enacted. In taking action the city-county legislative body may not consider testimony, argument, or other showing that continued existence of the commission or continued effectiveness of this chapter promotes or will promote continued single or double family dwelling residential usage of Meridian Street property at the expense of the value the property would or might otherwise have if freed from the restrictions of this chapter on commercial and multiple family residential development or usage of the property.

As added by P.L.1-1995, SEC.83.

IC 36-7-11.2-67

Cumulative nature of chapter

Sec. 67. This chapter is cumulative to and does not supersede,

preempt, or invalidate a zoning, building, health, or other law, ordinance, or code in effect as of April 16, 1971, except to the extent the law, ordinance, or code is in irreconcilable conflict with this chapter. If an irreconcilable conflict exists, only those parts of the law, ordinance, or code that conflict with this chapter are inapplicable as the parts pertain to the subject matter of this chapter.
As added by P.L.1-1995, SEC.83.

IC 36-7-11.3
Chapter 11.3. Municipal Preservation

IC 36-7-11.3-1
Purpose of chapter

Sec. 1. (a) The purpose of this chapter is to preserve:
(1) from deterioration;
(2) from improperly conceived or implemented change; and
(3) for the continued health, safety, enjoyment, and general welfare of the citizens of Indiana;

a historic, scenic, aesthetically pleasing, and unique part of a street lying within a city or town constituting the backbone of a unique residential area.

(b) The general assembly intends, by passage of this chapter, to:
(1) encourage private efforts to maintain and preserve that part of the street and other similar streets and areas in Indiana;
(2) promote orderly and proper land usage; and
(3) preserve significant tourist attractions of historical and economic value in Indiana;

by limiting and restricting unhealthful, unsafe, unaesthetic, or other use of unique areas that would be inconsistent with their character as tourist attractions and with the general welfare of the public.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-2
"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to a preservation commission created under this chapter.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-3
"Development commission" defined

Sec. 3. As used in this chapter, "development commission" means the governmental authority having primary jurisdiction over:
(1) recommending; and
(2) recommending alterations or changes in;

the comprehensive plan for land use applicable to the municipality in which the preservation area created under this chapter lies.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-4
"Family" defined

Sec. 4. (a) As used in this chapter, "family" means any number of individuals who:
(1) are all related to each other by marriage, consanguinity, or legal adoption; and
(2) live together as a single household with a single head of the household.

(b) The term includes the following:
(1) Live-in paid domestic employees.

(2) Not more than two (2) nontransient guests of the household.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-5
"Interested party" defined

Sec. 5. As used in this chapter, "interested party" means the following:

(1) The governor.
(2) The Indiana department of transportation.
(3) The department of natural resources.
(4) The executive of the city or town.
(5) The municipal plan commission.
(6) The society.
(7) Each owner or occupant owning or occupying primary or secondary property to a depth of two (2) ownerships of the perimeter of the property.
(8) An owner, occupant, or other person having a legal or equitable interest in the subject property.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-6
"Notice" defined

Sec. 6. As used in this chapter, "notice" means written notice:

(1) served personally upon the person, official, or office entitled to the notice; or
(2) served upon the person, official, or office by placing the notice in the United States mail, first class postage prepaid, properly addressed to the person, official, or office. Notice is considered served if mailed in the manner prescribed by this subdivision properly addressed to the following:
(A) The governor, both to the address of the governor's official residence and to the governor's executive office in Indianapolis.
(B) The Indiana department of transportation, to the commissioner.
(C) The department of natural resources, both to the director of the department and to the director of the department's division of historic preservation and archeology.
(D) The municipal plan commission.
(E) An occupant, to:
(i) the person by name; or
(ii) if the name is unknown, the "Occupant" at the address of the primary or secondary property occupied by the person.
(F) An owner, to the person by the name shown to be the name of the owner, and at the person's address, as appears in the records in the bound volumes of the most recent real estate tax assessment records as the records appear in:
(i) the offices of the township assessors (if any); or
(ii) the office of the county assessor.

(G) The society, to the organization at the latest address as shown in the records of the commission.

As added by P.L.1-1995, SEC.84. Amended by P.L.219-2007, SEC.123; P.L.146-2008, SEC.720.

IC 36-7-11.3-7
"Occupant" defined

Sec. 7. As used in this chapter, "occupant" means a person:

(1) occupying:

(A) under a written lease; or

(B) as an owner; and

(2) using for residential purposes;

a single family or double family residential dwelling located upon primary or secondary property.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-8
"Owner" defined

Sec. 8. As used in this chapter, "owner" means a person who owns a legal or an equitable interest in primary or secondary property.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-9
"Person" defined

Sec. 9. As used in this chapter, "person" means an individual, a corporation, a partnership, an association, a trust, a governmental body or an agency, or other entity, public or private, capable of entering into an enforceable contract.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-10
"Primary property" defined

Sec. 10. As used in this chapter, "primary property" means property within an area designated as a primary area by the legislative body.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-11
"Secondary property" defined

Sec. 11. As used in this chapter, "secondary property" means property within an area designated as a secondary area by the legislative body.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-12
"Single family or double family residential dwellings" defined

Sec. 12. As used in this chapter, "single family or double family residential dwellings" means residential structures that:

(1) do not share a common wall with any other residential structures;

(2) were designed and built for occupancy by not more than two
(2) separate families; and
(3) contain not more than two (2) separate living quarters.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-13
"Society" defined
Sec. 13. As used in this chapter, "society" refers to the Indiana historical society or the successor to the society.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-14
"Subject property" defined
Sec. 14. As used in this chapter, "subject property" means primary or secondary property or existing or proposed construction on the property:
(1) that is the subject of:
(A) a filing made with;
(B) a hearing or meeting of; or
(C) an appeal from;
the commission; or
(2) with respect of which there is claimed to be a violation of this chapter.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-15
Designation of preservation area
Sec. 15. The legislative body of a municipality may adopt an ordinance or a resolution to designate an area in the municipality that is subject to a comprehensive plan for land use, whether adopted by the municipality or the county in which the municipality is located, as a preservation area. This chapter applies to the area.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-16
Primary and secondary areas
Sec. 16. (a) A preservation area consists of:
(1) a primary area; and
(2) a secondary area;
designated by the legislative body.
(b) The primary area is a primarily residential area that the legislative body finds after a public hearing to be a clearly definable area that:
(1) should be preserved from deterioration or destruction in furtherance of the purpose of this chapter because the area:
(A) is; or
(B) contains structures that are;
historically, architecturally, or ecologically significant; and
(2) if not subject to this chapter, is in danger of deterioration or destruction.

(c) The secondary area is an area surrounding the primary area that the legislative body finds after a public hearing to be an area the control of the development or change of which is necessary or desirable to the preservation of the primary area. The legislative body may decide to not designate a secondary area if the legislative body determines that a secondary area is not needed or required to preserve the primary area from deterioration or destruction.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-17
Size of preservation area

Sec. 17. A preservation area may not be larger than the legislative body considers required to accomplish the purposes of this chapter.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-18
Creation of preservation commission

Sec. 18. (a) Upon designating a preservation area and the primary and secondary areas of the preservation area, the legislative body of the municipality shall create a commission to be known as the "_____ Preservation Commission". The legislative body shall give:

(1) the name of the city or town in which the area to be preserved is located;
(2) the name of the area to be preserved; or
(3) both;

to the preservation commission.

(b) The commission has the powers and shall exercise the duties prescribed by this chapter for the area.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-19
Members of commission

Sec. 19. A preservation commission created under this chapter is composed of nine (9) members as follows:

(1) The executive of the city or town:
(A) shall serve as a member of the commission; or
(B) may appoint an individual residing in the city or town to serve in place of the executive.

(2) The executive of the city or the legislative body of the town shall appoint the following:
(A) An architect registered under IC 25-4-1 who is practicing in Indiana.
(B) A professional city planner employed by a planning authority:
(i) of the city;
(ii) if a city planning authority does not exist, of the county; or
(iii) if a county planning authority does not exist, in Indiana.

(C) A landscape architect practicing in Indiana.

(D) A civil engineer certified under Indiana law who is practicing:

(i) in the county in which the area is located; or

(ii) if a civil engineer is not practicing in the county, in Indiana.

(E) Two (2) owners and occupants of residential dwellings in the primary area.

(F) Two (2) individuals from a list of at least four (4) nominees submitted by the society.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-20
Term of office

Sec. 20. An appointed member of the commission holds office for the term that the legislative body of the municipality sets forth in the ordinance or resolution creating the commission.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-21
Adoption of rules

Sec. 21. The commission shall prepare, adopt, and promulgate the rules and regulations that are necessary, desirable, or convenient to the orderly administration of commission affairs and to the implementation of this chapter in accordance with the intent and purpose. The rules and regulations shall be made available in writing to any person requesting a copy.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-22
Material filed with commission

Sec. 22. Notices, petitions, requests, or other written materials to be filed with the commission shall be filed with the clerk or clerk-treasurer and directed to the attention of the commission. The clerk or clerk-treasurer shall:

(1) maintain; and

(2) make available for public inspection;

all records of the commission at the offices of the clerk or clerk-treasurer.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-23
Notice

Sec. 23. (a) Whenever notice is required to be given under this chapter with respect to a matter coming or pending before a commission created under this chapter, the notice shall be sent to the persons designated as interested parties under this chapter.

(b) A public officer or office entitled to receive notice may designate in writing filed with the commission alternate or additional persons to whom notice required to be served upon the officer or

office shall also be served. The commission shall maintain a complete list of the persons and their addresses.

(c) A person, an official, or an office who or that is not served notice in the manner prescribed by this chapter is not considered properly notified unless the person has waived notice in writing.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-24

Attorney

Sec. 24. The attorney general or a deputy attorney general selected by the attorney general is the attorney for the commission. The commission may employ other legal counsel that the commission considers necessary, convenient, or desirable.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-25

Regular meetings

Sec. 25. (a) The rules and regulations of the commission must specify a particular time on a particular day of the week in a particular week of the month for holding regular meetings to consider any matters properly coming before the commission. Except as provided in subsection (b), the commission shall regularly meet at the designated time if there is any matter requiring consideration or determination as specified in this chapter.

(b) The commission may designate in the rules and regulations July or August as a vacation month during which the commission will not hold a regular meeting despite the existence of matters requiring consideration or determination. A person desiring the commission to consider or determine any matter that is within the commission's jurisdiction under this chapter must, at least thirty (30) days before a regular meeting date of the commission upon which the person desires the commission to determine or consider the matter, file with the commission a petition that does the following:

(1) Specifies in detail the matter the petitioner desires the commission to consider or determine.

(2) Requests that the matter be placed upon the commission's docket for matters to be considered and determined at the meeting.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-26

Special meetings

Sec. 26. (a) The chairman of the commission:

(1) may, in the chairman's discretion; or

(2) shall, at the written request of at least two (2) members of the commission;

call a special meeting of the commission to consider or determine a matter for which a petition has been filed.

(b) The meeting shall be scheduled for a date:

(1) not less than thirty (30); and

(2) not more than forty-five (45);
days after the filing of the petition.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-27
Continuance

Sec. 27. For good cause shown, the chairman of the commission may, at or before a regular or special meeting, continue any matter docketed for consideration or determination at the meeting until:

(1) the next regular meeting of the commission; or

(2) a special meeting set for a date not more than thirty (30) days following the date of the meeting for which the matter was previously docketed.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-28
Evidence filed by person with interests adverse to petitioner

Sec. 28. The commission may, before a hearing on a petition filed with the commission, require the person filing the petition or a person whose interests appear adverse to those of the petitioner to file with the commission before the hearing the following:

(1) Maps, plot plans, structural drawings and specifications, landscaping plans, floor plans, elevations, cross-sectional plans, architectural renderings, diagrams, or any other technical or graphic materials.

(2) Additional information concerning the petitioner's or the adverse person's intentions or interest with respect to primary or secondary property.

(3) Any other additional information that the commission considers relevant to the matters concerning the petition.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-29
Quorum

Sec. 29. (a) A quorum of the commission consists of six (6) members. A quorum must be present for a public hearing on and the determination of a matter coming before the commission for which a public hearing is required under this chapter.

(b) Except as otherwise provided in this chapter, a majority vote of the members of the commission present and voting is required for the commission to take action.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-30
Disqualification of member

Sec. 30. (a) A member of the commission is not disqualified from hearing and voting upon a matter coming before the commission because the member:

(1) owns or occupies primary or secondary property; or

(2) belongs to a neighborhood association.

(b) A member of the commission may abstain from voting on a matter if the member states reasons in the record.

(c) A member of the commission is disqualified from voting if:

(1) the member is an owner or occupant of:

(A) the subject property; or

(B) primary or secondary property of which a part lies within one hundred (100) feet of the subject property; or

(2) the member is a person described by section 50(a)(2)(D) of this chapter.

(d) If by virtue of the abstention of a member of the commission there is not present at a hearing upon a matter at least six (6) members of the commission able to vote on the matter, the chairman shall redocket the matter for a hearing or rehearing at:

(1) the next regular meeting of the commission; or

(2) a special meeting set for a date not more than thirty (30) days following the date of the meeting at which the matter was or was to be heard.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-31

Private deliberations; conditions of favorable vote; private agreement on conditions

Sec. 31. (a) Upon the conclusion of the hearing on a matter and before the voting, the commission members shall, if requested by:

(1) the petitioner;

(2) an interested party; or

(3) a commission member;

deliberate in private before voting.

(b) The commission shall, before voting, consider conditions proposed to the commission at the hearing by a person, including a commission member, concerning the restrictions, limitations, commitments, or undertakings that might be required by the commission as the condition of a vote favorable to the petitioner.

(c) The commission may:

(1) on the commission's own motion; or

(2) at the request of a person;

before voting on a matter, continue the matter for a vote to a future meeting so that the petitioner and a person appearing adverse to the petitioner might privately agree upon the restrictions, limitations, commitments, or undertakings to be proposed to the commission as a condition to a vote by the commission favorable to the petitioner.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-32

Final written orders

Sec. 32. (a) Not later than thirty (30) days after a vote by the commission finally determining a matter, the commission shall enter a written final order stating the following:

(1) The names of the members present and voting.

(2) Whether the vote cast by each member was negative or

affirmative.

(3) The basic facts found by the members whose vote for or against the petitioner determined the matter.

(b) If a tie vote occurs, the petition is considered to be determined adversely to the petitioner, with the members casting a vote adversely to the petitioner considered to be the majority.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-33

Temporary orders

Sec. 33. (a) If the commission determines affirmatively a matter conditioned upon:

(1) the observance by a person of a restriction or limitation; or

(2) the commitment made by or the undertaking of a person;

the commission shall, not later than ten (10) days after the vote determining the matter conditionally, enter a temporary order setting forth the restriction, limitation, commitment, or undertaking.

(b) The commission shall enter a final order approving the petition upon and after a hearing at which the petitioner must satisfy the commission that the restriction, limitation, commitment, or undertaking has been formalized so that an interested party may enforce the restriction, limitation, commitment, or undertaking in a private action.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-34

Proposed temporary or final orders

Sec. 34. (a) Not later than five (5) days after the commission has determined a matter by vote, other than a rezoning matter referred to the commission by the development commission, a party who appeared at the hearing shall, upon request of the commission, file with the commission a proposed temporary or final order.

(b) A proposed final order must state in detail the basic facts that could have been found by the commission based upon substantial evidence of probative value actually introduced into evidence before the commission at a hearing on the matter.

(c) A proposed temporary order must state the basic facts:

(1) that could have been found by the commission based upon substantial evidence of probative value actually introduced into evidence before the commission at a hearing on the matter; and

(2) upon which the commission could properly have required a restriction, a limitation, a commitment, or an undertaking as a condition to a final affirmative determination of the matter.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-35

Prohibited actions

Sec. 35. The commission may not take action on a petition, approve a proposed rezoning or zoning variance, or issue a certificate of appropriateness based upon verbal assurances or unwritten

agreements or commitments made by a person concerning any of the following:

(1) A future use or development of the subject property.

(2) A restriction or limitation in the character, nature, or style of a contingent, possible, or proposed use or construction:

(A) for which the person seeks; or

(B) that would be permitted by;

the rezoning, zoning variance, or certificate of appropriateness.

(3) An undertaking concerning the planning, design, or implementation of a contingent or possible use or proposed construction.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-36

Written agreement required for zoning variance or certificate of appropriateness

Sec. 36. (a) The commission may, by the vote of at least six (6) of the members or for a certificate of appropriateness by a majority of the members, as a condition of approval of a zoning variance or of issuance of a certificate of appropriateness, require:

(1) the petitioner;

(2) a person described by section 50(a)(2)(D) of this chapter; and

(3) the owner of the land for which the zoning variance or certificate of appropriateness is sought;

to prepare and execute in a form acceptable by the commission and to file with the commission a written agreement notarized by each signatory party.

(b) By the agreement signed under subsection (a) each party agrees for the party and for the party's heirs, successors, and assigns, and for a party with a legal or an equitable interest in the subject property, covenants for the party and for a successor to the legal or equitable interest in the property, to be bound by the following:

(1) The restrictions or limitations that the commission has, in furtherance of the intent and purpose of this chapter, specified concerning the future use or development of or construction upon the subject property.

(2) The restrictions or limitations that the commission has, in furtherance of the intent and purpose of this chapter, specified concerning the character, nature, or style of a proposed, contingent, or possible use or construction:

(A) for which the zoning variance or certificate of appropriateness is sought; or

(B) that would be permitted by the zoning variance or certificate of appropriateness.

(3) Undertakings that the commission has, in the furtherance of the intent and purpose of this chapter, required concerning the planning, design, or implementation of a proposed, contingent, or possible use or construction.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-37
Provisions in agreement

Sec. 37. An agreement signed under section 36 of this chapter must do the following:

(1) Refer to the proceeding before the commission.

(2) Contain a full legal description of the subject property.

(3) Specifically provide for the following:

(A) That the agreement is contingent upon the grant of a variance for or issuance of a certificate of appropriateness concerning the subject property.

(B) That the agreement will be construed strictly against those parties from whom the agreement is required by the commission.

(C) That the agreement, if executed by a party with a legal or an equitable interest in the subject property, is intended to create a covenant that:

(i) runs with the subject property; and

(ii) is binding upon the successors to the fee or to an interest in the fee.

(D) That the agreement is intended to benefit and to be enforced by a person who, under this chapter, would be considered an interested party concerning the subject property.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-38
Filing of agreement before hearing; notice

Sec. 38. A petitioner shall do the following:

(1) File an agreement signed under section 36 of this chapter, including a request for a public hearing, at least fourteen (14) days before the regular meeting of the commission at which the petitioner requests the hearing.

(2) On or before the date of the filing, serve in the manner that notices must be served under this chapter a copy of the request and the agreement upon the following:

(A) Each neighborhood association.

(B) Each interested party who, not later than five (5) days after the hearing for which the commission entered a temporary order concerning the zoning variance or the certificate of appropriateness sought by the petitioner, filed with the commission a request that the agreement or request be served upon the interested party.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-39
Filing of agreement with county recorder

Sec. 39. (a) If after a public hearing the commission approves in form and substance, by the vote of:

(1) at least six (6) members; or

(2) for a certificate of appropriateness, a majority of the

members present;

the agreement as filed, the commission shall enter a final order expressing the commission's approval of the zoning variance or issuance of the certificate of appropriateness as sought by the petitioner.

(b) The commission shall, at the petitioner's expense, immediately file the agreement with the county recorder.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-40

Amended agreement; dismissal of petition

Sec. 40. (a) If after a public hearing the commission disapproves the agreement in form or substance, the petitioner shall, under a temporary order of the commission, make and cause to be executed an amended agreement meeting the commission's requirements as to form and substance.

(b) If the petitioner fails or refuses, for longer than sixty (60) days after entry of a temporary order requiring the petitioner to do so, to file an amended agreement meeting with commission requirements for form and substance, the commission may require the petitioner to appear at a meeting of the commission and show cause why the petition of the petitioner should not be dismissed.

(c) If the petitioner fails:

(1) to appear at the meeting; or

(2) to show good and sufficient cause why the petition should not be dismissed;

the commission shall, upon the vote of a majority of the members, dismiss the petition.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-41

Abrogation of covenant or agreement

Sec. 41. (a) A covenant or an agreement made under this chapter may be abrogated by six (6) affirmative votes of the commission upon petition and after notice to all interested parties and a public hearing if the commission determines that the covenant or agreement no longer accomplishes in a substantial manner any of the purposes of this chapter.

(b) A covenant or an agreement is considered abrogated upon dissolution of the commission under section 61 of this chapter.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-42

Minutes of meetings

Sec. 42. (a) The commission shall keep complete minutes of meetings. The minutes must reflect the following:

(1) Action taken by the commission.

(2) The reasons for the action.

(3) The factors considered by the commission in taking the action.

(b) Copies of the minutes of a meeting shall be provided to a person requesting a copy.

(c) An interested party who desires a transcript of a matter heard by the commission may, at the interested party's expense, have a transcript prepared.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-43

Fees

Sec. 43. (a) The commission shall, by rule adopted under section 21 of this chapter, set fees to be paid by a person filing a petition with the commission. If the commission has not set a fee by rule for a type of petition, the fee is twenty-five dollars ($25).

(b) A person filing a petition with the commission shall pay the fee required for the filing to the clerk or clerk-treasurer. The clerk or clerk-treasurer shall pay the fee to the treasurer of the commission.

(c) The clerk or clerk-treasurer has no duty regarding the fees collected under this section except those imposed under subsection (b). Fees collected under this section:

(1) do not belong to the city or town; and

(2) are not subject to any of the following:

(A) IC 5-11-10.

(B) IC 36-2-6.

(C) IC 36-3.

(D) IC 36-4-8.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-44

Money for administration of chapter

Sec. 44. The commission may accept money from any source for use in administering this chapter.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-45

Zoning variance; approval by commission

Sec. 45. An administrative, a legislative, or other governmental body may not grant a zoning variance relating to the use of primary or secondary property without the prior approval of the commission upon the affirmative vote of at least six (6) members. The commission may approve the variance only if:

(1) the petition establishes by substantial evidence of probative value the correctness of the conclusions stated in section 47 of this chapter; and

(2) notices of the hearing have been given to all interested parties in the manner required by this chapter.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-46

Zoning ordinance pertaining to primary or secondary property prohibited

Sec. 46. (a) The development commission may not:

(1) approve a petition for the amendment or adoption of a zoning ordinance pertaining or applying to primary or secondary property; or

(2) adopt or amend an ordinance to the extent the ordinance pertains or applies to primary or secondary property;

until the events described in subsection (b) have occurred.

(b) The following must occur before the development commission may take action under subsection (a):

(1) Notice of the filing of the petition before the development commission has been given by the petitioner to all interested parties not later than ten (10) days after the filing.

(2) The matter has been referred to the commission, which has:

(A) considered the matter applying the standards stated in section 47 of this chapter and made a recommendation to the development commission; or

(B) failed to make a recommendation for a period of one hundred twenty (120) days following the referral of the matter to the commission for the commission's recommendations, unless the time has been extended by the development commission for good cause shown.

(3) A duly advertised public hearing on the matter has been held by the development commission.

(4) The conclusions stated in section 47 of this chapter have been established by substantial evidence of probative value.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-47

Prohibited results of zoning ordinance or amendment

Sec. 47. The conclusions required by sections 45 and 46 of this chapter are that the requested variance, the proposed new zoning ordinance, or the amendment to an existing zoning ordinance will not do any of the following:

(1) Tend to undermine or detract from the general residential character of the following:

(A) The primary area.

(B) Primary property.

(C) Secondary property lying between primary property and the property for which the new zoning ordinance, zoning ordinance amendment, or zoning variance is sought.

(2) Affect in an adverse manner the value for single family residential usage of the following:

(A) Primary property.

(B) Secondary property lying between primary property and the property for which the new zoning ordinance, zoning ordinance amendment, or zoning variance is sought.

(3) Alter or adversely affect, either in inherent nature or method of implementation, the historic or architectural character or style of the area comprised of:

(A) primary and secondary property; or

(B) the part of the area comprised of the property lying within five hundred (500) feet of the subject property.

(4) If the request is a zoning variance, violate a rule or regulation that the commission has adopted to accomplish the purposes of this chapter.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-48

Notice of filing of petition; evidence available to commission

Sec. 48. (a) Notice of:

(1) the filing of a petition with the commission for approval of a proposed use variance; and

(2) the filing of a petition with the development commission for approval of an amendment or the adoption of a zoning ordinance pertaining or applying to primary or secondary property;

is jurisdictional.

(b) Before referral of a matter to the commission, the development commission or other referring body must be satisfied of the following:

(1) That proper notice of the filing of the petition as required by this chapter has been given.

(2) That copies of:

(A) all petitions, exhibits, drawings, pictures, and other documents intended to be offered in support of the proposed new zoning ordinance or amendment to an existing zoning ordinance; and

(B) the contract described by section 50 or 51 of this chapter;

have been made available to the commission without expense to the commission.

(c) If the development commission discovers, upon hearing, substantial departure from, addition to, or modification of materials presented to the commission, the matter shall be remanded to the commission for an additional sixty (60) day period for reconsideration and further recommendation, if any. The commission may, however, take additional evidence that the commission considers necessary for the purpose of making recommendations on the proposed new zoning ordinance or amendment to an existing zoning ordinance.

(d) The development commission or other referring body:

(1) shall thoughtfully consider the recommendations of the commission; and

(2) may overrule or ignore the recommendations only if the recommendations are:

(A) unsupported by substantial evidence; or

(B) contradicted by a clear preponderance of the evidence;

presented before the development commission.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-49

Procedures for consideration of zoning matters referred by development commission

Sec. 49. (a) The provisions of this chapter concerning:

(1) meetings and hearings of the commission; and

(2) the manner in which matters will be taken up and considered by the commission;

do not apply in the commission's consideration of rezoning matters referred to the commission by the development commission.

(b) With respect to the matters described in subsection (a), the commission may by rule determine procedures to dispose of the matters within the mandatory one hundred twenty (120) day period.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-50

Requirements for petition filed by person seeking zoning variance

Sec. 50. (a) A petition that is filed by a person seeking approval of the commission for a zoning variance of or for subject property must:

(1) be under oath; and

(2) state the following:

(A) The full name and address of the petitioner and of each attorney acting for and on behalf of the petitioner.

(B) The street address.

(C) The name of the owner of the property.

(D) The full name and address of and the type of business, if any, conducted by:

(i) a person who at the time of the filing is a party to; and

(ii) a person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(E) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(F) The date of the regular meeting of the commission at which the petitioner requests the petition be considered and determined.

(G) A detailed description of the proposed use for which the zoning variance is sought.

(H) Other information that the commission requires by rule or regulation.

(b) A petition must be accompanied by the following:

(1) A true copy of each contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement described in the petition.

(2) The maps, plot plans, structural drawings and specifications, landscaping plans, floor plans, elevations, cross-sectional plans, architectural renderings, diagrams, or any other technical or graphic materials that the commission requires by rule or regulation.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-51

Requirements for petition filed by person requesting new or amended zoning ordinance affecting primary or secondary property

Sec. 51. (a) A petition that is filed by a person requesting the adoption of a new zoning ordinance or the amendment of an existing zoning ordinance directly pertaining to or affecting primary or secondary property must, in addition to all other applicable requirements concerning the petitions generally:

(1) be under oath; and

(2) state the following:

(A) The street address of the primary or secondary property to which the new zoning ordinance or amendment to an existing zoning ordinance would directly pertain or affect.

(B) The name of each owner of the property.

(C) The name and address of each person, including principals, if any, who at the time of filing is a party to a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement, excluding insurance policies, mortgage deeds, fuel service contracts, and similar documents, concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property. The petition must also describe all businesses in which the persons, jointly or severally, are engaged.

(D) A detailed description of the proposed use for which the new zoning ordinance or amendment of an existing zoning ordinance is sought.

(E) Other information that the development commission requires by rule or regulation.

(b) The petition must be accompanied by the following:

(1) A complete copy of each contract described by subsection (a)(2)(C) or a description of the contract sufficient to disclose the full nature of the interest of the party and principals, if any, in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(2) Other documents that the development commission requires by rule or regulation.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-52
Notice requirements

Sec. 52. (a) A person who has filed a petition under section 50 or 51 of this chapter shall, not later than ten (10) days after the filing, serve notice upon all interested parties. The notice must state the following:

(1) The full name and address of the following:

(A) The petitioner.

(B) Each attorney acting for and on behalf of the petitioner.

(2) The street address of the primary and secondary property for which the petition was filed.

(3) The name of the owner of the property.

(4) The full name and address of and the type of business, if any, conducted by:

(A) each person who at the time of the filing is a party to; and

(B) each person who is a disclosed or an undisclosed principal for whom the party was acting as agent in entering into;

a contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement of any kind or nature concerning the subject property or the present or future ownership, use, occupancy, possession, or development of the subject property.

(5) A description of the contract of sale, lease, option to purchase or lease, agreement to build or develop, or other written agreement sufficient to disclose the full nature of the interest of the party or of the party's principal in the subject property or in the present or future ownership, use, occupancy, possession, or development of the subject property.

(6) A description of the proposed use for which the rezoning or zoning variance is sought, sufficiently detailed to appraise the notice recipient of the true character, nature, extent, and physical properties of the proposed use.

(7) The date of the filing of the petition.

(8) The date, time, and place of the next regular meeting of the commission if a petition is for approval of a zoning variance. If a petition is filed with the development commission, the notice does not have to specify the date of a hearing before the commission or the development commission. However, the person filing the petition shall give ten (10) days notice of the date, time, and place of a hearing before the commission on the petition after the referral of the petition to the commission by the development commission.

(b) For purposes of giving notice to the interested parties who are owners, the records in the bound volumes of the recent real estate tax assessment records as the records appear in:

(1) the offices of the township assessors (if any); or

(2) the office of the county assessor;

as of the date of filing are considered determinative of the persons

who are owners.
As added by P.L.1-1995, SEC.84. Amended by P.L.219-2007, SEC.124; P.L.146-2008, SEC.721.

IC 36-7-11.3-53
Preservation area exemptions

Sec. 53. Sections 54, 55, and 56 of this chapter do not apply to a preservation area except to the extent the legislative body adopts an ordinance or a resolution after notice and a public hearing to substitute for sections 54, 55, and 56 of this chapter the land development and use standards applicable to the primary area or primary properties that are appropriate to accomplish the purposes of this chapter.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-54
Conditions for erection of new structure on primary property

Sec. 54. A new structure may not be erected upon a parcel of primary property and an existing structure upon the property may not be altered if the structure would do any of the following:

(1) Permit a residential usage that, in relation to the parcel upon which situated, would be of a substantially greater density than the average residential density of primary property lying within one thousand (1,000) feet of the property in question, excluding for purposes of determining the average primary property used for multiple family residential or commercial purposes.

(2) Appear substantially smaller or larger in size and scale than the average size and scale of the single and double family residential dwellings situated upon primary property lying within one thousand (1,000) feet of the property in question.

(3) Have a set-back from the primary area significantly less than the average set-back of structures facing upon the primary area that are situated upon primary property lying within one thousand (1,000) feet of the property in question.

(4) Have side lots measuring less than fifteen (15) feet from the property line of the subject property to the wall of the structure erected or altered.

(5) If primarily a residential dwelling, have a ground floor area of less than two thousand (2,000) square feet or forty percent (40%) of the total area of the parcel of land upon which the dwelling lies, whichever is less.

(6) Including all other structures upon the parcel, have a total ground floor area greater than fifty percent (50%) of the total area of the parcel of land upon which the structure lies.

(7) Substantially encroach upon the view and exposure of a residential structure on a neighboring property.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-55
Subdivision of primary property into lots

Sec. 55. A parcel of primary property may not be subdivided into lots having:

(1) an area of less than fifteen thousand (15,000) square feet; or

(2) frontage of less than one hundred (100) feet upon the primary area or upon an east-west street intersecting with the primary area.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-56

Conditions for altering structure or feature on primary property

Sec. 56. (a) A person may not construct on primary property a structure or feature or reconstruct, alter, or demolish primary property unless the following conditions have been met:

(1) The person has previously filed with the commission an application for a certificate of appropriateness in the form and with the plans, specifications, and other materials that the commission prescribes.

(2) A certificate of appropriateness has been issued by the commission as provided in this section.

(b) After the filing of an application for a certificate of appropriateness, the commission shall determine whether the proposed construction, reconstruction, or alteration of the structure in question:

(1) will be appropriate to the preservation of the area comprised of primary and secondary property; and

(2) complies with the architectural and construction standards then existing in the area.

(c) In determining appropriateness, the commission shall consider, in addition to other factors that the commission considers pertinent, the historical and architectural style, general design, arrangement, size, texture, and materials of the proposed work and the relation of the proposed work to the architectural factor of other structures in the area. The entity responsible for issuing building permits may not issue a permit for the construction, reconstruction, alteration, or demolition of a structure in the area unless the application for the permit is accompanied by a certificate of appropriateness.

(d) The issuance of or refusal to issue a permit is a final determination appealable under section 59 of this chapter. With respect to a certificate of appropriateness, the commission may, by rule or regulation, provide for:

(1) the public hearings;

(2) notice of the hearings; or

(3) the filing of the application for the certificate;

that the commission considers necessary.

(e) Notwithstanding this section, the commission may, by rule or regulation:

(1) define; and

(2) exempt from the application of this section;

specific types and categories of construction, reconstruction, alterations, and demolition for which the commission determines

commission action and review are not necessary or desirable to effect the purposes of this chapter.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-57
Restrictions on owners and occupants of primary and secondary property

Sec. 57. (a) As used in this section, "bedroom" means a room that:
(1) consists of not less than eighty (80) usable square feet and one (1) built-in closet; and
(2) is located on or above the first floor of a structure.

(b) Each owner and occupant of primary or secondary property shall do the following:
(1) Permit not more than one (1) family to inhabit a single-family dwelling.
(2) Permit not more than two (2) families to inhabit a double family dwelling.
(3) Permit to inhabit a dwelling unit not more than the number of individuals derived by multiplying the total number of bedrooms in the unit by three (3).
(4) Maintain and prevent cleared areas from becoming overgrown.
(5) Permit no trash, scrap, refuse, dead matter, or other debris of any kind to accumulate on the property so as to make:
(A) the property unhealthful, unsightly, or dangerous; or
(B) a residential structure or other structure appurtenant to a residential structure unsuitable for the residential or appurtenant purposes.
(6) Maintain in good repair and appearance all exterior surfaces.
(7) Maintain in good and safe repair all walls, roofs, foundations, ceilings, floors, stairways, or other structures upon the property.
(8) Repair promptly broken windows or panes of glass in a structure upon the property.
(9) Secure from unauthorized access an unused or unoccupied structure upon the property.
(10) Maintain in a safe, habitable condition each residential structure upon the property.
As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-58
Powers of interested parties; private right of action to restrain, enjoin, or enforce orders

Sec. 58. (a) Each interested party:
(1) has a private right of action to:
(A) enforce; and
(B) prevent violation of;
this chapter; and
(2) may, with respect to primary or secondary property:
(A) restrain or enjoin, temporarily or permanently, a person

from violating; and

(B) enforce by restraining order or injunction;

this chapter.

(b) The powers described in subsection (a) include the following:

(1) To enforce written commitments, agreements, or covenants made in accordance with or under this chapter.

(2) To prevent and obtain full relief from a threatened or existing violation of section 54, 55, 56, or 57 of this chapter.

(3) To prevent:

(A) a person from seeking or having the benefits of; or

(B) a governmental body from granting;

a rezoning of or zoning variance for primary or secondary property for which the commission or development commission for rezoning has not granted prior approval in the manner required by this chapter.

(4) To:

(A) prevent construction, reconstruction, alteration, or demolition work upon; and

(B) obtain full relief from work previously done upon;

primary property for which a certificate of appropriateness was required but was not issued by the commission. A showing that issuance of certificates of appropriateness for the work could not properly have been denied by the commission if a proper application had been made is a complete defense to an action under this subdivision.

(5) To prevent further construction work upon and obtain full relief from construction work previously done upon primary property that fails in a substantial manner to comply with all the terms and conditions:

(A) of a certificate of appropriateness issued by the commission; or

(B) of the petition and documents filed with the commission upon which the commission is presumed to have based approval of the certificate.

(6) To prevent usage of primary or secondary property for which a rezoning or zoning variance:

(A) would be required; and

(B) has not been obtained.

(7) To prevent a violation of the terms and conditions of the approval by the commission of a zoning variance as petitioned for and obtained from the commission.

(c) For purposes of obtaining relief sought under this section, it is not necessary to allege or prove irreparable harm or injury to a person or property. A person entitled to bring an action under this section is not required to post a bond unless the court, after a hearing, determines that a bond should be required in the interests of justice. A person who brings an action under this section is not, however, liable to a person for any damages resulting from the bringing or prosecuting of the action unless the action was not brought:

(1) in good faith; or

(2) in the reasonable belief that:

(A) this chapter; or

(B) a commitment, an agreement, or a covenant entered into under section 36 of this chapter;

had been or was about to be violated or breached.

(d) The person against whom an action is brought under subsection (a) is liable to the interested party bringing the action for reasonable attorney's fees and court costs if judgment is entered by the court against the person.

(e) An action arising under this section must be brought in the circuit or superior court of the county, and a change of venue from the county is not permitted.

(f) The remedy provided in this section is not exclusive but is cumulative to any other remedies available at law or equity.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-59

Judicial review

Sec. 59. A final determination by the commission is subject to judicial review in the same manner and subject to the same limitations as a final decision of a board of zoning appeals under IC 36-7-4. However, notwithstanding IC 36-7-4-1609, upon notice of the filing of the petition for judicial review, all proceedings and work on the subject premises are automatically stayed.

As added by P.L.1-1995, SEC.84. Amended by P.L.126-2011, SEC.67.

IC 36-7-11.3-60

Appeals

Sec. 60. An appeal may be taken to the court of appeals from the final judgment of the court under section 59 of this chapter reversing, affirming, or modifying the determination of the commission in the same manner and upon the same terms, conditions, and limitations as appeals in other civil actions.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-61

Dissolution of commission

Sec. 61. (a) The legislative body that created a commission under this chapter may:

(1) at any time in the discretion of the legislative body; or

(2) by application of at least fifty-one percent (51%) of the owners of property in the primary area;

dissolve the commission by ordinance or resolution if the legislative body in the discretion of the legislative body determines that the commission has failed to accomplish the purpose for which the commission was created.

(b) If the legislative body dissolves the commission, the preservation area ceases to exist and this chapter does not apply.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-62
Redefining preservation area

Sec. 62. The legislative body may at any time redefine:

(1) the preservation area; or

(2) the primary or secondary areas in the preservation area;

if the preservation area, as redefined, is an area that could properly be designated as a preservation area under this chapter for the purposes of this chapter.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.3-63
Cumulative nature of chapter

Sec. 63. This chapter is cumulative to and does not supersede, preempt, or invalidate a zoning, building, health, or other law, ordinance, or code in effect as of April 16, 1971, except to the extent the law, ordinance, or code is in irreconcilable conflict with this chapter. If an irreconcilable conflict exists, only those parts of the law, ordinance, or code that conflict with this chapter are inapplicable as the parts pertain to the subject matter of this chapter.

As added by P.L.1-1995, SEC.84.

IC 36-7-11.5
Chapter 11.5. Historic Hotel Preservation

IC 36-7-11.5-1
Definitions

Sec. 1. (a) As used in this chapter, "advisory board" refers to the Orange County development advisory board established by section 12 of this chapter.

(b) As used in this chapter, "development commission" refers to the Orange County development commission established by section 3.5 of this chapter.

(c) As used in this chapter, "historic hotel" has the meaning set forth in IC 4-33-2-11.1.

(d) As used in this chapter, "hotel riverboat resort" refers to the historic hotels, the riverboat operated under IC 4-33-6.5, and other properties operated in conjunction with the riverboat enterprise located in Orange County.

(e) As used in this chapter, "qualified historic hotel" refers to a historic hotel that has an atrium that includes a dome that is at least two hundred (200) feet in diameter.

As added by P.L.92-2003, SEC.62. Amended by P.L.234-2007, SEC.282.

IC 36-7-11.5-2
Application; interlocal agreement

Sec. 2. (a) This chapter applies to a town that satisfies either of the following criteria:

(1) The town contains a qualified historic hotel.

(2) The town contains a historic hotel and is adjacent to another town containing a qualified historic hotel.

(b) The towns described in subsection (a) may enter into an interlocal agreement under IC 36-1-7 to establish a historic hotel district under this chapter. The historic hotel district:

(1) may not include any area outside the county of the towns that enter into the interlocal agreement; and

(2) consists solely of the real property that is:

(A) owned by the historic hotels; and

(B) part of the tract of land (as defined in IC 6-1.1-1-22.5) that includes the parcel or parcels of land upon which the historic hotel building is located.

As added by P.L.92-2003, SEC.62.

IC 36-7-11.5-3
Repealed

(*Repealed by P.L.234-2007, SEC.290.)*

IC 36-7-11.5-3.5
Orange County development commission

Sec. 3.5. (a) The Orange County development commission is established.

(b) The development commission consists of the following members:

(1) An individual appointed by the legislative body of Orange County.

(2) An individual appointed by the legislative body of the town of French Lick.

(3) An individual appointed by the legislative body of the town of West Baden.

(4) An individual appointed by the legislative body of the town of Paoli.

(5) An individual appointed by the legislative body of the town of Orleans.

(6) A nonvoting member appointed by the governor.

(c) The members of the development commission shall each serve for a term of three (3) years. A vacancy shall be filled for the duration of the term by the original appointing authority.

(d) Each member of the development commission must, before beginning the discharge of the duties of the member's office, do the following:

(1) Take an oath that the member will faithfully execute the duties of the member's office according to Indiana law and rules adopted under Indiana law.

(2) Provide a bond to the state:

(A) for twenty-five thousand dollars ($25,000); and

(B) that is, after being executed and approved, recorded in the office of the secretary of state.

(e) A member of the development commission is not entitled to a salary per diem. However, a member is entitled to reimbursement for travel expenses incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(f) An individual who is an employee of a county or town described in subsection (b) may not be appointed to the development commission until at least three (3) years after the date the individual's employment with the county or town is terminated.

(g) An individual who is a member of any other board serving a county or town described in subsection (b) may not be appointed to the development commission until at least three (3) years after the date the individual's membership on the board expires.

(h) An individual who is:

(1) employed by the hotel riverboat resort or an affiliated business;

(2) contracted or hired to perform a service for the hotel riverboat resort or an affiliated business; or

(3) engaged in any other form of a business relationship with the hotel riverboat resort or an affiliated business;

may not be appointed to the development commission until at least three (3) years after the date on which the individual's employment or business relationship with the hotel riverboat resort or an affiliated business is terminated.

As added by P.L.234-2007, SEC.283.

IC 36-7-11.5-3.7
Abolition of historic hotel preservation commission established by interlocal agreement; transitional provisions

Sec. 3.7. (a) As used in this section, "commission" refers to a historic hotel preservation commission established by an interlocal agreement under section 3 of this chapter (before its repeal).

(b) As used in this section, "local development agreement" refers to the local development agreement:

(1) entered into by:

(A) the town of French Lick;

(B) the town of West Baden Springs;

(C) Orange County;

(D) the commission; and

(E) Blue Sky Casino, LLC; and

(2) dated July 28, 2005.

(c) Notwithstanding any other law, the commission is abolished on July 1, 2007.

(d) Notwithstanding any other law, the term of office of a member of the commission serving on June 30, 2007, terminates July 1, 2007.

(e) Any balance remaining on June 30, 2007, in the community trust fund established under section 8 of this chapter (before its repeal) is transferred to the Orange County development commission established by section 3.5 of this chapter.

(f) On July 1, 2007, all records and property of the commission are transferred to the Orange County development commission established by section 3.5 of this chapter.

(g) Except as provided in subsection (h), an unfulfilled financial commitment made by the commission is void on July 1, 2007.

(h) The Orange County development commission shall assume the commission's commitments to the French Lick Municipal Airport.

(i) Any part of a local development agreement that requires a town to make payments to a county is void on July 1, 2007.

(j) P.L.234-2007 does not affect the validity of a historic hotel district established in Orange County before January 1, 2007, under section 2 of this chapter.

As added by P.L.220-2011, SEC.663.

IC 36-7-11.5-4
Repealed

(*Repealed by P.L.234-2007, SEC.290.)*

IC 36-7-11.5-5
Rules; required meetings

Sec. 5. (a) The development commission shall elect from its membership a chairperson and vice chairperson, who shall serve for one (1) year and may be reelected.

(b) The development commission shall adopt rules consistent with this chapter for the transaction of its business. The rules must include

the time and place of regular meetings and a procedure for the calling of special meetings. Three (3) voting members constitute a quorum of the development commission. No action may be taken by the development commission unless a majority of the voting members appointed to the development commission vote in favor of taking the action.

(c) All meetings of the development commission must be open to the public, and a public record of the development commission's resolutions, proceedings, and actions must be kept.

(d) The development commission shall employ an administrator who shall act as the commission's secretary.

(e) The development commission shall hold regular meetings, at least monthly, except when it has no business pending.

As added by P.L.92-2003, SEC.62. Amended by P.L.234-2007, SEC.284.

IC 36-7-11.5-6
Funds

Sec. 6. (a) Money acquired by the development commission is subject to the laws concerning the deposit and safekeeping of public money.

(b) The money of the development commission and the accounts of each officer, employee, or other person entrusted by law with the raising, disposition, or expenditure of the money or part of the money are subject to examination by the state board of accounts.

As added by P.L.92-2003, SEC.62. Amended by P.L.234-2007, SEC.285.

IC 36-7-11.5-7
Powers and responsibilities

Sec. 7. (a) The development commission shall do the following:

(1) Employ an administrator and other professional staff necessary to assist the development commission in carrying out its duties.

(2) Facilitate and coordinate the development of Orange County.

(3) Serve as a liaison between the riverboat located in a historic hotel district and the political subdivisions located in Orange County.

(4) Facilitate and coordinate the appropriate development of the historical environment of the towns of French Lick and West Baden.

(5) Establish a grant program to provide financial support to community organizations in Orange County.

(b) The development commission may do the following:

(1) Engage consultants, attorneys, accountants, and other professionals necessary to carry out the development commission's duties.

(2) Award grants and low interest loans to promote economic development through tourism in Orange County.

(c) The development commission shall:

(1) promote economic development through tourism;

(2) attract new business;

(3) improve housing; and

(4) engage in any other activity that promotes the development of Orange County.

As added by P.L.92-2003, SEC.62. Amended by P.L.97-2004, SEC.127; P.L.234-2007, SEC.286.

IC 36-7-11.5-8
Repealed

(*Repealed by P.L.234-2007, SEC.290.)*

IC 36-7-11.5-9
Repealed

(*Repealed by P.L.234-2007, SEC.290.)*

IC 36-7-11.5-10
Repealed

(*Repealed by P.L.234-2007, SEC.290.)*

IC 36-7-11.5-11
West Baden Springs historic hotel preservation and maintenance fund

Sec. 11. (a) As used in this section, "fund" refers to the West Baden Springs historic hotel preservation and maintenance fund established by subsection (b).

(b) The West Baden Springs historic hotel preservation and maintenance fund is established. The fund consists of the following:

(1) Amounts deposited in the fund under IC 4-33-6.5-6, IC 4-33-12-6(c), and IC 4-33-13-5(b).

(2) Grants and gifts that the department of natural resources receives for the fund under terms, obligations, and liabilities that the department considers appropriate.

(3) The one million dollar ($1,000,000) initial fee paid to the gaming commission under IC 4-33-6.5.

(4) Any amount transferred to the fund upon the repeal of IC 36-7-11.5-8 (the community trust fund).

The fund shall be administered by the department of natural resources. The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund that is not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. The treasurer of state shall deposit in the fund the interest that accrues from the investment of the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The interest accruing to the fund is annually appropriated to the department of natural resources only for the following purposes:

(1) To reimburse claims made for expenditures to maintain a qualified historic hotel, as determined by the owner of the hotel riverboat resort.

(2) To reimburse claims made for expenditures to maintain:

(A) the grounds surrounding a qualified historic hotel;

(B) supporting buildings and structures related to a qualified historic hotel; and

(C) other facilities used by the guests of the qualified historic hotel;

as determined by the owner of the hotel riverboat resort.

(f) The department of natural resources shall promptly pay each claim for a purpose described in subsection (e) to the extent of the balance of interest available in the fund, without review or approval of the project or claim under IC 14-21 or IC 36-7-11. IC 14-21-1-18 does not apply to projects or claims paid for maintenance under this section. If insufficient money is available to fully pay all of the submitted claims, the department of natural resources shall pay the claims in the order in which they are received until each claim is fully paid.

(g) Notwithstanding IC 4-9.1-1-7, IC 4-12-1-12, IC 4-13-2-18, or any other law, interest accruing to the fund may not be withheld, transferred, assigned, or reassigned to a purpose other than the reimbursement of claims under subsection (f).

As added by P.L.92-2003, SEC.62. Amended by P.L.97-2004, SEC.128; P.L.234-2007, SEC.287; P.L.96-2010, SEC.5; P.L.229-2011, SEC.266.

IC 36-7-11.5-12

Orange County development advisory board

Sec. 12. (a) The Orange County development advisory board is established for the purpose of advising the development commission established under section 3.5 of this chapter.

(b) The advisory board consists of five (5) members appointed as follows:

(1) One (1) individual appointed by the speaker of the house of representatives.

(2) One (1) individual appointed by the president pro tempore of the senate.

(3) One (1) individual appointed by the Orange County convention and visitors bureau.

(4) Two (2) individuals appointed by the chief operating officer of the hotel riverboat resort.

(c) Except as provided in subsection (d), the members of the advisory board shall each serve for a term of four (4) years. A vacancy shall be filled for the duration of the term by the original appointing authority.

(d) The member appointed under subsection (b)(3) shall serve an initial term of one (1) year. As determined by the appointing authority, the two (2) members appointed under subsection (b)(4) shall serve initial terms of two (2) and three (3) years respectively.

(e) A member of the advisory board is not entitled to a salary per diem. However, a member is entitled to reimbursement for travel expenses incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.
As added by P.L.234-2007, SEC.288.

IC 36-7-11.5-13
Low interest loans

Sec. 13. (a) An individual may apply for a grant or low interest loan on a form prescribed by the development commission.

(b) A form prescribed by the development commission must be designed to be read and easily understood by the ordinary individual.
As added by P.L.234-2007, SEC.289.

IC 36-7-11.9

Chapter 11.9. Economic Development and Pollution Control; Definitions

IC 36-7-11.9-1

Application of definitions

Sec. 1. The definitions in this chapter apply throughout this chapter and IC 36-7-12.

As added by P.L.20-1985, SEC.14.

IC 36-7-11.9-2

"Developer"

Sec. 2. "Developer" means a person that proposes to enter, or has entered, into a financing agreement with a unit for economic development or pollution control facilities and that has entered into a separate agreement with some other person for the substantial use of the facilities financed.

As added by P.L.20-1985, SEC.14.

IC 36-7-11.9-3

"Economic development facilities"

Sec. 3. (a) "Economic development facilities" includes land; interests in land; site improvements; infrastructure improvements; buildings; structures; rehabilitation, renovation, and enlargement of buildings and structures; economic improvement projects under IC 36-7-22; machinery; equipment; and furnishings for the following:

(1) Facilities for manufacturing, warehousing, distribution, or processing of tangible or intangible property.

(2) Facilities for commercial, business, health care, or recreational activities (whether for profit or not-for-profit), except for any of the following:

(A) Private or commercial golf course.

(B) Country club.

(C) Massage parlor.

(D) Tennis club.

(E) Skating facility (including roller skating, skateboarding, or ice skating).

(F) Racquet sports facility (including any handball or racquetball court).

(G) Hot tub facility.

(H) Suntan facility.

(I) Racetrack.

(J) Airplane.

(K) Skybox or other private luxury box.

(L) Health club.

(M) Any facility primarily used for gambling.

(N) Any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

As added by P.L.20-1985, SEC.14. Amended by P.L.2-1987, SEC.50; P.L.25-1987, SEC.42; P.L.131-2008, SEC.53.

IC 36-7-11.9-4
Repealed
(*Repealed by P.L.25-1987, SEC.60.)*

IC 36-7-11.9-5
"Financing"
Sec. 5. "Financing" includes the activities listed in IC 36-7-12-18.
As added by P.L.20-1985, SEC.14.

IC 36-7-11.9-6
"Financing agreement"
Sec. 6. "Financing agreement" means an agreement between a unit and a developer, user, or lender concerning the financing of, the title to, or possession of economic development or pollution control facilities, and payments to the unit in respect of the financing, title, or possession.
As added by P.L.20-1985, SEC.14.

IC 36-7-11.9-7
"Lender"
Sec. 7. "Lender" means any federal or state chartered bank, federal land bank, savings association, production credit association, bank for cooperatives, or small business investment company, and includes any other institution qualified to originate and service loans, such as an insurance company, credit union, or mortgage loan company.
As added by P.L.20-1985, SEC.14. Amended by P.L.79-1998, SEC.107.

IC 36-7-11.9-8
"Pollution"
Sec. 8. "Pollution" means all forms of environmental pollution, including water pollution, air pollution, solid and radioactive waste, thermal pollution, radiation contamination, and noise pollution.
As added by P.L.20-1985, SEC.14.

IC 36-7-11.9-9
"Pollution control facilities"
Sec. 9. "Pollution control facilities" includes land; interests in land; site improvements; infrastructure improvements; buildings; structures; rehabilitation, renovation, and enlargement of buildings and structures; machinery; equipment; and furnishings for facilities for the abatement, reduction, or prevention of pollution, or for the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used. This includes the following:

(1) Coal washing, coal cleaning, or coal preparation facilities designed to reduce the sulfur and ash levels of Indiana coal.

(2) Coal-fired boiler facilities designed to reduce emissions while burning Indiana coal.

(3) Pollution control equipment to allow for the environmentally sound use of Indiana coal.

As added by P.L.20-1985, SEC.14. Amended by P.L.25-1987, SEC.43.

IC 36-7-11.9-9.3
"Taxable bonds"

Sec. 9.3. "Taxable bonds" means bonds, the interest on which will not be excluded from the gross income of the owners of the bonds under Section 103 of the Internal Revenue Code.

As added by P.L.25-1987, SEC.44.

IC 36-7-11.9-9.7
"Tax-exempt bonds"

Sec. 9.7. "Tax-exempt bonds" means bonds, the interest on which will be excluded from the gross income of the owners of the bonds under Section 103 of the Internal Revenue Code.

As added by P.L.25-1987, SEC.45.

IC 36-7-11.9-10
"User"

Sec. 10. "User" means a person that has entered into a financing agreement with a unit, a developer, or a lender in contemplation of its use of the facilities referred to in the agreement.

As added by P.L.20-1985, SEC.14.

IC 36-7-12

Chapter 12. Economic Development and Pollution Control

IC 36-7-12-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-2

Repealed

(*Repealed by P.L.20-1985, SEC.18(a).)*

IC 36-7-12-3

Declaration of public purpose

Sec. 3. The financing of single, identified economic development or pollution control facilities and the provision of a program to finance multiple, unidentified economic development or pollution control facilities that promote a substantial likelihood of:

(1) creating or retaining opportunities for gainful employment;

(2) creating business opportunities;

(3) providing reliable water services;

(4) the abatement, reduction, or prevention of pollution; or

(5) the removal or treatment of substances in materials being processed that otherwise would cause pollution when used;

serve a public purpose and will be of benefit to the health or general welfare of the unit proposing to issue bonds for the financing or program or of the unit where the facilities that are to be financed are located.

As added by Acts 1981, P.L.309, SEC.31. Amended by P.L.25-1987, SEC.46; P.L.35-1990, SEC.46.

IC 36-7-12-4

Economic development departments and commissions; creation

Sec. 4. If the fiscal body of a unit finds it necessary to finance economic development or pollution control facilities under this chapter, the fiscal body may establish a department of economic development, to be controlled by a commission known as "_____ Economic Development Commission", designating the name of the municipality or county.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-5

Second and third class cities; commission members; appointment; terms of office

Sec. 5. (a) This section applies to second and third class cities that establish a department of economic development.

(b) The members of the economic development commission shall be appointed by the city executive. One (1) of the members shall be selected by the city executive, one (1) shall be nominated by the fiscal body of the county in which the city is located, and one (1)

shall be nominated by the city fiscal body.

(c) The economic development commissioners shall take office upon their appointment, and their terms run from February 1 after their original appointment, for a period of:

(1) three (3) years, if selected by the city executive;

(2) two (2) years, if nominated by the city fiscal body; and

(3) one (1) year, if nominated by the county fiscal body.

(d) If the ordinance of the city fiscal body establishing the department of economic development provides for a five (5) member commission, or if the fiscal body later adopts an ordinance increasing the membership from three (3) to five (5), two (2) additional members shall be selected and appointed by the city executive, one (1) for a term of three (3) years and one (1) for a term of one (1) year from February 1 after their appointment.

As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1981, P.L.44, SEC.54.

IC 36-7-12-6

Towns; commission members; appointment; terms of office

Sec. 6. (a) This section applies to towns that establish a department of economic development.

(b) The members of the economic development commission shall be appointed by the town executive. One (1) of the members shall be selected by the town executive, one (1) shall be nominated by the fiscal body of the county in which the town is located, and one (1) shall be nominated by the town fiscal body.

(c) The economic development commissioners shall take office upon their appointment, and their terms run from February 1 after their original appointment, for a period of:

(1) three (3) years, if selected by the town executive;

(2) two (2) years, if nominated by the town fiscal body; and

(3) one (1) year, if nominated by the county fiscal body.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-7

Counties; commission members; appointment; terms of office

Sec. 7. (a) This section applies to counties that establish a department of economic development.

(b) The members of the economic development commission shall be appointed by the county executives. One (1) of the members shall be selected by the county executive, one (1) shall be nominated by the county fiscal body, and one (1) shall be nominated by the fiscal body of the most populous municipality located in the county.

(c) The economic development commissioners shall take office upon their appointment, and their terms run from February 1 after their original appointment, for a period of:

(1) three (3) years, if selected by the county executive;

(2) two (2) years, if nominated by the county fiscal body; and

(3) one (1) year, if nominated by the fiscal body of the most populous municipality.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-8
Consolidated cities; commission members; appointment; terms of office

Sec. 8. (a) This section applies to consolidated cities that establish a department of economic development.

(b) The members of the economic development commission shall be appointed by the city executive. One (1) of the members shall be selected by the city executive, and two (2) shall be nominated by the city fiscal body.

(c) The economic development commissioners shall take office upon their appointment, and their terms run from February 1 after their original appointment, for a period of:

(1) three (3) years, if selected by the city executive;

(2) two (2) years, for one (1) of the two (2) commissioners nominated by the city fiscal body; and

(3) one (1) year, for the remaining commissioner nominated by the city fiscal body.

(d) If the ordinance of the city fiscal body establishing the department of economic development provides for a five (5) member commission, or if the fiscal body later adopts an ordinance increasing the membership from three (3) to five (5), two (2) additional members shall be selected and appointed by the city executive, one (1) for a term of three (3) years and one (1) for a term of one (1) year from February 1 after their appointment.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-9
Commissioners; selection and nomination; successors in office

Sec. 9. (a) After the adoption of an ordinance establishing a department of economic development, the clerk of the fiscal body establishing the department shall promptly notify the executives and fiscal bodies required to make selections and nominations by this chapter. The officers required to make selections and nominations shall do so within fifteen (15) days after receiving that notice. Each selectee and nominee shall be appointed by the appropriate executive officer within ten (10) days after he receives the nominations.

(b) At the expiration of the respective terms of each of the original economic development commissioners, their respective successors shall be selected and nominated, before the expiration of the term, in the same manner as the original commissioner, and each succeeding commissioner shall serve for a term of four (4) years. A commissioner shall hold over after the expiration of his term until his successor is appointed and has qualified.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-10
Commissioners; failure to nominate; vacancies

Sec. 10. (a) If a fiscal body fails to make a nomination within the

time specified by section 9 of this chapter, the executive may select and appoint a person without a nomination.

(b) If a person appointed as an economic development commissioner fails to take the oath of office required by section 11 of this chapter within ten (10) days after the notice of his appointment is mailed to him, or if any commissioner, after qualifying, dies, resigns, vacates his office, or is removed from office, a new commissioner shall be appointed to fill the vacancy in the same manner as the commissioner in respect to whom the vacancy occurs was appointed. A commissioner appointed under this subsection shall serve for the remainder of the vacated term.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-11

Commissioners; oaths; certificates of appointment

Sec. 11. Before beginning his duties, each economic development commissioner shall take and subscribe an oath of office in the usual form, to be indorsed upon the certificate of his appointment. The certificate shall be promptly filed with the clerk of the fiscal body that established the department.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-12

Commissions; organizational meetings; officers

Sec. 12. (a) An economic development commission shall meet within thirty (30) days after its original appointment, at a time and place designated by the executive of the unit, for the purpose of organization, and shall meet to reorganize in February of each succeeding year.

(b) At the meeting required by subsection (a), an economic development commission shall elect one (1) of its members as president, one (1) as vice president, and one (1) as secretary. Each officer shall serve from the date of his election until January 31 after his election, and until his successor is elected and qualified.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-13

Commissions; rules; meetings; quorum; approval of actions; records

Sec. 13. (a) An economic development commission may adopt the bylaws, rules, and regulations that it considers necessary. Regular or special meetings shall be held at times and upon notice fixed by the commission, either by resolution or in accordance with the bylaws, rules, and regulations adopted.

(b) A majority of the members of an economic development commission constitutes a quorum.

(c) Actions of an economic development commission must be approved by a majority of the members of the commission.

(d) The records of an economic development commission are public records.

As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1981, P.L.310, SEC.72.

IC 36-7-12-14
Removal of commissioners from office

Sec. 14. An economic development commissioner may be removed from office for neglect of duty, incompetency, inability to perform his duties, or any other good cause, by the executive or fiscal body that selected or nominated him. The commissioner removed may obtain judicial review of the removal by filing a complaint in a circuit or superior court in the county, and the burden of proof is upon the executive or fiscal body that removed the commissioner. The cause shall be placed on the advanced calendar and be tried as other civil causes are tried by the court, without a jury. The court's judgment may be appealed in the same manner as any civil action.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-15
Commissioners; expenses and per diem

Sec. 15. An economic development commissioner is not entitled to any salary, but is entitled to:

(1) reimbursement for expenses necessarily incurred in the performance of his duties; and

(2) a per diem allowance for each day he attends a commission meeting, if that allowance:

(A) does not exceed the per diem allowance for members of the general assembly; and

(B) is authorized by the fiscal body that established the commission.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-16
Commissioners; pecuniary interests in matters considered by commissions

Sec. 16. (a) An economic development commissioner shall disclose any pecuniary interest in any employment, financing agreement, or other contract made under this chapter before any action by the commission on it, and shall not vote on any such matter.

(b) Notwithstanding any other law, a member of the fiscal body of a unit may have a pecuniary interest in any employment, financing agreement, or other contract made under this chapter if he discloses his pecuniary interest before any action by the fiscal body on it and does not vote on any such matter.

(c) If any property in which an economic development commissioner or member of a fiscal body of a unit has a pecuniary interest is property required for the purposes of this chapter, that property may be acquired, but only by gift or condemnation.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-17
Commissions; investigatory duties

Sec. 17. (a) An economic development commission shall investigate, study, and survey the need for additional job opportunities, industrial diversification, water services, and pollution control facilities in the unit, and shall recommend action to improve or promote job opportunities, industrial diversification, water services, and availability of pollution control facilities in the unit.

(b) As part of an investigation under subsection (a), an economic development commission may participate in the financing of business appraisals and financial feasibility studies of the possible purchase of a business with operations in the commission's jurisdiction by the employees of that operation through an employee stock ownership plan (ESOP). The employees must agree to repay the commission's contribution to the cost of the appraisals and studies if such a purchase is successful.

As added by Acts 1981, P.L.309, SEC.31. Amended by P.L.169-1990, SEC.1; P.L.35-1990, SEC.47.

IC 36-7-12-18
Powers of units

Sec. 18. (a) A unit may:

(1) enter into agreements concerning, and acquire by any lawful means, land or interests in land and personal property needed for the purposes of this chapter;

(2) exercise its power of eminent domain to acquire unimproved land, unoccupied economic development facilities, or pollution control facilities and the land relating to those facilities, for the purposes of this chapter;

(3) purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve economic development or pollution control facilities, including land, machinery, or equipment;

(4) lease economic development or pollution control facilities to users or developers, with or without an option to purchase;

(5) sell economic development or pollution control facilities to users or developers, for consideration to be paid in installments or otherwise;

(6) make direct loans to users or developers for the cost of acquisition, construction, or installation of economic development or pollution control facilities, including land, machinery, or equipment, with the loans to be secured by the pledge of one (1) or more taxable or tax-exempt bonds or other secured or unsecured debt obligations of the users or developers;

(7) enter into agreements with users or developers to allow the users or developers to wholly or partially construct economic development or pollution control facilities to be acquired by the unit;

(8) issue taxable or tax-exempt bonds under this chapter for

single or multiple, identified or unidentified, economic development or pollution control facilities to accomplish the purposes of this chapter, and secure their payment as provided in this chapter;

(9) establish reserves from the proceeds of the sale of taxable or tax-exempt bonds, other funds, or both, to secure the payment of the principal and interest on the bonds;

(10) lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to the lender for the purpose of making a loan to a specifically identified developer or user for the financing of specifically identified economic development or pollution control facilities under this chapter; and

(11) reimburse from bond proceeds expenditures for pollution control facilities or economic development facilities.

(b) This chapter does not authorize the financing of economic development facilities for a developer unless any written agreement that may exist between the developer and the user is fully disclosed to, and approved by, the economic development commission or the fiscal body of the unit.

As added by Acts 1981, P.L.309, SEC.31. Amended by P.L.40-1983, SEC.3; P.L.25-1987, SEC.47; P.L.24-1995, SEC.28.

IC 36-7-12-18.5

Bonding powers

Sec. 18.5. A unit may initiate a program for financing economic development or pollution control facilities for developers and users in Indiana through the issuance of taxable or tax-exempt bonds. In furtherance of this objective, the unit may do any of the following:

(1) Establish eligibility standards for developers and users, without complying with IC 4-22-2. However, these standards have the force of law if the standards are adopted after a public hearing for which notice has been given by publication under IC 5-3-1.

(2) Contract with any entity securing the payment of bonds issued under this chapter and authorizing the entity to approve the developers and users that can finance or refinance economic development or pollution control facilities with proceeds from the bond issue secured by that entity.

(3) Lease to a developer or user economic development or pollution control facilities upon terms and conditions that the unit considers proper and, with respect to the lease:

(A) charge and collect rents;

(B) terminate the lease upon the failure of the lessee to comply with any of its obligations under the lease or otherwise as the lease provides;

(C) include in the lease provisions that the lessee has the option to renew the term of the lease for such periods and at such rents as may be determined by the unit or to purchase any or all of the economic development or pollution control

facilities to which the lease applies.

(4) Lend money, upon such terms and conditions as the unit considers proper, to a developer or user under an installment purchase contract or loan agreement to:

(A) finance, reimburse, or refinance the cost of economic development or pollution control facilities; and

(B) take back a secured or unsecured promissory note evidencing such a loan or a security interest in the economic development or pollution control facilities financed or refinanced with the loan.

(5) Sell or otherwise dispose of any unneeded or obsolete economic development or pollution control facilities under terms and conditions determined by the unit.

(6) Maintain, repair, replace, and otherwise improve or cause to be maintained, repaired, replaced, and otherwise improved any economic development or pollution control facilities owned by the unit.

(7) Require any type of security that the unit considers reasonable and necessary.

(8) Obtain or aid in obtaining property insurance on all economic development or pollution control facilities owned or financed, or accept payment if any economic development or pollution control facilities are damaged or destroyed.

(9) Enter into any agreement, contract, or other instrument with respect to any insurance, guarantee, letter of credit, or other form of credit enhancement, accepting payment in such manner and form as provided in the instrument if a developer or user defaults, and assign any such insurance, guarantee, letter of credit, or other form of credit enhancement as security for bonds issued by the unit.

(10) Finance for eligible developers and users the cost of economic development or pollution control facilities as set forth in section 29 of this chapter.

As added by P.L.25-1987, SEC.48.

IC 36-7-12-19

Special tax levy; transfer of money to department of economic development; adoption and submission of proposed budget

Sec. 19. (a) The fiscal body of a unit may levy a special tax to pay the costs of operation of its economic development commission, but this tax may not be used to pay any of the costs attributable to the acquisition and leasing or sale of economic development or pollution control facilities, except for advancements to be reimbursed from bond proceeds.

(b) Any unit having money raised by taxation for any type of industrial aid or development as authorized by any other statute may transfer that money to its department of economic development to carry out the purposes of this chapter.

(c) Before a tax is levied under subsection (a) or money is transferred under subsection (b), the economic development

commission must:

(1) adopt a proposed budget for the use of the money it will receive from the levy or transfer; and

(2) submit the budget to the fiscal body of the unit that established the commission.

The fiscal body may review and modify the proposed budget.

As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1981, P.L.310, SEC.73.

IC 36-7-12-20

Use of funds; procedures for letting contracts; employees' bonds

Sec. 20. (a) All tax revenues coming into possession of the economic development commission shall be deposited, held, and secured in accordance with the statutes relating to the handling and investing of public funds. The handling and expenditure of this money is subject to audit and supervision by the state board of accounts.

(b) Contracts for construction and equipment of economic development or pollution control facilities need not be let in accordance with IC 5-16, IC 5-17, or any other statute relating to public contracts. However, the construction of waterworks facilities financed for the public purpose of providing reliable water service subject to IC 5-16-7.

(c) Any employee of the economic development commission authorized to receive, disburse, or in any other way handle money or negotiable securities of the commission shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in the state. The bond must be in an amount determined by the commission, and must be conditioned upon the employee's faithful performance of his duties and the accounting for all monies and property that may come into his hands or under his control. The cost of these bonds shall be paid by the commission.

As added by Acts 1981, P.L.309, SEC.31. Amended by P.L.35-1990, SEC.48.

IC 36-7-12-21

Negotiation of financing terms; adverse competitive effect studies; preliminary expenses

Sec. 21. (a) An economic development commission may enter into negotiations with one (1) or more persons concerning the terms and conditions for financing of economic development or pollution control facilities.

(b) The commission shall consider whether a proposed economic development facility may have an adverse competitive effect on similar facilities already constructed or operating in the unit. In the case of economic development facilities that are identified at the time of issuance of the bonds, the adverse competitive effect question must be considered before issuance of the bonds. In the case of a program financing under section 18.5 of this chapter, the adverse competitive effect question need not be considered before the

issuance of the bonds except for those economic development facilities that are identified at the time of issuance of the bonds, but it must be considered before financing any proposed economic development facilities from program funds.

(c) Preliminary expenses in connection with negotiations under this section may be paid from:

(1) money furnished by the proposed user or developer;

(2) money made available by the state or federal government, or by any of their departments or agencies; or

(3) money of the commission.

As added by Acts 1981, P.L.309, SEC.31. Amended by P.L.25-1987, SEC.49.

IC 36-7-12-22

Applicability of zoning laws; consent necessary for financing of facilities

Sec. 22. (a) Economic development or pollution control facilities are subject to applicable zoning laws. If a fiscal body of a unit establishes a department of development, the unit and its economic development commission have jurisdiction under this chapter throughout the county, both inside and outside the corporate boundaries of any municipality.

(b) Notwithstanding subsection (a), economic development facilities that are to be located within the corporate boundaries of a municipality may not be financed by a county without the consent of the fiscal body of the municipality, and economic development facilities that are to be located outside the corporate boundaries of a municipality may not be financed by the municipality without the consent of the fiscal body of the unit in which facilities are to be located.

(c) Notwithstanding subsection (a), pollution control facilities that are to be located within the corporate boundaries of a municipality may not be financed by another unit unless:

(1) the user has applied to the economic development commission and fiscal body of the municipality for the financing of the facilities, and the municipality has failed to adopt a bond, note, or warrant ordinance for the facilities within sixty (60) days after the date of the application; or

(2) the fiscal body of the municipality has consented to the financing of the facilities by another unit.

As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-23

Evaluative report; exception

Sec. 23. (a) The economic development commission shall prepare a report that:

(1) briefly describes the proposed economic development or pollution control facilities;

(2) estimates the number and expense of public works or services that would be made necessary or desirable by the

proposed facilities, including public ways, schools, water, sewers, street lights, and fire protection;

(3) estimates the total project costs of the proposed facilities;

(4) for economic development facilities, estimates the number of jobs and the payroll to be created or saved, or describes the public benefits provided by a waterworks facility; and

(5) for pollution control facilities, describes the facilities and how they will abate, reduce, or prevent pollution.

(b) The report shall be submitted to the executive director or chairman of the plan commission, if any, and if the number of new jobs estimated exceeds one hundred (100), to the superintendent of the school corporation where the facilities will be located. The executive director or chairman of the plan commission and the school superintendent may formulate their written comments concerning the report and transmit their comments, if any, to the commission within five (5) days from the receipt of the report.

(c) In the case of a program financing under section 18.5 of this chapter, the requirements of this section need be complied with only when and as a condition precedent to financing proposed economic development or pollution control facilities from the program funds.

As added by Acts 1981, P.L.309, SEC.31. Amended by P.L.25-1987, SEC.50; P.L.35-1990, SEC.49.

IC 36-7-12-24

Hearing on proposed financing of facilities; approval by commission

Sec. 24. (a) The economic development commission shall hold a public hearing, for itself and on behalf of the fiscal body of the unit proposing to issue the bonds, on the proposed financing of the economic development or pollution control facilities, after giving notice by publication in accordance with IC 5-3-1 in the unit proposing to issue the bonds and in the municipality, if any, where the facilities are to be located. However, in the case of a program financing under section 18.5 of this chapter that is funded with taxable bonds, the public hearing requirement of this section need not be complied with until the economic development or pollution control facilities to be financed with program funds have been identified.

(b) Upon findings by the commission that:

(1) the proposed financing will be of benefit to the health or general welfare of the unit proposing to issue the bonds, or the unit where the facilities are to be located, or both; and

(2) the proposed financing complies with this chapter;

the commission shall, by resolution, approve the financing, including the form and terms of the financing agreement, the bonds and the trust indenture (if any). The secretary of the commission shall transmit the resolution to the fiscal body of the unit proposing to issue the bonds.

As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1981, P.L.45, SEC.28; P.L.25-1987, SEC.51.

IC 36-7-12-25

Approval of proposed financing by unit; authorization bond issuance; approval of changes

Sec. 25. (a) If the fiscal body of the unit proposing to issue the bonds finds that the financing approved under section 24 of this chapter will be of benefit to the health or general welfare of the unit proposing to issue the bonds the unit where the facilities are to be located, or both, and complies with this chapter, it may adopt an ordinance approving the proposed financing in the form that the financing was approved by the economic development commission or as modified by the fiscal body in its discretion.

(b) The ordinance may also authorize the issuance of bonds payable solely from revenues and receipts derived from the financing agreement or from payments made under a guaranty agreement by developers, users, or related persons. The bonds are not in any respect a general obligation of the unit, nor are they payable in any manner from revenues raised by taxation.

(c) The financing agreements, trust indentures (if any), and bonds must be executed by the:

(1) executive; and

(2) clerk of the fiscal body;

of the unit approving the financing. These officials may by their execution approve changes therein without further approval of the fiscal body or the economic development commission of the unit if such changes do not affect terms contained in the ordinance pursuant to section 27(a)(1) through (a)(10) of this chapter and if the ordinance authorizes these officials to approve such changes.

As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1982, P.L.28, SEC.5; P.L.25-1987, SEC.52.

IC 36-7-12-26

Financing agreements; terms

Sec. 26. (a) A financing agreement approved under this chapter must provide for payments in an amount sufficient to pay the principal of, premium (if any), and interest on the bonds authorized for and allocable to the financing of the facilities. However, interest payments for the anticipated construction period, plus a period of not more than one (1) year, may be funded in the issue.

(b) The term of a financing agreement may not exceed forty (40) years from the date of any bonds issued under the financing agreement. However, a financing agreement does not terminate after forty (40) years if a default under that agreement remains uncured, unless the termination is authorized by the terms of the financing agreement.

(c) If the unit retains an interest in the facilities, the financing agreement must require the user or the developer to pay all costs of maintenance, repair, taxes, assessments, insurance premiums, trustee's fees, and any other expenses relating to the facilities, so that the unit will not incur any expenses on account of the facilities other than those that are covered by the payments provided for in the

financing agreement.
As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1982, P.L.28, SEC.6; P.L.25-1987, SEC.53.

IC 36-7-12-27
Bonds, notes, or warrants; issuance; terms and procedure; findings of fact concerning coal gasification powerplant

Sec. 27. (a) Bonds issued by a unit under section 25 of this chapter may be issued as serial bonds, term bonds, or a combination of both types. The ordinance of the fiscal body authorizing bonds, notes, or warrants, or the financing agreement or the trust indenture approved by the ordinance, must provide:

(1) the manner of their execution, either by the manual or facsimile signatures of the executive of the unit and the clerk of the fiscal body;
(2) their date;
(3) their term or terms, which may not exceed forty (40) years, except as otherwise provided by subsection (e);
(4) their maximum interest rate if fixed rates are used or the manner in which the interest rate will be determined if variable or adjustable rates are used;
(5) their denominations;
(6) their form, either coupon or registered;
(7) their registration privileges;
(8) the medium of their payment;
(9) the place or places of their payment;
(10) the terms of their redemption; and
(11) any other provisions not inconsistent with this chapter.

(b) Bonds, notes, or warrants issued under section 25 of this chapter may be sold at public or private sale for the price or prices, in the manner, and at the time or times determined by the unit. The unit may advance all expenses, premiums, and commissions that it considers necessary or advantageous in connection with their issuance.

(c) The bonds, notes, or warrants and their authorization, issuance, sale, and delivery are not subject to any general statute concerning bonds, notes, or warrants of units.

(d) An action to contest the validity of bonds, notes, or warrants issued under section 25 of this chapter may not be commenced more than thirty (30) days after the adoption of the ordinance approving them under section 25 of this chapter.

(e) This subsection applies only to bonds, notes, or warrants issued under this chapter after June 30, 2008, that are wholly or partially payable from tax increment revenues derived from property taxes. The maximum term or repayment period for the bonds, notes, or warrants may not exceed:

(1) twenty-five (25) years, unless the bonds, notes, or warrants were:
(A) issued or entered into before July 1, 2008;
(B) issued or entered into after June 30, 2008, but authorized

by a resolution adopted before July 1, 2008; or

(C) issued or entered into after June 30, 2008, in order to fulfill the terms of agreements or pledges entered into before July 1, 2008, with the holders of the bonds, notes, warrants, or other contractual obligations by or with developers, lenders, or units, or otherwise prevent an impairment of the rights or remedies of the holders of the bonds, notes, warrants, or other contractual obligations; or

(2) thirty (30) years, if the bonds, notes, or warrants were issued after June 30, 2008, to finance:

(A) an integrated coal gasification powerplant (as defined by IC 6-3.1-29-6);

(B) a part of an integrated coal gasification powerplant (as defined by IC 6-3.1-29-6); or

(C) property used in the operation or maintenance of an integrated coal gasification powerplant (as defined by IC 6-3.1-29-6);

that received a certificate of public convenience and necessity from the Indiana utility regulatory commission under IC 8-1-8.5 et seq. before July 1, 2008.

(f) The general assembly makes the following findings of fact with respect to an integrated coal gasification powerplant (as defined in IC 6-3.1-29-6) that received a certificate of public convenience and necessity from the Indiana utility regulatory commission under IC 8-1-8.5 et seq. before July 1, 2008:

(1) The health, safety, general welfare, and economic and energy security of the people of the state of Indiana require as a public purpose of the state the promotion of clean energy, including clean coal, technologies in Indiana.

(2) These technologies include the integrated coal gasification powerplant contemplated by this chapter, IC 6-1.1-20-1.1, and IC 36-7-14.

(3) Investment in the integrated coal gasification powerplant contemplated by this chapter, IC 6-1.1-20-1.1, and IC 36-7-14 will result in substantial financial and other benefits to the state and its political subdivisions and the people of Indiana, including increased employment, tax revenue, and use of Indiana coal.

(4) It is in the best interest of the state and its citizens to promote and preserve financial and other incentives for the integrated coal gasification powerplant.

As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1982, P.L.28, SEC.7; P.L.40-1983, SEC.4; P.L.20-1985, SEC.15; P.L.1-1991, SEC.209; P.L.146-2008, SEC.722.

IC 36-7-12-27.5

Legal representation of commission; conflict of interest; offense

Sec. 27.5. (a) If an attorney represents an economic development commission, neither he nor a member of his firm or professional corporation may also represent an applicant for a bond issue from the

commission.

(b) A person who violates this section commits a Class A misdemeanor.

As added by Acts 1981, P.L.310, SEC.74.

IC 36-7-12-28

Trust indentures securing bonds

Sec. 28. (a) The fiscal body of a unit issuing bonds under this chapter may secure them by a trust indenture between the unit and a corporate trustee. The corporate trustee may be any trust company, national bank, or state bank that is in Indiana and has trust powers.

(b) A trust indenture under this section may:

(1) mortgage the land, any interest in land, or the facilities on account of which the bonds are issued;

(2) pledge all or part of the payments to be received by the unit;

(3) set forth the rights and remedies of the trustee and the holders of the bonds, including provisions restricting the individual right of action of the holders;

(4) contain provisions considered reasonable for protecting and enforcing the rights and remedies of the holders or lenders, including covenants setting forth duties of the unit and the economic development commission regarding:

(A) the construction of the facilities; and

(B) the custody, safeguarding, application, and investment of revenues received or to be received by the unit on account of the facilities financed by the issuance of the bonds;

(5) contain provisions regarding the investment of money, the sale, exchange, or disposal of property, and the manner of authorizing and making payments, notwithstanding any general statute relating to these matters; and

(6) provide for the establishment of reserve funds from the proceeds of the bonds or from other sources to secure the prompt payment of the principal and interest on them.

As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1982, P.L.28, SEC.8; P.L.25-1987, SEC.54.

IC 36-7-12-29

Application of bond proceeds

Sec. 29. (a) Preliminary expenses advanced by a person may be reimbursed from the proceeds of bonds issued under this chapter. An economic development commission may provide for a maximum fee of one percent (1%) of the total amount of the issue to be paid to the commission from the proceeds of the issue to help in covering its costs of operation. However, the fee charged by a commission to cover the costs of operation may not exceed ten thousand dollars ($10,000) per issue for a single project issue or ten thousand dollars ($10,000) per project in the case of program financing under section 18.5 of this chapter.

(b) Any money received from bonds issued under this chapter, after reimbursement and payment under subsection (a), may be used

for the following purposes:

(1) The payment of the costs of economic development and pollution control facilities on account of which the bonds are issued, including both direct financing of such facilities and program financing under section 18.5 of this chapter.

(2) Issuance expenses for bonds authorized by this chapter.

(3) Interest on bonds authorized by this chapter for the anticipated construction period of the facilities being financed, plus interest on bonds authorized by this chapter for a period of one (1) year after that.

(4) Funding a reserve fund for payment of the principal of, premium (if any), and interest on bonds issued under this chapter.

(5) Working capital when financed in conjunction with economic development or pollution control facilities financed pursuant to program financing authorized under section 18.5 of this chapter if the program is funded with proceeds of taxable bonds.

Until the money is applied under subdivision (1), it is subject to a lien in favor of the holders of the bonds or the trustee under the trust indenture, if any.

As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1982, P.L.28, SEC.9; P.L.25-1987, SEC.55; P.L.35-1990, SEC.50.

IC 36-7-12-30

Refunding bonds

Sec. 30. (a) If the fiscal body of the unit finds that a refunding of outstanding bonds issued under this chapter would be of benefit to the health and general welfare of the unit and would comply with this chapter, it may authorize the issuance of bonds in accordance with IC 5-1-5 to refund those outstanding bonds. A savings to the issuing body as provided in IC 5-1-5-2 is not required for the issuance of the refunding bonds, or the issuance of bonds to refund refunding bonds.

(b) Refunding bonds issued under this section are payable solely from revenues and receipts derived from:

(1) financing agreements with the users or developers of the facilities originally financed by the outstanding bonds, or related persons; or

(2) from payments made under guaranty agreements by developers, users, or related persons.

The financing agreements or guaranties may be new financing agreements or guaranties or amendments of the original financing agreements or guaranties.

(c) Refunding bonds issued under this section are not in any respect a general obligation of the unit, nor are they payable in any manner from revenues raised by taxation.

(d) Sections 18(b), 23, and 24 of this chapter do not apply to the issuance of refunding bonds under this section.

As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1982, P.L.28, SEC.10; P.L.25-1987, SEC.56.

IC 36-7-12-31
Bonds, notes, warrants, proceeds, and interest; exemption from state taxes

Sec. 31. Bonds, notes, or warrants issued under this chapter and:

(1) proceeds received from their sale by a holder, to the extent of the holder's cost of acquisition;
(2) proceeds received on their redemption before maturity;
(3) proceeds received at their maturity; and
(4) interest received on them;

are exempt from state taxes as provided by IC 6-8-5.
As added by Acts 1981, P.L.309, SEC.31. Amended by Acts 1982, P.L.28, SEC.11.

IC 36-7-12-32
Repealed

(*Repealed by P.L.2-1987, SEC.53.)*

IC 36-7-12-32.1
Exemption from securities registration

Sec. 32.1. Any security, including bonds issued in connection with a financing under this chapter, is exempt from the registration requirements of IC 23-19 and other securities registration statutes.
As added by P.L.25-1987, SEC.57. Amended by P.L.27-2007, SEC.33.

IC 36-7-12-33
Property taxes; liability and exemptions

Sec. 33. (a) A unit is exempt from all property taxes on economic development or pollution control facilities.

(b) A developer or user is liable for property taxes on economic development or pollution control facilities as provided by statute. However, this section does not deny any tax exemption a developer or user may have under other statutes because of the nature of the facilities or the developer or user.
As added by Acts 1981, P.L.309, SEC.31. Amended by P.L.25-1987, SEC.58.

IC 36-7-12-34
Payments received by units; exemption from tax

Sec. 34. Payments received by units under financing agreements authorized by this chapter are exempt from all taxation.
As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-35
Responsibility for construction approval

Sec. 35. The user or developer is responsible for obtaining and maintaining all approvals and permits required for the construction of economic development or pollution control facilities under this chapter.
As added by Acts 1981, P.L.309, SEC.31.

IC 36-7-12-36
Commissions; annual reports

Sec. 36. In order to:

(1) disseminate information describing the benefits of all economic development commissions;

(2) provide for efficient operations of all commissions; and

(3) allow the Indiana economic development corporation, on a recommendation basis, to assist all commissions in their endeavors;

each commission shall file a report, within thirty (30) days after its initial meeting and on each subsequent January 31, with the fiscal body that it serves and with the director of the Indiana economic development corporation. These reports must be in writing on a form prescribed by the Indiana economic development corporation and must contain all information required in that form.

As added by Acts 1981, P.L.309, SEC.31. Amended by P.L.1-2006, SEC.563.

IC 36-7-12-37
Repealed

(*Repealed by P.L.40-1983, SEC.6.)*

IC 36-7-12-38
Repealed

(*Repealed by P.L.25-1987, SEC.60.)*

IC 36-7-12-39
Validation of prior authorized bonds

Sec. 39. Any bonds authorized to be issued under the authority of this chapter by a resolution adopted under section 24 of this chapter before June 1, 1985, remain valid regardless of any amendments made to this chapter by P.L.20-1985.

As added by P.L.25-1987, SEC.59.

IC 36-7-13
Chapter 13. Industrial Development

IC 36-7-13-1
Application of chapter
Sec. 1. This chapter applies to all units except townships.
As added by Acts 1981, P.L.309, SEC.32. Amended by Acts 1981, P.L.310, SEC.75; P.L.262-1993, SEC.1.

IC 36-7-13-1.6
"District"
Sec. 1.6. As used in this chapter, "district" refers to a community revitalization enhancement district designated under section 10.5, 12, or 12.1 of this chapter.
As added by P.L.125-1998, SEC.4. Amended by P.L.174-2001, SEC.1; P.L.224-2003, SEC.232.

IC 36-7-13-2
Repealed
(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-13-2.4
"Gross retail base period amount"
Sec. 2.4. Except as provided in section 10.7(c) of this chapter, as used in this chapter, "gross retail base period amount" means:
(1) the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a district during the full state fiscal year that precedes the date on which:
(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or
(B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter;
(2) an amount equal to:
(A) the aggregate amount of state gross retail and use taxes remitted:
(i) under IC 6-2.5 by the businesses operating in the territory comprising a district; and
(ii) during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by
(B) twelve (12);
in the case of a district that is described in section 12(c) of this chapter; or
(3) an amount equal to the amount determined under subdivision (1) or (2); plus:
(A) the aggregate amount of state gross retail and use taxes

remitted:

(i) under IC 6-2.5 by the businesses operating in the territory added to the district; and

(ii) during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by

(B) twelve (12);

in the case of a district modified under section 12.5 of this chapter.

As added by P.L.125-1998, SEC.5. Amended by P.L.138-1999, SEC.1; P.L.174-2001, SEC.2; P.L.178-2002, SEC.116; P.L.81-2004, SEC.31 and P.L.90-2004, SEC.4.

IC 36-7-13-2.6
"Gross retail incremental amount"

Sec. 2.6. (a) Except as provided in subsection (b), as used in this chapter, "gross retail incremental amount" means the remainder of:

(1) the aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in a district during a state fiscal year; minus

(2) the gross retail base period amount;

as determined by the department of state revenue under section 14 of this chapter.

(b) For purposes of a district designated under section 12.1 of this chapter, "gross retail incremental amount" means seventy-five percent (75%) of the amount described in subsection (a).

As added by P.L.125-1998, SEC.6. Amended by P.L.224-2003, SEC.233.

IC 36-7-13-3
"Improve"; authority to acquire, own, and deal in real property; expenditure of funds

Sec. 3. (a) For purposes of this chapter, "improve" means to construct, reconstruct, or repair public ways, sidewalks, sewers, drains, fences, or buildings, and to do all other things that would enhance the value of real property and make it more suitable to industrial use.

(b) A unit may acquire by purchase, gift, or devise, and own, improve, maintain, sell, lease, convey, contract for, or otherwise deal in, real property for the development of industrial parks or industrial sites.

(c) A municipality may exercise powers granted by subsection (b) in areas within five (5) miles outside its corporate boundaries.

(d) When a district is designated under section 12(e) of this chapter, a unit may expend funds for the purposes set forth in subsections (a) and (b) for the development of or to enhance the value of real property used for retail purposes.

(e) When a district is designated under section 12.1 of this chapter, a unit may expend funds for the purposes set forth in section 12.1(b) of this chapter for the development of or to enhance the value

of real property used for retail purposes and to make it more suitable to industrial or retail use.

As added by Acts 1981, P.L.309, SEC.32. Amended by Acts 1981, P.L.310, SEC.76; P.L.262-1993, SEC.2; P.L.113-2002, SEC.4; P.L.224-2003, SEC.234.

IC 36-7-13-3.2

"Income tax base period amount"

Sec. 3.2. Except as provided in section 10.7(d) of this chapter, as used in this chapter, "income tax base period amount" means:

(1) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district for the state fiscal year that precedes the date on which:

(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or

(B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter;

(2) an amount equal to:

(A) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by

(B) twelve (12);

in the case of a district that is described in section 12(c) of this chapter; or

(3) an amount equal to the amount determined under subdivision (1) or (2); plus:

(A) the aggregate amount of state and local income taxes paid by employees employed in the territory added to the district with respect to wages and salary earned for work in the modified district during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by

(B) twelve (12);

in the case of a district modified under section 12.5 of this chapter.

As added by P.L.125-1998, SEC.7. Amended by P.L.138-1999, SEC.2; P.L.174-2001, SEC.3; P.L.178-2002, SEC.117; P.L.81-2004, SEC.32 and P.L.90-2004, SEC.5.

IC 36-7-13-3.4

"Income tax incremental amount"

Sec. 3.4. (a) Except as provided in subsection (b), as used in this chapter, "income tax incremental amount" means the remainder of:

(1) the aggregate amount of state and local income taxes paid by employees employed in a district with respect to wages earned for work in the district for a particular state fiscal year; minus
(2) the sum of the:
(A) income tax base period amount; and
(B) tax credits awarded by the economic development for a growing economy board under IC 6-3.1-13 to businesses operating in a district as the result of wages earned for work in the district for the state fiscal year;
as determined by the department of state revenue under section 14 of this chapter.

(b) For purposes of a district designated under section 12.1 of this chapter, "income tax incremental amount" means seventy-five percent (75%) of the amount described in subsection (a).

As added by P.L.125-1998, SEC.8. Amended by P.L.224-2003, SEC.235; P.L.199-2005, SEC.30.

IC 36-7-13-3.8
"State and local income taxes"

Sec. 3.8. As used in this chapter, "state and local income taxes" means taxes imposed under any of the following:
(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).
(2) IC 6-3.5-1.1 (county adjusted gross income tax).
(3) IC 6-3.5-6 (county option income tax).
(4) IC 6-3.5-7 (county economic development income tax).

As added by P.L.125-1998, SEC.9. Amended by P.L.192-2002(ss), SEC.174.

IC 36-7-13-4
Industrial development fund; tax levy

Sec. 4. (a) To provide money for the purposes set forth in section 3 of this chapter, the unit shall create a special revolving fund to be known as the industrial development fund, into which any available and unappropriated money of the unit may be transferred by the unit's legislative body.

(b) The legislative body may also by ordinance levy a tax not to exceed one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of assessed value of all personal and real property within its jurisdiction. The proceeds of this tax shall be deposited in the industrial development fund. The unit may collect the tax as other municipal or county taxes are collected, or may set up a system for the collection and enforcement of the tax in the unit. Money in the industrial development fund may be used for any purpose authorized by this chapter and may be pledged for the payment of principal and interest on bonds or other obligations issued under this chapter.

As added by Acts 1981, P.L.309, SEC.32. Amended by Acts 1981, P.L.310, SEC.77; P.L.262-1993, SEC.3; P.L.6-1997, SEC.208; P.L.125-1998, SEC.10; P.L.125-1998, SEC.11; P.L.203-2005, SEC.8.

IC 36-7-13-5

Advisory commission on industrial development; creation; membership; duties

Sec. 5. (a) In order to coordinate the efforts of the unit and any private industrial development committee in the community, an advisory commission on industrial development shall be appointed by the unit's executive.

(b) Except as provided in subsection (d), the commission shall be composed of six (6) members, including at least one (1) representative of the unit's government, at least one (1) representative of the local industrial development committee, at least one (1) representative of a local banking institution, at least one (1) representative of a local utility company, and at least one (1) representative of organized labor from the building trades. A member of the commission may represent more than one (1) of the organizations enumerated.

(c) The unit's legislative body shall request the commission's recommendations. The legislative body may not conduct any business requiring expenditures from the industrial development fund or make any sale or lease of property acquired by the unit under this chapter without the approval, in writing, of a majority of the members of the commission.

(d) In addition to the members described in subsection (b), if the executive of a unit has submitted a petition to a commission under section 10 of this chapter or if the legislative body of a county or municipality has adopted an ordinance designating a district under section 10.5 of this chapter, the following persons are members of the commission:

(1) A member appointed by the governor.

(2) A member appointed by the lieutenant governor.

(3) A member appointed by the director of the department of workforce development.

As added by Acts 1981, P.L.309, SEC.32. Amended by Acts 1981, P.L.310, SEC.78; P.L.262-1993, SEC.4; P.L.1-1994, SEC.175; P.L.125-1998, SEC.12; P.L.174-2001, SEC.4.

IC 36-7-13-5.5

Sales or leases of property acquired for industrial development

Sec. 5.5. (a) This section does not apply to sales, leases, or other dispositions of real property to other public agencies for public purposes.

(b) Before offering for sale or lease to the public any of the real property acquired under this chapter, the advisory commission on industrial development shall have two (2) separate appraisals of the sale value, or rental value in case of a lease, made by independent appraisers. In making appraisals, the appraisers shall take into consideration the size, location, and physical condition of the parcels and all other factors having a bearing on the value of the parcels. The appraisals are solely for the information of the commission, the unit's executive, and the unit's legislative body and are not open for public

inspection.

(c) The commission shall then prepare an offering sheet showing the parcels to be offered and the offering prices, which may not be less than the average of the two (2) appraisals. Copies of the offering sheets shall be furnished to prospective buyers on request. Maps and plats showing the size and location of all parcels to be offered shall also be kept available for inspection at the office of the commission or the unit's legislative body.

(d) A notice shall be published in accordance with IC 5-3-1. The notice must state that at a designated time the commission will open and consider written offers for the purchase or lease of the real property being offered. In giving the notice it is not necessary to describe each parcel separately or to specify the exact terms of disposition, but the notice must:

(1) state the general location of the parcels;

(2) call attention generally to any limitations on the use to be made of the real property offered; and

(3) state that a bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(e) At the time fixed in the notice the commission shall open and consider any offers received. All offers received shall be opened at public meetings of the commission and shall be kept open for public inspection.

(f) The commission may make recommendations to the legislative body for awards to the highest and best bidders. In determining the best bids, the commission shall take into consideration the following factors:

(1) The size and character of the improvements proposed to be made by the bidder on the real property.

(2) The bidder's plans and ability to improve the real property with reasonable promptness.

(3) Whether the real property when improved will be sold or rented.

(4) The bidder's proposed sale or rental prices.

(5) The bidder's compliance with subsection (d)(3).

(6) Any factors that will assure the commission that the sale or lease, if made, will further industrial development of the unit and best serve the interest of the community from the standpoint of both human and economic welfare.

(g) The legislative body may contract with a bidder with regard to the factors listed in subsection (f). The contract may provide for the deposit of surety bonds, the making of good faith deposits, liquidated damages, the right of repurchase, or other rights and remedies if the bidder fails to comply with the contract. A conveyance under this chapter may not be made until the agreed consideration has been paid.

(h) After the opening and consideration of the written offers filed in response to the notice, the legislative body may dispose of the

remainder of the available real property either at public sale or by private negotiation. For a period of ninety (90) days after the opening of the written offers, a sale or lease may not be made at a price or rental less than that shown on the offering sheet. After that period, the commission may adjust the offering prices in the manner it considers necessary to further industrial development.
As added by P.L.214-1986, SEC.2. Amended by P.L.336-1989(ss), SEC.50; P.L.262-1993, SEC.5.

IC 36-7-13-6
Industrial development fund; payments and deposits
Sec. 6. All costs for the acquisition and improvement of real property under this chapter shall be paid from the industrial development fund, and all proceeds from the sale of real property under this chapter shall be deposited in that fund.
As added by Acts 1981, P.L.309, SEC.32.

IC 36-7-13-7
Title to real property
Sec. 7. The title to all real property acquired under this chapter shall be taken in the name of the unit and shall be conveyed by warranty deed executed by the presiding officer of the legislative body and attested to by the clerk of the unit.
As added by Acts 1981, P.L.309, SEC.32. Amended by Acts 1981, P.L.310, SEC.79; P.L.262-1993, SEC.6.

IC 36-7-13-8
Property acquired by or from unit; no tax exemption
Sec. 8. Property acquired by or from a unit under this chapter is not exempt from any taxes.
As added by Acts 1981, P.L.309, SEC.32. Amended by Acts 1981, P.L.310, SEC.80; P.L.262-1993, SEC.7.

IC 36-7-13-9
Transfer of surplus funds; cessation of tax levy
Sec. 9. When the purposes for which the industrial development fund was established have been accomplished and all districts designated by the unit have been terminated under section 19 of this chapter, the balance remaining in that fund shall be transferred to the general fund of the unit and the authority for the levy of the tax provided by section 4 of this chapter ceases.
As added by Acts 1981, P.L.309, SEC.32. Amended by Acts 1981, P.L.310, SEC.81; P.L.262-1993, SEC.8; P.L.125-1998, SEC.13.

IC 36-7-13-10
Application for designation of district
Sec. 10. (a) After approval by ordinance or resolution of the legislative body of a municipality located in a county having a population of:
(1) more than one hundred thirty-five thousand (135,000) but

less than one hundred thirty-eight thousand (138,000);

(2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); or

(3) more than three hundred thousand (300,000) but less than four hundred thousand (400,000);

the executive of the municipality may submit an application to an advisory commission on industrial development requesting that an area within the municipality be designated as a district.

(b) After approval by ordinance or resolution of the legislative body of a county, the executive of the county may submit an application to an advisory commission on industrial development requesting that an area within the county, but not within a municipality, be designated as a district. However, in a county having a population of more than one hundred fifteen thousand (115,000) but less than one hundred twenty-five thousand (125,000), the legislative body of the county may request that an area within the county be designated as a district even if the area is within a municipality.

As added by P.L.125-1998, SEC.14. Amended by P.L.138-1999, SEC.3; P.L.174-2001, SEC.5; P.L.170-2002, SEC.158; P.L.119-2012, SEC.203.

IC 36-7-13-10.1

Application for designation of district in first or second class city

Sec. 10.1. (a) This section applies to a:

(1) first class city; or

(2) second class city.

(b) After approval by ordinance or resolution of the legislative body of a city described in subsection (a), the executive of the city may submit an application to an advisory commission on industrial development requesting that one (1) area within the city be designated as a district under section 12.1 of this chapter. However, the total number of districts designated in a city under this chapter after June 30, 2003, (excluding districts designated before July 1, 2003) may not exceed one (1).

As added by P.L.224-2003, SEC.236.

IC 36-7-13-10.5

Designation of districts in economically distressed counties; duration of district; notice publication; information to taxing units; budget agency review

Sec. 10.5. (a) This section applies only to a county that meets the following conditions:

(1) The county's annual rate of unemployment has been above the average annual statewide rate of unemployment during at least three (3) of the preceding five (5) years.

(2) The median income of the county has:

(A) declined over the preceding ten (10) years; or

(B) has grown at a lower rate than the average annual statewide growth in median income during at least three (3)

of the preceding five (5) years.

(3) The population of the county (as determined by the legislative body of the county) has declined over the preceding ten (10) years.

(b) Except as provided in section 10.7 of this chapter, in a county described in subsection (a), the legislative body of the county may adopt an ordinance designating an unincorporated part or unincorporated parts of the county as a district, and the legislative body of a municipality located within the county may adopt an ordinance designating a part or parts of the municipality as a district, if the legislative body finds all of the following:

(1) The area to be designated as a district contains a building or buildings that:

(A) have a total of at least fifty thousand (50,000) square feet of usable interior floor space; and

(B) are vacant or will become vacant due to the relocation of the employer or the cessation of operations on the site by the employer.

(2) Significantly fewer persons are employed in the area to be designated as a district than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment in the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination or remediation.

(c) A legislative body adopting an ordinance under subsection (b) shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district.

(d) Except as provided in section 10.7 of this chapter, upon adoption of an ordinance designating a district, the legislative body shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(e) Upon completion of the actions required by subsection (d), the legislative body shall submit the ordinance to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on an ordinance designating a district within one hundred twenty (120) days after the date that the ordinance is submitted to the budget committee, the designation of the district by the ordinance is considered approved.

(f) Except as provided in section 10.7 of this chapter, when considering the designation of a district by an ordinance adopted under this section, the budget committee and the budget agency must make the following findings before approving the designation of the district:

(1) The area to be designated as a district meets the conditions necessary for the designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(g) Except as provided in section 10.7 of this chapter, the income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the designation of the district by the local ordinance is approved under this section.

As added by P.L.174-2001, SEC.6. Amended by P.L.178-2002, SEC.118; P.L.81-2004, SEC.33 and P.L.90-2004, SEC.6; P.L.199-2005, SEC.31.

IC 36-7-13-10.7

Calculation of net increment for preceding fiscal year; funds and accounts; limitation on amounts received by city

Sec. 10.7. (a) This section applies to a district designated under section 10.5 of this chapter and approved by the budget agency before January 1, 2002, in a city having a population of more than twenty-nine thousand nine hundred (29,900) but less than thirty-one thousand (31,000).

(b) An area is added to and becomes part of a district described in subsection (a) if the area consists of property that:

(1) is located in a city having a population of more than twenty-nine thousand nine hundred (29,900) but less than thirty-one thousand (31,000); and

(2) experienced a loss of at least three hundred (300) jobs during the calendar year ending December 31, 2001.

(c) After the addition of property to a district described in subsection (a) under this section, the gross retail base period amount determined under section 2.4 of this chapter for the district before the addition of the property to the district under this section shall be increased by an amount equal to:

(1) the aggregate amount of state gross retail and use taxes remitted:

(A) under IC 6-2.5 by the businesses operating in the area added to the district under subsection (b); and

(B) during the period beginning after December 31, 2001,

and ending before February 1, 2002; multiplied by

(2) twelve (12).

(d) After the addition of property to a district described in subsection (a) under this section, the income tax base period amount determined under section 3.2 of this chapter for the district before the addition of the property to the district under this section shall be increased by an amount equal to:

(1) the aggregate amount of state and local income taxes paid:

(A) by employees employed in the area added to the district under subsection (b) with respect to wages and salary earned for work in the area added; and

(B) during the period beginning after December 31, 2001, and ending before February 1, 2002; multiplied by

(2) twelve (12).

(e) The addition of property to a district under this section does not require adoption of an ordinance, review by the budget committee, or approval of the budget agency under section 10.5 of this chapter.

As added by P.L.178-2002, SEC.119. Amended by P.L.119-2012, SEC.204.

IC 36-7-13-11

Application for designation of district; duties of advisory commission on industrial development

Sec. 11. If a municipal or county executive submits an application requesting an area to be designated as a district under this chapter, the advisory commission on industrial development shall do the following:

(1) Compile information necessary to make a determination concerning whether the area meets the conditions necessary for designation as a district.

(2) Prepare maps showing the boundaries of the proposed district.

(3) Prepare a plan describing the ways in which the development obstacles described in section 12(b)(3), 12(c), 12(d), 12(e), or 12.1(a) of this chapter in the proposed district will be addressed.

As added by P.L.125-1998, SEC.15. Amended by P.L.138-1999, SEC.4; P.L.174-2001, SEC.7; P.L.224-2003, SEC.237.

IC 36-7-13-12

Designation of district; resolution; findings; duration; notice requirements; information to taxing units; budget agency proceedings

Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the

area as a district if it makes the findings described in subsection (b), (c), (d), or (e). In a county described in subsection (c), an advisory commission may designate more than one (1) district under subsection (c).

(b) For an area located in a county having a population of more than one hundred thirty-five thousand (135,000) but less than one hundred thirty-eight thousand (138,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least one million (1,000,000) square feet of usable interior floor space; and

(B) that is or are vacant or will become vacant due to the relocation of an employer.

(2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than one hundred thirty-five thousand (135,000) but less than one hundred thirty-eight thousand (138,000).

(c) For a county having a population of more than one hundred fifteen thousand (115,000) but less than one hundred twenty-five thousand (125,000), an advisory commission may adopt a resolution designating not more than three (3) areas as districts. An advisory commission may designate an area as a district only after finding the following:

(1) The area meets at least one (1) of the following conditions:

(A) The area meets the following conditions:

(i) The area contains a building with at least seven hundred ninety thousand (790,000) square feet.

(ii) At least eight hundred (800) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(iii) The area is located in or is adjacent to an industrial park.

(B) The area meets the following conditions:

(i) The area contains a building with at least three hundred

eighty-six thousand (386,000) square feet.

(ii) At least four hundred (400) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(iii) The area is located in or is adjacent to an industrial park.

(C) The area meets the following conditions:

(i) The area contains a building with at least one million (1,000,000) square feet.

(ii) At least seven hundred (700) fewer people are employed in the area than were employed in the area on January 1, 2008.

(2) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(3) The area is located in a county having a population of more than one hundred fifteen thousand (115,000) but less than one hundred twenty-five thousand (125,000).

(d) For an area located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least one million five hundred thousand (1,500,000) square feet of usable interior floor space; and

(B) that is or are vacant or will become vacant.

(2) At least eighteen thousand (18,000) fewer persons are employed in the area at the time of application than were employed in the area before the time of application.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(e) For an area located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least eight hundred thousand (800,000) gross square feet; and

(B) having leasable floor space, at least fifty percent (50%) of which is or will become vacant.

(2) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings as evidenced by a decline of at least seventy-five percent (75%) in their assessed valuation during the preceding ten (10) years.

(B) Transportation or access problems.

(C) Environmental contamination.

(3) At least four hundred (400) fewer persons are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(4) The area has been designated as an economic development target area under IC 6-1.1-12.1-7.

(5) The unit has appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars ($250,000) for purposes of addressing the redevelopment obstacles described in subdivision (2).

(6) The area is located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The advisory commission, or the county or municipal legislative body, in the case of a district designated under section 10.5 of this chapter, shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district.

(g) Upon adoption of a resolution designating a district, the advisory commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(h) Upon completion of the actions required by subsection (g), the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.

(i) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(j) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section.

As added by P.L.125-1998, SEC.16. Amended by P.L.1-1999, SEC.81; P.L.138-1999, SEC.5; P.L.174-2001, SEC.8; P.L.170-2002, SEC.159; P.L.224-2003, SEC.238; P.L.81-2004, SEC.34 and P.L.90-2004, SEC.7; P.L.199-2005, SEC.32; P.L.113-2010, SEC.131; P.L.119-2012, SEC.205.

IC 36-7-13-12.1

Designation of district; resolution; findings; duration; notice requirements; information to taxing units; budget agency proceedings

Sec. 12.1. (a) If the executive of a city described in section 10.1(a) of this chapter has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:

(1) That the redevelopment of the area in the district will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the area; or

(C) retain or expand a significant business enterprise within the area.

(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or ineffective utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(G) Lack of development or cessation of growth.

(H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.

(I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the city may make expenditures for:

(1) the acquisition of land;

(2) interests in land;

(3) site improvements;

(4) infrastructure improvements;

(5) buildings;

(6) structures;

(7) rehabilitation, renovation, and enlargement of buildings and structures;

(8) machinery;

(9) equipment;

(10) furnishings;

(11) facilities;

(12) administration expenses associated with such a project;

(13) operating expenses; or

(14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the city described in section 10.1(a) of this chapter has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars ($250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.

(e) Upon adoption of a resolution designating a district, the advisory commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(f) Upon completion of the actions required by subsection (e), the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a

district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.

(g) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(h) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section.

As added by P.L.224-2003, SEC.239. Amended by P.L.81-2004, SEC.35 and P.L.90-2004, SEC.8; P.L.199-2005, SEC.33.

IC 36-7-13-12.3

Designation of districts after 2010; requirements

Sec. 12.3. (a) Notwithstanding any other provision of this chapter, the designation of any district after December 31, 2010, is subject to the requirements of this section.

(b) An advisory commission on industrial development may not designate a district under section 12 or 12.1 of this chapter unless the advisory commission makes the following findings of fact:

(1) That the county or municipality applying for the designation satisfies each of the following requirements:

(A) That, as reported by the Indiana Real Estate Markets Report, the average selling price of homes located in the county or municipality has declined by at least fourteen percent (14%) over a one (1) year period occurring within the four (4) calendar years preceding the calendar year in which the application of the county or municipality is filed with the advisory commission on industrial development.

(B) That, as reported by the Indiana department of workforce development, the unemployment rate of the county or municipality was at least ten and four-tenths percent (10.4%) for any calendar month occurring in the calendar year preceding the calendar year in which the application of the county or municipality is filed with the advisory commission on industrial development.

(2) That the proposed district contains a site that is suitable for revitalization under this chapter and satisfies the following requirements:

(A) The site contains a vacated industrial building consisting of at least one million three hundred thousand (1,300,000) square feet of space.

(B) The vacated industrial building described by clause (A) contains at least eighty thousand (80,000) square feet of office space.

(C) The site contains a reinforced concrete pad suitable for

expanding the vacated industrial building by at least two hundred thousand (200,000) square feet.

(D) The site is serviced by a water treatment facility capable of treating all of the effluent discharged from the site.

(E) The site consists of at least one hundred twenty (120) acres of land.

(c) The legislative body of a county or municipality may not adopt an ordinance designating a district under section 10.5 of this chapter unless the legislative body makes the following findings of fact:

(1) That the county or municipality governed by the legislative body satisfies each of the following requirements:

(A) That, as reported by the Indiana Real Estate Markets Report, the average selling price of homes located in the county or municipality has declined by at least fourteen percent (14%) over a one (1) year period occurring within the four (4) calendar years preceding the calendar year in which the proposed ordinance is adopted.

(B) That, as reported by the Indiana department of workforce development, the unemployment rate of the county or municipality was at least ten and four-tenths percent (10.4%) for any calendar month occurring in the calendar year preceding the calendar year in which the proposed ordinance is adopted.

(2) That the proposed district contains a site that is suitable for revitalization under this chapter and satisfies the following requirements:

(A) The site contains a vacated industrial building consisting of at least one million three hundred thousand (1,300,000) square feet of space.

(B) The vacated industrial building described by clause (A) contains at least eighty thousand (80,000) square feet of office space.

(C) The site contains a reinforced concrete pad suitable for expanding the vacated industrial building by at least two hundred thousand (200,000) square feet.

(D) The site is serviced by a water treatment facility capable of treating all of the effluent discharged from the site.

(E) The site consists of at least one hundred twenty (120) acres of land.

(d) An advisory commission on industrial development or a legislative body that designates a district under this chapter shall include a copy of the findings made under subsection (b) or (c) when sending a copy of the resolution or ordinance designating the district to the budget agency for its approval.

(e) The budget agency may not approve the designation of a district until the budget agency confirms the findings of fact submitted under this section. If a resolution or ordinance is submitted to the budget agency without the findings of fact required by this section, the time in which the budget agency must take action on the resolution or ordinance as set forth in sections 10.5, 12, and 12.1 of

this chapter is tolled until the findings of fact are submitted to the budget agency.
As added by P.L.172-2011, SEC.144.

IC 36-7-13-12.5
Petition for modification of district boundaries; budget committee and budget agency findings; certification of boundaries

Sec. 12.5. (a) An advisory commission on industrial development that designates a district under section 12 or 12.1 of this chapter or the legislative body of a county or municipality that adopts an ordinance designating a district under section 10.5 of this chapter may petition for permission to modify the boundaries of the district. The petition must be submitted to the budget committee for review and recommendation to the budget agency.

(b) When considering a petition submitted under subsection (a), the budget committee and the budget agency must make the following findings:

(1) The area to be added to the district, if any, meets the conditions necessary for designation as a district under section 10.5, 12, or 12.1 of this chapter.

(2) The proposed modification of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(c) Upon approving a petition submitted under subsection (a), the budget agency shall certify the district's modified boundaries to the department of state revenue.
As added by P.L.81-2004, SEC.36 and P.L.90-2004, SEC.9.

IC 36-7-13-13
Designation of district; information to department of state revenue; determination of gross retail base period amount and income tax base period amount

Sec. 13. (a) If an advisory commission on industrial development designates a district under section 12 or 12.1 of this chapter or if the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall send a certified copy of the resolution or ordinance designating the district to the department of state revenue by certified mail and shall include with the resolution a complete list of the following:

(1) Employers in the district.

(2) Street names and the range of street numbers of each street in the district.

(3) Federal tax identification number of each business in the district.

(4) The street address of each employer.

(5) Name, telephone number, and electronic mail address (if available) of a contact person for each employer.

(b) The advisory commission, or the legislative body in the case

of a district designated under section 10.5 of this chapter, shall update the list:

(1) before July 1 of each year; or

(2) within fifteen (15) days after the date that the budget agency approves a petition to modify the boundaries of the district under section 12.5 of this chapter.

(c) Not later than sixty (60) days after receiving a copy of the resolution or ordinance designating a district, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

(d) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the gross retail base period amount and the income tax base period amount for a district modified under section 12.5 of this chapter.

As added by P.L.125-1998, SEC.17. Amended by P.L.174-2001, SEC.9; P.L.224-2003, SEC.240; P.L.81-2004, SEC.37 and P.L.90-2004, SEC.10; P.L.199-2005, SEC.34.

IC 36-7-13-14

Tax incremental amount calculations; district business duties

Sec. 14. (a) Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

(b) Businesses operating in the district shall report, in the manner and in the form prescribed by the department, information that the department determines necessary to calculate incremental gross retail, use, and income taxes.

(c) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

As added by P.L.125-1998, SEC.18. Amended by P.L.81-2004, SEC.38 and P.L.90-2004, SEC.11; P.L.199-2005, SEC.35; P.L.113-2010, SEC.132; P.L.172-2011, SEC.145.

IC 36-7-13-15

Incremental tax financing funds

Sec. 15. (a) If an advisory commission on industrial development designates a district under this chapter or the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the treasurer of state shall establish an incremental tax financing fund for the district. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Subject to subsection (c), the following amounts shall be deposited during each state fiscal year in the incremental tax

financing fund established for the district under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the district, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the district.

(2) The aggregate amount of state and local income taxes paid by employees employed in the district with respect to wages earned for work in the district, until the amount of state and local income taxes deposited equals the income tax incremental amount.

(c) Except as provided in subsection (e), the aggregate amount of revenues that is:

(1) attributable to:

(A) the state gross retail and use taxes established under IC 6-2.5; and

(B) the adjusted gross income tax established under IC 6-3-1 through IC 6-3-7; and

(2) deposited during any state fiscal year in each incremental tax financing fund established for a district;

may not exceed one million dollars ($1,000,000) per district designated under section 10.5 or 12 of this chapter and seven hundred fifty thousand dollars ($750,000) per district for a district designated under section 10.1 or 12.1 of this chapter.

(d) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a district shall be distributed to the district's advisory commission on industrial development for deposit in the industrial development fund of the unit that requested designation of the district.

(e) The aggregate amount of revenues that is:

(1) attributable to:

(A) the state gross retail and use taxes established under IC 6-2.5; and

(B) the adjusted gross income tax established under IC 6-3-1 through IC 6-3-7; and

(2) deposited during any state fiscal year in the incremental tax financing funds established for the districts located in Delaware County;

may not exceed two million dollars ($2,000,000).

As added by P.L.125-1998, SEC.19. Amended by P.L.174-2001, SEC.10; P.L.192-2002(ss), SEC.175; P.L.224-2003, SEC.241; P.L.113-2010, SEC.133; P.L.172-2011, SEC.146.

IC 36-7-13-16

Issuance of bonds or other obligations

Sec. 16. (a) A unit may issue bonds or other obligations to finance the costs of addressing the development obstacles described in section 12(b)(3), 12(c), 12(d)(3), 12(e)(2), or 12.1(a) of this chapter in the district.

(b) The district bonds are special obligations of indebtedness of

the district. The district bonds issued under this section, and interest on the district bonds, are payable solely out of amounts deposited in the industrial development fund under this chapter.
As added by P.L.125-1998, SEC.20. Amended by P.L.138-1999, SEC.6; P.L.174-2001, SEC.11; P.L.224-2003, SEC.242.

IC 36-7-13-17
Pledge of money in industrial development fund

Sec. 17. Money in the industrial development fund may be pledged by an advisory commission for the following purposes:

(1) To pay debt service on bonds or other obligations issued under this chapter.

(2) To establish and maintain a debt service reserve established by the advisory commission.

As added by P.L.125-1998, SEC.21. Amended by P.L.1-1999, SEC.82.

IC 36-7-13-18
Goals or benchmarks for property development or redevelopment

Sec. 18. (a) As used in this section, "developer" means a person that:

(1) proposes to enter into, or has entered into, a financing agreement with a unit for the development or redevelopment of a facility located in a district; and

(2) has entered into a separate agreement with some other person for the use or operation of the financed facility.

(b) A unit may establish goals or benchmarks concerning the development or redevelopment of property by a developer. The unit may provide that a developer that meets or exceeds the goals or benchmarks shall be paid a specified fee from the industrial development fund.
As added by P.L.125-1998, SEC.22.

IC 36-7-13-19
Termination of district

Sec. 19. When the advisory commission, or the legislative body of a county or municipality that adopts an ordinance designating a district under section 10.5 of this chapter, determines that the purposes for which a district was established have been accomplished and that all bonds or other obligations issued under this chapter and all interest on those bonds or obligations have been fully paid, the advisory commission or the legislative body shall adopt a resolution terminating the district. If an advisory commission or a legislative body adopts a resolution under this section, the advisory commission or the legislative body shall send a certified copy of the resolution by certified mail to the department.
As added by P.L.125-1998, SEC.23. Amended by P.L.174-2001, SEC.12.

IC 36-7-13-20

Covenant not to adversely affect owners of bonds or obligations

Sec. 20. The general assembly covenants that this chapter will not be repealed or amended in a manner that will adversely affect the owner of bonds or other obligations issued under this chapter.

As added by P.L.125-1998, SEC.24.

IC 36-7-13-21

Written agreements for joint economic development projects

Sec. 21. (a) Two (2) or more:

(1) advisory commissions; or

(2) legislative bodies;

or any combination of advisory commissions and legislative bodies may enter into a written agreement under this section to jointly undertake economic development projects.

(b) A party to an agreement under this section may do one (1) or more of the following:

(1) Except as provided in subsection (c), grant one (1) or more of its powers to another party to the agreement.

(2) Exercise any power granted to it by a party to the agreement.

(3) Pledge any of its revenues to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

(c) A party to an agreement under this section may not grant another party to the agreement the power to tax or to establish a district under this chapter.

(d) An action to challenge the validity of an agreement under this section must be brought not more than thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

As added by P.L.203-2005, SEC.9.

IC 36-7-13-22

Terms of written agreement for joint economic development project

Sec. 22. An agreement described in section 21 of this chapter must provide for the following:

(1) The duration of the agreement.

(2) The purpose of the agreement.

(3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget for the joint undertaking.

(4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination of the agreement.

(5) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking.

(6) Any other appropriate matters.

As added by P.L.203-2005, SEC.10.

IC 36-7-13-23
Repealed

(*Repealed by P.L.172-2011, SEC.162.)*

IC 36-7-13.5
Chapter 13.5. Shoreline Development

IC 36-7-13.5-1
Definitions

Sec. 1. The following definitions apply throughout this chapter:

(1) "Commission" refers to the Lake Michigan marina and shoreline development commission established by section 2 of this chapter.

(2) "Corridor" means the strip of land in Indiana abutting Lake Michigan and the tributaries of Lake Michigan.

(3) "Environmental fund" refers to the shoreline environmental trust fund established by section 19 of this chapter.

(4) "Environmental grant" means a grant from the environmental fund.

(5) "Qualifying property" means one (1) or more parcels of land in the corridor under common ownership, regardless of whether any improvements are located on the land, with respect to which:

(A) the:

(i) land is unused, if there are no improvements on the land; or

(ii) land and improvements are unused;

(B) all or a part of each parcel of the land is located within five hundred (500) yards of a lake or river; and

(C) there are significant obstacles to redevelopment because of any of the following:

(i) Obsolete or inefficient buildings.

(ii) Aging infrastructure or inefficient utility services.

(iii) Utility relocation requirements.

(iv) Transportation or access problems.

(v) Topographical obstacles.

(vi) Environmental contamination.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.127.

IC 36-7-13.5-2
Establishment

Sec. 2. The Lake Michigan marina and shoreline development commission is established.

As added by P.L.31-2001, SEC.1. Amended by P.L.33-2008, SEC.1; P.L.197-2011, SEC.128.

IC 36-7-13.5-3
Members

Sec. 3. The commission consists of the following members:

(1) The following voting members:

(A) The mayor of East Chicago.

(B) The mayor of Gary.

(C) The mayor of Hammond.

(D) The mayor of Michigan City.
(E) The mayor of Portage.
(F) The mayor of Whiting.
(G) Two (2) members, each representing and appointed by a different steel company that owns land abutting Lake Michigan with a continuous shoreline of not less than one (1) mile.
(H) One (1) member to represent and to be appointed by a company that:
(i) is not a steel company; and
(ii) owns land abutting Lake Michigan with a continuous shoreline of not less than three-tenths (0.3) mile.
(I) One (1) member appointed jointly by the executives of the following municipalities:
(i) Beverly Shores.
(ii) Dune Acres.
(iii) Ogden Dunes.
(J) One (1) member appointed jointly by the executives of the following municipalities:
(i) Burns Harbor.
(ii) Chesterton.
(iii) Porter.
(K) One (1) member appointed by a public utility that owns real property that:
(i) is located in the counties contiguous to Lake Michigan; and
(ii) has a total assessed value that exceeds the total assessed value of real property in the counties contiguous to Lake Michigan that is owned by any other public utility.
(L) Two (2) members appointed by the speaker of the house of representatives who:
(i) are members of the house of representatives;
(ii) represent house districts that have territory within the corridor; and
(iii) are not affiliated with the same political party.
If the requirement under item (iii) cannot be satisfied, the speaker may disregard the requirement under item (iii) when appointing members under this clause.
(M) Two (2) members appointed by the president pro tempore of the senate who:
(i) are members of the senate;
(ii) represent senate districts that have territory within the corridor; and
(iii) are not affiliated with the same political party.
If the requirement under item (iii) cannot be satisfied, the president pro tempore may disregard the requirement under item (iii) when appointing members under this clause.
(2) The following nonvoting members:
(A) One (1) member to represent the department of environmental management, appointed by the governor.

(B) One (1) member to represent the department of natural resources, appointed by the governor.
(C) One (1) member to represent the Indiana department of transportation, appointed by the governor.
(D) One (1) member appointed by the executive of the Indiana Dunes National Lakeshore.
(E) The port director of the Port of Indiana-Burns Harbor.
(F) One (1) member appointed by the Lake County Convention and Visitors Bureau.
(G) One (1) member appointed by the LaPorte County Convention and Visitors Bureau.
(H) One (1) member appointed by the Porter County Convention Recreation and Visitor Commission.

As added by P.L.31-2001, SEC.1. Amended by P.L.33-2008, SEC.2; P.L.159-2011, SEC.48; P.L.197-2011, SEC.129; P.L.6-2012, SEC.243.

IC 36-7-13.5-4
Steel company representatives; designation of member to serve for current member

Sec. 4. (a) The members of the commission referred to in section 3(1)(G) of this chapter and their designees may not represent the same steel company.

(b) A member of the commission may designate an individual to serve on the commission in the member's place.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.130.

IC 36-7-13.5-5
Terms

Sec. 5. The term of each member is two (2) years.

As added by P.L.31-2001, SEC.1.

IC 36-7-13.5-6
Vacancies

Sec. 6. A vacancy occurring in the membership of the commission shall be filled by the appointing authority.

As added by P.L.31-2001, SEC.1.

IC 36-7-13.5-7
Per diem; mileage and travel allowances

Sec. 7. (a) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided in the rules adopted under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by

IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided in the rules adopted under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

As added by P.L.31-2001, SEC.1.

IC 36-7-13.5-8
Required majority

Sec. 8. (a) A quorum of the commission must be present to conduct the commission's business. A quorum consists of a majority of the voting members of the commission.

(b) The affirmative votes of a majority of the voting members of the commission are required for the commission to take action on any measure.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.131.

IC 36-7-13.5-9
Repealed

(*Repealed by P.L.197-2011, SEC.153.)*

IC 36-7-13.5-10
Meetings

Sec. 10. (a) The commission:

(1) shall fix the time for regular meetings; and

(2) may hold special meetings on call of the chairman with seven (7) days written notice.

(b) A member may waive written notice of a specific meeting by a written notice filed with the commission.

As added by P.L.31-2001, SEC.1.

IC 36-7-13.5-11
Duties

Sec. 11. (a) The commission shall do the following:

(1) Identify qualifying properties.

(2) Prepare a comprehensive environmental master plan for development and redevelopment within the corridor that:

(A) plans for remediation of environmental contamination;

(B) accounts for economic development and transportation issues relating to environmental contamination; and

(C) establishes priorities for development or redevelopment

of qualifying properties.

(3) Establish guidelines for the evaluation of applications for environmental grants from the environmental fund.

(4) After reviewing a report from the department of environmental management under section 22 of this chapter, make decisions on applications for environmental grants from the environmental fund under section 21 of this chapter.

(5) Prepare and provide information to political subdivisions on the availability of financial assistance from the environmental fund.

(6) Coordinate the implementation of the comprehensive environmental master plan.

(7) Monitor the progress of implementation of the comprehensive environmental master plan.

(8) Report at least once every two (2) years to the governor, the lieutenant governor, the Indiana economic development corporation, the legislative council, the budget committee, and all political subdivisions that have territory within the corridor on:

(A) the activities of the commission; and

(B) the progress of implementation of the comprehensive environmental master plan.

An annual report under this subdivision to the legislative council must be in an electronic format under IC 5-14-6.

(9) Study various plans and recommendations that are proposed concerning marina development along the corridor. Based on these studies, the commission shall do the following:

(A) Prepare a comprehensive marina plan.

(B) Recommend state and local legislation for the development of marinas along the corridor.

(C) Coordinate the implementation of the marina plan and legislation.

(10) Make marina grants of money to units of local government for the construction or improvement of a marina in the corridor if the grants are consistent with the marina plans, standards, and criteria established by the commission.

(b) It is the goal of marina projects under this chapter to create employment in the private sector.

As added by P.L.31-2001, SEC.1. Amended by P.L.1-2002, SEC.160; P.L.28-2004, SEC.181; P.L.4-2005, SEC.133; P.L.197-2011, SEC.132.

IC 36-7-13.5-12

Powers

Sec. 12. (a) When necessary to accomplish the purposes of the commission, the commission may do the following:

(1) Conduct studies necessary for the performance of the commission's duties.

(2) Publicize, advertise, and distribute reports on the commission's purposes, objectives, and findings.

(3) Provide recommendations in matters related to the commission's functions and objectives to the following:
(A) Political subdivisions that have territory within the corridor.
(B) Other public and private agencies.
(4) When requested, act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.
(5) Receive grants and appropriations from the following:
(A) Federal, state, and local governments.
(B) Individuals.
(C) Foundations.
(D) Other organizations.
(6) Enter into agreements or contracts regarding the acceptance or use of these grants and appropriations for the purpose of carrying out the commission's activities under this chapter.
(7) Acquire and dispose of real or personal property by grant, gift, purchase, lease, devise, or otherwise.
(8) Hold, use, improve, maintain, operate, own, manage, or lease as lessor or lessee:
(A) real or personal property; or
(B) any interest in real or personal property.
(9) Employ an executive director and other individuals who are necessary to carry out the commission's duties.
(10) Contract for staff services with:
(A) qualified agencies or individuals; or
(B) a regional planning commission established under IC 36-7-7.
(11) Appoint advisory committees, which may include representatives of the following:
(A) Municipal parks.
(B) County parks.
(C) National parks.
(D) Port authorities.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.133.

IC 36-7-13.5-13
Repealed

(*Repealed by P.L.197-2011, SEC.153.)*

IC 36-7-13.5-14
Executive committee; officers

Sec. 14. (a) The commission shall elect the following officers from among the voting members of the commission:
(1) A chairman.
(2) A vice chairman.
(3) A treasurer.

(b) Each officer serves a term of one (1) year beginning July 1 of each year.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.134.

IC 36-7-13.5-15
Repealed

(*Repealed by P.L.197-2011, SEC.153.)*

IC 36-7-13.5-16
Repealed

(*Repealed by P.L.197-2011, SEC.153.)*

IC 36-7-13.5-17
Executive committee; duties

Sec. 17. The commission shall:

(1) carry out all functions related to the provision of environmental grants to political subdivisions from the environmental fund and marina grants for the purposes set forth in this chapter;

(2) review each environmental grant application described in section 11 of this chapter, including the report received from the department of environmental management under section 22 of this chapter, to determine whether to approve an environmental grant;

(3) determine the amount of each environmental grant to a political subdivision approved by the commission;

(4) approve, with appropriate signatures, each environmental grant that the commission determines to make under this chapter; and

(5) prepare and adopt by majority vote an annual budget for carrying out the activities of the commission.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.135.

IC 36-7-13.5-18
Executive committee; budget; expenditures

Sec. 18. (a) After approval of the budget by the commission, money may be expended only as budgeted, unless a majority vote of the commission authorizes other expenditures.

(b) Appropriated money remaining unexpended or unencumbered at the end of the year and not otherwise restricted by law or agreement becomes part of a nonreverting cumulative fund to be held in the name of the commission. The commission may authorize unbudgeted expenditures from this fund by a majority vote of the commission. However, unencumbered money appropriated from the environmental fund at the end of a budget year reverts to the environmental fund.

(c) The treasurer of the commission is responsible for the safekeeping and deposit of money the commission receives under this chapter. The state board of accounts shall:

(1) prescribe the methods and forms for keeping; and

(2) periodically audit;

the accounts, records, and books of the commission. The commission may establish the funds and the accounts that the commission determines necessary to operate the commission.

(d) The treasurer of the commission may receive, disburse, and handle money belonging to the commission, subject to the following:

(1) Applicable statutes.

(2) Procedures established by the commission.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.136.

IC 36-7-13.5-19

Shoreline environmental trust fund

Sec. 19. The shoreline environmental trust fund is established to provide a source of money for the following:

(1) The rehabilitation, redevelopment, and reuse of qualifying property by providing environmental grants to political subdivisions to conduct any of the following activities:

(A) Identification and acquisition of qualifying property within a political subdivision.

(B) Environmental assessment of identified qualifying property and other activities necessary or convenient to complete the environmental assessments.

(C) Remediation of environmental contamination conducted on qualifying property.

(D) Clearance of real property under IC 36-7-14-12.2 or IC 36-7-15.1-7 in connection with remediation activities.

(E) Other activities necessary or convenient to return qualified property to full use.

(2) Payment of the share of the operations of the commission, as determined by the commission.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.137.

IC 36-7-13.5-20

Fund; administration; expenditures; investment of money

Sec. 20. (a) The budget agency shall:

(1) administer the environmental fund; and

(2) report to the commission semiannually:

(A) revenue receipted to the environmental fund;

(B) distributions from the environmental fund; and

(C) the balance in the environmental fund.

(b) The following shall be paid from money in the environmental fund:

(1) The expenses of administering the environmental fund.

(2) Environmental grants approved by the commission under section 17 of this chapter.

(3) The amount budgeted from the environmental fund by the commission for the operations of the commission.

(c) The environmental fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Environmental grants and gifts intended for deposit in the environmental fund.

(3) Interest, gains, or other earnings of the environmental fund.

(d) The budget agency shall invest the money in the environmental fund not currently needed to meet the obligations of the environmental fund in the same manner as other public funds may be invested. Interest, gains, or other earnings from these investments shall be credited to the environmental fund.

(e) As an alternative to subsection (d), the budget agency may invest or cause to be invested all or a part of the environmental fund in a fiduciary account with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to the budget agency as provided in the trust agreement or indenture. The budget agency and the state board of finance must approve any trust agreement or indenture before its execution.

(f) Money in the environmental fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.138.

IC 36-7-13.5-21

Grants from fund to political subdivisions

Sec. 21. (a) Before a political subdivision may receive an environmental grant from the environmental fund, the political subdivision must submit to the department of environmental management and the commission the following:

(1) An environmental grant application, in the form prescribed by the department of environmental management and the commission, that:

(A) identifies the qualifying property;

(B) includes any ordinances, resolutions, or other documentation of the political subdivision's determination to submit the environmental grant application;

(C) identifies the entity from which the qualifying property has been acquired or will be acquired by the political subdivision;

(D) specifies the cost of acquisition of the qualifying property to the political subdivision, if any;

(E) identifies any environmental contamination of the qualifying property that will be subject to remediation;

(F) specifies the environmental remediation objectives with respect to the qualifying property;

(G) estimates all costs the political subdivision will incur with respect to the qualifying property;

(H) evaluates the prospect for conveyance of the qualifying property for use by a private or public entity; and

(I) includes a schedule of all actions taken or to be taken by

the political subdivision with respect to the qualifying property between the time of acquisition and the anticipated time of conveyance by the political subdivision.

(2) Documentation of community and neighborhood comment concerning the use of a qualifying property on which environmental remediation activities will be undertaken after environmental remediation activities are completed.

(b) A political subdivision may apply for an environmental grant under this section for activities under this chapter with respect to:

(1) qualifying property previously acquired by the political subdivision by:

(A) purchase; or

(B) donation from a private or public entity; or

(2) qualifying property to be acquired using environmental grant money.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.139.

IC 36-7-13.5-22

Duties of department of environmental management

Sec. 22. The department of environmental management shall do the following under this chapter:

(1) Upon receipt of an environmental grant application from a political subdivision under section 21 of this chapter with respect to a qualifying property, evaluate the technical aspects of the political subdivision's:

(A) environmental assessment of the property; and

(B) proposed environmental remediation with respect to the property.

(2) Submit to the commission a report of its evaluation under subdivision (1).

(3) Evaluate the technical aspects of the political subdivision's environmental remediation activities conducted on qualifying properties.

(4) Act as a liaison with the United States Environmental Protection Agency.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.140.

IC 36-7-13.5-23

Priority ranking system for grants

Sec. 23. The commission shall develop a priority ranking system for making environmental grants under this chapter based on the following:

(1) The comprehensive environmental master plan.

(2) Socioeconomic distress in an area, as determined by the poverty level and unemployment rate in the area.

(3) The technical evaluation by the department of environmental management under section 22 of this chapter.

(4) Other factors determined by the commission, including the

following:

(A) The number and quality of jobs that would result from reuse of the qualifying property.

(B) Housing, recreational, and educational needs of communities.

(C) Any other factors the commission determines will assist in the implementation of this chapter.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.141.

IC 36-7-13.5-24
Acceptable usages of grants

Sec. 24. (a) Based on the priority ranking system established under section 23 of this chapter, the commission may make environmental grants from the environmental fund to political subdivisions under this section.

(b) An environmental grant must be used for at least one (1) of the purposes set forth in section 19 of this chapter and may be used to pay consultant, advisory, and legal fees and any other costs or expenses resulting from the assessment, planning, or environmental remediation of a qualifying property.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.142.

IC 36-7-13.5-25
Property donations

Sec. 25. If:

(1) a private entity offers a political subdivision a donation of property for which the political subdivision intends to submit an environmental grant application under section 21 of this chapter; and

(2) the donation of the property is conditioned on obtaining from the state a covenant not to sue the private entity for any potential liability arising under state law associated with environmental contamination of the property;

the political subdivision may request that the commission seek the covenant not to sue from the governor. The governor may execute a covenant not to sue under this section.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.143.

IC 36-7-13.5-26
Adoption of guidelines

Sec. 26. The commission may adopt guidelines or guidance documents to implement this chapter without complying with IC 4-22-2.

As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.144.

IC 36-7-13.5-27

No limitation on power to develop or improve a port, terminal, or lakefront facility

Sec. 27. This chapter does not limit the power of a participating county, township, port authority, or municipal corporation to develop or improve a port, terminal, or lakefront facility.

As added by P.L.197-2011, SEC.145.

IC 36-7-14

Chapter 14. Redevelopment of Areas Needing Redevelopment Generally; Redevelopment Commissions

IC 36-7-14-1

Application of chapter; jurisdiction in excluded cities that elect to be governed by this chapter

Sec. 1. (a) This chapter applies to all units except:

(1) counties having a consolidated city, and units in those counties, except those units described in subsection (b); and

(2) townships.

(b) This chapter applies to an excluded city (as defined in IC 36-3-1-7) that adopts an ordinance electing to be governed by this chapter and establishes a redevelopment commission under section 3 of this chapter. Upon the adoption of an ordinance under this subsection:

(1) an area needing redevelopment;

(2) an economic development area; or

(3) an allocation area previously established under IC 36-7-15.1-37 through IC 36-7-15.1-58;

continues in full force and effect as if the area had been created under this chapter.

(c) An:

(1) area needing redevelopment;

(2) economic development area; or

(3) allocation area previously established under IC 36-7-15.1-37 through IC 36-7-15.1-58;

described in subsection (b) is subject to the jurisdiction of the redevelopment commission established under section 3 of this chapter and is not subject to the jurisdiction of the commission (as defined in IC 36-7-15.1-37).

As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.82; P.L.190-2005, SEC.5; P.L.1-2006, SEC.564.

IC 36-7-14-1.3

Effect of change of reference from "blighted, deteriorated, or deteriorating area" to "area needing redevelopment"

Sec. 1.3. (a) After June 30, 2005, a reference in any statute, rule, ordinance, resolution, contract, or other document or record to a blighted, deteriorated, or deteriorating area established under this chapter shall be treated as a reference to an area needing redevelopment (as defined in IC 36-7-1-3).

(b) After June 30, 2005, a reference in any statute, rule, ordinance, resolution, contract, or other document or record to a redevelopment area established under this chapter shall be treated as a reference to a redevelopment project area established under this chapter or IC 36-7-15.1.

As added by P.L.20-2010, SEC.9.

IC 36-7-14-1.5

Applicability of chapter to fire protection districts

Sec. 1.5. Notwithstanding any other law, for:

(1) areas needing redevelopment;

(2) redevelopment project areas;

(3) urban renewal project areas; or

(4) economic development areas;

established after January 1, 1992, this chapter does not apply to fire protection districts established under IC 36-8-11.

As added by P.L.63-1991, SEC.2. Amended by P.L.185-2005, SEC.7.

IC 36-7-14-2

Declaration of public purpose; opportunities for redevelopment by private enterprise

Sec. 2. (a) The clearance, replanning, and redevelopment of areas needing redevelopment under this chapter are public uses and purposes for which public money may be spent and private property may be acquired.

(b) Each unit shall, to the extent feasible under this chapter and consistent with the needs of the unit as a whole, afford a maximum opportunity for rehabilitation or redevelopment of areas by private enterprise.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.8.

IC 36-7-14-2.5

Economic development areas; public functions, uses, and purposes; liberal construction

Sec. 2.5. (a) The assessment, planning, replanning, remediation, development, and redevelopment of economic development areas:

(1) are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of:

(A) the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens; and

(B) the costs of these projects;

(2) will:

(A) benefit the public health, safety, morals, and welfare;

(B) increase the economic well-being of the unit and the state; and

(C) serve to protect and increase property values in the unit and the state; and

(3) are public uses and purposes for which public money may be spent and private property may be acquired.

(b) This section and sections 41 and 43 of this chapter shall be liberally construed to carry out the purposes of this section.

As added by P.L.380-1987(ss), SEC.8; P.L.393-1987(ss), SEC.2. Amended by P.L.192-1988, SEC.1; P.L.221-2007, SEC.30.

IC 36-7-14-3

Redevelopment departments and commissions; creation; taxing districts

Sec. 3. (a) A unit may establish a department of redevelopment controlled by a board of five (5) members to be known as "_____ Redevelopment Commission", designating the name of the municipality or county. However, in the case of a county, the county executive may adopt an ordinance providing that the county redevelopment commission consists of seven (7) members.

(b) Subject to section 3.5 of this chapter, all of the territory within the corporate boundaries of a municipality constitutes a taxing district for the purpose of levying and collecting special benefit taxes for redevelopment purposes as provided in this chapter. Subject to section 3.5 of this chapter, all of the territory in a county, except that within a municipality that has a redevelopment commission, constitutes a taxing district for a county.

(c) All of the taxable property within a taxing district is considered to be benefited by redevelopment projects carried out under this chapter to the extent of the special taxes levied under this chapter.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.35-1990, SEC.51; P.L.190-2005, SEC.6.

IC 36-7-14-3.5

Annexation of area in county; redevelopment districts; property tax proceeds; outstanding obligations; special tax

Sec. 3.5. (a) This section applies whenever:

(1) a municipality with a redevelopment district is annexing an area in a county; or

(2) a municipality establishes a redevelopment district;

after the county in which the municipality is located has established a redevelopment district.

(b) This subsection applies whenever:

(1) the area to be annexed or to be included in the municipality's district includes all or part of an allocation area established by a county redevelopment commission for purposes of section 39 of this chapter; and

(2) bonds or lease obligations are outstanding that are payable by the county redevelopment commission in whole or in part from property tax proceeds allocated from the allocation area under section 39 of this chapter.

The county redevelopment commission shall continue to receive allocations of property tax proceeds from the area annexed or included in the municipality's district for the commission's allocation fund as if the annexation or establishment of the district had not occurred as long as any bonds or lease obligations payable by the county from allocated property tax proceeds are outstanding. After the final effectiveness of the annexation or the establishment of the municipality's district, the county redevelopment commission may not issue bonds or enter into leases that are payable from allocated property tax proceeds from the part of the allocation area annexed or

included unless the legislative body of the municipality adopts an ordinance approving the issuance and this use of allocated property tax proceeds from that part of the allocation area.

(c) This subsection applies whenever bonds or lease obligations are outstanding that are payable by the county redevelopment commission in whole or in part from the special tax levied under section 27 of this chapter. The county redevelopment commission shall continue to levy a special tax on property in the area annexed or included in the municipality's district as long as any bonds or lease obligations payable by the county are outstanding. After the final effectiveness of the annexation or the establishment of the municipality's district, the county redevelopment commission may not levy the special tax for new bonds or lease obligations in the annexed or included area unless the legislative body of the municipality adopts an ordinance approving the levy.

As added by P.L.35-1990, SEC.52.

IC 36-7-14-4
Repealed

(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-14-5
Repealed

(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-14-6
Repealed

(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-14-6.1
Commissioners; appointment; nonvoting adviser

Sec. 6.1. (a) The five (5) commissioners for a municipal redevelopment commission shall be appointed as follows:

(1) Three (3) shall be appointed by the municipal executive.

(2) Two (2) shall be appointed by the municipal legislative body.

The municipal executive shall also appoint an individual to serve as a nonvoting adviser to the redevelopment commission beginning July 1, 2008.

(b) The commissioners for a county redevelopment commission that has five (5) members shall be appointed as follows:

(1) The county executive shall appoint all the members whose terms of office begin before January 1, 2008.

(2) For terms of office beginning after December 31, 2007, the county executive shall appoint three (3) members, and the county fiscal body shall appoint two (2) members.

The county executive shall also appoint an individual to serve as a nonvoting adviser to the redevelopment commission beginning July 1, 2008.

(c) The commissioners for a county redevelopment commission

that has seven (7) members shall be appointed as follows:

(1) The county executive shall appoint all the members whose terms of office begin before January 1, 2008.

(2) For terms of office beginning after December 31, 2007, the county executive shall appoint four (4) members, and the county fiscal body shall appoint three (3) members.

The county executive shall also appoint an individual to serve as a nonvoting adviser to the redevelopment commission beginning July 1, 2008.

(d) A nonvoting adviser appointed under this section:

(1) must also be a member of the school board of a school corporation that includes all or part of the territory served by the redevelopment commission;

(2) is not considered a member of the redevelopment commission for purposes of this chapter but is entitled to attend and participate in the proceedings of all meetings of the redevelopment commission;

(3) is not entitled to a salary, per diem, or reimbursement of expenses;

(4) serves for a term of two (2) years and until a successor is appointed; and

(5) serves at the pleasure of the entity that appointed the nonvoting adviser.

As added by Acts 1981, P.L.310, SEC.83. Amended by P.L.190-2005, SEC.7; P.L.146-2008, SEC.723.

IC 36-7-14-7

Commissioners; terms of office; vacancies; oaths; bonds; qualifications; reimbursement for expenses; compensation

Sec. 7. (a) Each redevelopment commissioner shall serve for one (1) year from the first day of January after his appointment and until his successor is appointed and has qualified, except that the original commissioners shall serve from the date of their appointment until the first day of January in the second year after their appointment. If a vacancy occurs, a successor shall be appointed in the same manner as the original commissioner, and the successor shall serve for the remainder of the vacated term.

(b) Each redevelopment commissioner, before beginning his duties, shall take and subscribe an oath of office in the usual form, to be endorsed on the certificate of his appointment, which shall be promptly filed with the clerk for the unit that he serves.

(c) Each redevelopment commissioner, before beginning his duties, shall execute a bond payable to the state, with surety to be approved by the executive of the unit. The bond must be in the penal sum of fifteen thousand dollars ($15,000) and must be conditioned on the faithful performance of the duties of his office and the accounting for all monies and property that may come into his hands or under his control. The cost of the bond shall be paid by the special taxing district.

(d) A redevelopment commissioner must be at least eighteen (18)

years of age, and must be a resident of the unit that he serves.

(e) If a commissioner ceases to be qualified under this section, he forfeits his office.

(f) Except as provided in subsection (g), redevelopment commissioners are not entitled to salaries but are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

(g) A redevelopment commissioner who does not otherwise hold a lucrative office for the purpose of Article 2, Section 9 of the Indiana Constitution may receive:

(1) a salary; or

(2) a per diem;

and is entitled to reimbursement for expenses necessarily incurred in the performance of the redevelopment commissioner's duties.

As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.84; P.L.10-1997, SEC.35; P.L.2-1998, SEC.84.

IC 36-7-14-7.1
Repealed

(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-14-8
Commission; meetings; officers; treasurer; rules; quorum; approval of actions

Sec. 8. (a) The redevelopment commissioners shall hold a meeting for the purpose of organization not later than thirty (30) days after they are appointed and, after that, each year on the first day in January that is not a Saturday, a Sunday, or a legal holiday. They shall choose one (1) of their members as president, another as vice president, and another as secretary. These officers shall perform the duties usually pertaining to their offices and shall serve from the date of their election until their successors are elected and qualified.

(b) The redevelopment commission may appoint a treasurer who need not be a member of the redevelopment commission. The redevelopment commission may provide for the payment of compensation to a treasurer who is not a member of the redevelopment commission. Notwithstanding any other provision of this chapter, the treasurer has charge over and is responsible for the administration, investment, and disbursement of all funds and accounts of the redevelopment commission in accordance with the requirements of this chapter. However, the treasurer may not perform any duties of the fiscal officer or any other officer of the unit that are prescribed by section 24 of this chapter or by any provisions of this chapter that pertain to the issuance and sale of bonds, notes, or warrants of the special taxing district.

(c) The redevelopment commissioners may adopt the rules and bylaws they consider necessary for the proper conduct of their proceedings, the carrying out of their duties, and the safeguarding of the money and property placed in their custody by this chapter. In addition to the annual meeting, the commissioners may, by resolution

or in accordance with their rules and bylaws, prescribe the date and manner of notice of other regular or special meetings.

(d) This subsection does not apply to a county redevelopment commission that consists of seven (7) members. Three (3) of the redevelopment commissioners constitute a quorum, and the concurrence of three (3) commissioners is necessary to authorize any action.

(e) This subsection applies only to a county redevelopment commission that consists of seven (7) members. Four (4) of the redevelopment commissioners constitute a quorum, and the concurrence of four (4) commissioners is necessary to authorize any action.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.192-1988, SEC.4; P.L.41-1992, SEC.4; P.L.18-1992, SEC.24; P.L.190-2005, SEC.8.

IC 36-7-14-9

Commissioners; removal from office

Sec. 9. (a) The municipal executive or municipal legislative body that appointed a municipal redevelopment commissioner may summarily remove that commissioner from office at any time.

(b) The county executive may summarily remove a county redevelopment commissioner from office at any time.

As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.85.

IC 36-7-14-10

Commissioners and nonvoting advisers; pecuniary interests in property and transactions

Sec. 10. (a) A redevelopment commissioner or a nonvoting adviser appointed under section 6.1 of this chapter may not have a pecuniary interest in any contract, employment, purchase, or sale made under this chapter. However, any property required for redevelopment purposes in which a commissioner or nonvoting adviser has a pecuniary interest may be acquired, but only by gift or condemnation.

(b) A transaction made in violation of this section is void.

As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.86; P.L.146-2008, SEC.724.

IC 36-7-14-11

Duties of commission

Sec. 11. The redevelopment commission shall:

(1) investigate, study, and survey areas needing redevelopment within the corporate boundaries of the unit;

(2) investigate, study, determine, and, to the extent possible, combat the causes of areas needing redevelopment;

(3) promote the use of land in the manner that best serves the interests of the unit and its inhabitants;

(4) cooperate:

(A) with the departments and agencies of:
(i) the unit; and
(ii) other governmental entities; and
(B) with:
(i) public instrumentalities; and
(ii) public corporate bodies;
created by state law;
in the manner that best serves the purposes of this chapter;
(5) make findings and reports on their activities under this section, and keep those reports open to inspection by the public at the offices of the department;
(6) select and acquire the areas needing redevelopment to be redeveloped under this chapter; and
(7) replan and dispose of the areas needing redevelopment in the manner that best serves the social and economic interests of the unit and its inhabitants.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.9; P.L.221-2007, SEC.31.

IC 36-7-14-12
Repealed

(*Repealed by P.L.5-1988, SEC.213.)*

IC 36-7-14-12.1
Repealed

(*Repealed by P.L.1-1990, SEC.362.)*

IC 36-7-14-12.2
Powers of commission

Sec. 12.2. (a) The redevelopment commission may do the following:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of areas needing redevelopment that are located within the corporate boundaries of the unit.
(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the unit and its inhabitants.
(3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.
(4) Clear real property acquired for redevelopment purposes.
(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source,

nature, and extent of any environmental contamination, including the following:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(7) Repair and maintain structures acquired for redevelopment purposes.

(8) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.

(9) Survey or examine any land to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes and to determine the value of that land.

(10) Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any area needing redevelopment within the jurisdiction of the commissioners.

(11) Institute or defend in the name of the unit any civil action.

(12) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the department of redevelopment.

(13) Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit in the manner prescribed by section 20 of this chapter.

(14) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.

(15) Appoint clerks, guards, laborers, and other employees the commission considers advisable, except that those appointments must be made in accordance with the merit system of the unit if such a system exists.

(16) Prescribe the duties and regulate the compensation of employees of the department of redevelopment.

(17) Provide a pension and retirement system for employees of the department of redevelopment by using the Indiana public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.

(18) Discharge and appoint successors to employees of the department of redevelopment subject to subdivision (15).

(19) Rent offices for use of the department of redevelopment, or accept the use of offices furnished by the unit.

(20) Equip the offices of the department of redevelopment with the necessary furniture, furnishings, equipment, records, and supplies.
(21) Expend, on behalf of the special taxing district, all or any part of the money of the special taxing district.
(22) Contract for the construction of:
(A) local public improvements (as defined in IC 36-7-14.5-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the corporate boundaries of the unit; or
(B) any structure that enhances development or economic development.
(23) Contract for the construction, extension, or improvement of pedestrian skyways.
(24) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.
(25) Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units within the district. However, financial assistance may be provided only to individuals and families whose income is at or below the unit's median income for individuals and families, respectively.
(26) Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:
(A) provide financial assistance for the purposes described in subdivision (25); or
(B) construct, rehabilitate, or repair commercial property within the district.
(27) Require as a condition of financial assistance to the owner of a multiple unit residential structure that any of the units leased by the owner must be leased:
(A) for a period to be determined by the commission, which may not be less than five (5) years;
(B) to families whose income does not exceed eighty percent (80%) of the unit's median income for families; and
(C) at an affordable rate.

(b) Conditions imposed by the commission under subsection (a)(27) remain in force throughout the period determined under subsection (a)(27)(A), even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

(c) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a

public use and purpose, and do not require vacation of any public way or other property.

(d) All powers that may be exercised under this chapter by the redevelopment commission may also be exercised by the redevelopment commission in carrying out its duties and purposes under IC 36-7-14.5.

As added by P.L.1-1990, SEC.363. Amended by P.L.35-1990, SEC.53; P.L.185-2005, SEC.10; P.L.221-2007, SEC.32.

IC 36-7-14-12.3

Construction contracts with redevelopment commission; subcontractors; wage scales

Sec. 12.3. IC 5-16-7 applies to:

(1) a person that enters into a contract with a redevelopment commission to perform construction work referred to in section 12.2(a)(4), 12.2(a)(7), 12.2(a)(22), or 12.2(a)(23) of this chapter; and

(2) a subcontractor of a person described in subdivision (1);

with respect to the construction work referred to in subdivision (1).

As added by P.L.35-1990, SEC.54. Amended by P.L.221-2007, SEC.33.

IC 36-7-14-13

Annual reports; contents

Sec. 13. (a) Within thirty (30) days after the close of each calendar year, the redevelopment commissioners shall file with the unit's executive a report setting out their activities during the preceding calendar year.

(b) The report of the commissioners of a municipal redevelopment commission must show the names of the then qualified and acting commissioners, the names of the officers of that body, the number of regular employees and their fixed salaries or compensation, the amount of the expenditures made during the preceding year and their general purpose, an accounting of the tax increment revenues expended by any entity receiving the tax increment revenues as a grant or loan from the commission, the amount of funds on hand at the close of the calendar year, and other information necessary to disclose the activities of the commissioners and the results obtained.

(c) The report of the commissioners of a county redevelopment commission must show all the information required by subsection (b), plus the names of any commissioners appointed to or removed from office during the preceding calendar year.

(d) A copy of each report filed under this section must be submitted to the department of local government finance in an electronic format under IC 5-14-6.

As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.88; P.L.112-2012, SEC.54.

IC 36-7-14-14

Contracts to perform powers and duties

Sec. 14. (a) A county may contract with a city within the county to have any of the duties and powers listed in sections 11 and 12.2 of this chapter performed by the redevelopment commission of the city.

(b) A city may contract with the county in which it is located to have any of the duties and powers listed in sections 11 and 12.2 of this chapter performed by the redevelopment commission of the county.

(c) A city or county may contract with:

(1) a public instrumentality; or

(2) a public corporate body;

created by state law to have the powers listed in section 12.2(a)(4) through 12.2(a)(7) of this chapter performed by the public instrumentality or public corporate body.

(d) A contract made under this section must be for a stated and limited period and may be renewed.

(e) Whenever a city official acts under a contract made under this section, or whenever permits or other writings are used under such a contract, the action or use must be in the name of the county redevelopment commission.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.3-1989, SEC.229; P.L.1-1990, SEC.364; P.L.221-2007, SEC.34.

IC 36-7-14-15

Data concerning areas in need of redevelopment; declaratory resolution; amendment to resolution or plan

Sec. 15. (a) Whenever the redevelopment commission finds that:

(1) an area in the territory under its jurisdiction is an area needing redevelopment;

(2) the conditions described in IC 36-7-1-3 cannot be corrected in the area by regulatory processes or the ordinary operations of private enterprise without resort to this chapter;

(3) the public health and welfare will be benefited by:

(A) the acquisition and redevelopment of the area under this chapter as a redevelopment project area; or

(B) the amendment of the resolution or plan, or both, for an existing redevelopment project area; and

(4) in the case of an amendment to the resolution or plan for an existing redevelopment project area:

(A) the amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter; and

(B) the resolution or plan, with the proposed amendment, conforms to the comprehensive plan for the unit;

the commission shall cause to be prepared the data described in subsection (b).

(b) After making a finding under subsection (a), the commission shall cause to be prepared:

(1) maps and plats showing:

(A) the boundaries of the area in which property would be acquired for, or otherwise affected by, the establishment of

a redevelopment project area or the amendment of the resolution or plan for an existing area;

(B) the location of the various parcels of property, streets, alleys, and other features affecting the acquisition, clearance, remediation, replatting, replanning, rezoning, or redevelopment of the area, indicating any parcels of property to be excluded from the acquisition or otherwise excluded from the effects of the establishment of the redevelopment project area or the amendment of the resolution or plan for an existing area; and

(C) the parts of the area acquired, if any, that are to be devoted to public ways, levees, sewerage, parks, playgrounds, and other public purposes under the redevelopment plan;

(2) lists of the owners of the various parcels of property proposed to be acquired for, or otherwise affected by, the establishment of an area or the amendment of the resolution or plan for an existing area; and

(3) an estimate of the costs, if any, to be incurred for the acquisition and redevelopment of property.

(c) This subsection applies to the initial establishment of a redevelopment project area. After completion of the data required by subsection (b), the redevelopment commission shall adopt a resolution declaring that:

(1) the area needing redevelopment is a menace to the social and economic interest of the unit and its inhabitants;

(2) it will be of public utility and benefit to acquire the area and redevelop it under this chapter; and

(3) the area is designated as a redevelopment project area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area, and that the department of redevelopment proposes to acquire all of the interests in the land within the boundaries, with certain designated exceptions, if there are any.

(d) This subsection applies to the amendment of the resolution or plan for an existing redevelopment project area. After completion of the data required by subsection (b), the redevelopment commission shall adopt a resolution declaring that:

(1) it will be of public utility and benefit to amend the resolution or plan for the area; and

(2) any additional area to be acquired under the amendment is designated as part of the existing redevelopment project area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area, including any changes made to those boundaries by the amendment, and describe the activities that the department of redevelopment is permitted to take under the amendment, with any designated exceptions.

(e) For the purpose of adopting a resolution under subsection (c)

or (d), it is sufficient to describe the boundaries of the redevelopment project area by its location in relation to public ways or streams, or otherwise, as determined by the commissioners. Property excepted from the application of a resolution may be described by street numbers or location.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.35-1990, SEC.55; P.L.185-2005, SEC.11; P.L.221-2007, SEC.35; P.L.146-2008, SEC.725; P.L.172-2011, SEC.147.

IC 36-7-14-15.5

Redevelopment project areas in certain counties; inclusion of additional areas outside boundaries

Sec. 15.5. (a) This section applies to a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) In adopting a declaratory resolution under section 15 of this chapter, a redevelopment commission may include a provision stating that the redevelopment project area is considered to include one (1) or more additional areas outside the boundaries of the redevelopment project area if the redevelopment commission makes the following findings and the requirements of subsection (c) are met:

(1) One (1) or more taxpayers presently located within the boundaries of the redevelopment project area are expected within one (1) year to relocate all or part of their operations outside the boundaries of the redevelopment project area and have expressed an interest in relocating all or part of their operations within the boundaries of an additional area.

(2) The relocation described in subdivision (1) will contribute to the continuation of the conditions described in IC 36-7-1-3 in the redevelopment project area.

(3) For purposes of this section, it will be of public utility and benefit to include the additional areas as part of the redevelopment project area.

(c) Each additional area must be designated by the redevelopment commission as a redevelopment project area or an economic development area under this chapter.

(d) Notwithstanding section 3 of this chapter, the additional areas shall be considered to be a part of the redevelopment special taxing district under the jurisdiction of the redevelopment commission. Any excess property taxes that the commission has determined may be paid to taxing units under section 39(b)(4) of this chapter shall be paid to the taxing units from which the excess property taxes were derived. All powers of the redevelopment commission authorized under this chapter may be exercised by the redevelopment commission in additional areas under its jurisdiction.

(e) The declaratory resolution must include a statement of the general boundaries of each additional area. However, it is sufficient to describe those boundaries by location in relation to public ways, streams, or otherwise, as determined by the commissioners.

(f) The declaratory resolution may include a provision with respect to the allocation and distribution of property taxes with respect to one (1) or more of the additional areas in the manner provided in section 39 of this chapter. If the redevelopment commission includes such a provision in the resolution, allocation areas in the redevelopment project area and in the additional areas considered to be part of the redevelopment project area shall be considered a single allocation area for purposes of this chapter.

(g) The additional areas must be located within the same county as the redevelopment project area but are not otherwise required to be within the jurisdiction of the redevelopment commission, if the redevelopment commission obtains the consent by ordinance of:

(1) the county legislative body, for each additional area located within the unincorporated part of the county; or

(2) the legislative body of the city or town affected, for each additional area located within a city or town.

In granting its consent, the legislative body shall approve the plan of development or redevelopment relating to the additional area.

(h) A declaratory resolution previously adopted may be amended to include a provision to include additional areas as set forth in this section and an allocation provision under section 39 of this chapter with respect to one (1) or more of the additional areas in accordance with sections 15, 16, and 17 of this chapter.

(i) The redevelopment commission may amend the allocation provision of a declaratory resolution in accordance with sections 15, 16, and 17 of this chapter to change the assessment date that determines the base assessed value of property in the allocation area to any assessment date following the effective date of the allocation provision of the declaratory resolution. Such a change may relate to the assessment date that determines the base assessed value of that portion of the allocation area that is located in the redevelopment project area alone, that portion of the allocation area that is located in an additional area alone, or the entire allocation area.

As added by P.L.170-1990, SEC.1. Amended by P.L.12-1992, SEC.169; P.L.185-2005, SEC.12; P.L.146-2008, SEC.726; P.L.203-2011, SEC.5; P.L.119-2012, SEC.206.

IC 36-7-14-15.8
Repealed

(*Repealed by P.L.1-1993, SEC.243.)*

IC 36-7-14-16
Approval of resolutions and plans by unit

Sec. 16. (a) This subsection does not apply to the redevelopment commission of an excluded city described in section 1(b) of this chapter. After adoption under section 15 of this chapter of a resolution that designates a redevelopment project area or amends the resolution or plan for an existing area, the redevelopment commission shall submit the resolution and supporting data to the plan commission of the unit, or if there is no plan commission, then

to the body charged with the duty of developing a general plan for the unit, if there is such a body. The plan commission may determine whether the resolution and the redevelopment plan conform to the plan of development for the unit and approve or disapprove the resolution and plan proposed. The redevelopment commission may amend or modify the resolution and proposed plan in order to conform them to the requirements of the plan commission. The plan commission shall issue its written order approving or disapproving the resolution and redevelopment plan, and may, with the consent of the redevelopment commission, rescind or modify that order.

(b) This subsection does not apply to the redevelopment commission of an excluded city described in section 1(b) of this chapter. The redevelopment commission may not proceed with:

(1) the acquisition of a redevelopment project area; or

(2) the implementation of an amendment to the resolution or plan for an existing redevelopment project area;

until the approving order of the plan commission is issued and approved by the municipal legislative body or county executive.

(c) In determining the location and extent of a redevelopment project area proposed to be acquired for redevelopment, the redevelopment commission and the plan commission of the unit shall give consideration to transitional and permanent provisions for adequate housing for the residents of the area who will be displaced by the redevelopment project.

(d) After adoption under section 15 of this chapter of a resolution that designates a redevelopment project area or amends the resolution or plan for an existing area, a redevelopment commission in an excluded city that is exempt from the requirements of subsections (a) and (b) shall submit the resolution and supporting data to the municipal legislative body of the excluded city. The municipal legislative body may:

(1) determine if the resolution and the redevelopment plan conform to the plan of development for the unit; and

(2) approve or disapprove the resolution and plan proposed.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.190-2005, SEC.9; P.L.185-2005, SEC.13; P.L.1-2006, SEC.565; P.L.146-2008, SEC.727.

IC 36-7-14-17

Notice and hearing

Sec. 17. (a) After receipt of the written order of approval of the plan commission and approval of the municipal legislative body or county executive, the redevelopment commission shall publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1. The notice must:

(1) state that maps and plats have been prepared and can be inspected at the office of the department; and

(2) name a date when the commission will:

(A) receive and hear remonstrances and objections from persons interested in or affected by the proceedings

pertaining to the proposed project or other actions to be taken under the resolution; and

(B) determine the public utility and benefit of the proposed project or other actions.

All persons affected in any manner by the hearing, including all taxpayers of the special taxing district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the commission by the notice given under this section.

(b) A copy of the notice of the hearing on the resolution shall be filed in the office of the unit's plan commission, board of zoning appeals, works board, park board, and building commissioner, and any other departments, bodies, or officers of the unit having to do with unit planning, variances from zoning ordinances, land use, or the issuance of building permits. These agencies and officers shall take notice of the pendency of the hearing and, until the commission confirms, modifies and confirms, or rescinds the resolution, or the confirmation of the resolution is set aside on appeal, may not:

(1) authorize any construction on property or sewers in the area described in the resolution, including substantial modifications, rebuilding, conversion, enlargement, additions, and major structural improvements; or

(2) take any action regarding the zoning or rezoning of property, or the opening, closing, or improvement of streets, alleys, or boulevards in the area described in the resolution.

This subsection does not prohibit the granting of permits for ordinary maintenance or minor remodeling, or for changes necessary for the continued occupancy of buildings in the area.

(c) If the resolution to be considered at the hearing includes a provision establishing or amending an allocation provision under section 39 of this chapter, the redevelopment commission shall file the following information with each taxing unit that is wholly or partly located within the allocation area:

(1) A copy of the notice required by subsection (a).

(2) A statement disclosing the impact of the allocation area, including the following:

(A) The estimated economic benefits and costs incurred by the allocation area, as measured by increased employment and anticipated growth of real property assessed values.

(B) The anticipated impact on tax revenues of each taxing unit.

The redevelopment commission shall file the information required by this subsection with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the hearing.

(d) At the hearing, which may be adjourned from time to time, the redevelopment commission shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the commission shall take final action determining the

public utility and benefit of the proposed project or other actions to be taken under the resolution, and confirming, modifying and confirming, or rescinding the resolution. The final action taken by the commission shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by section 18 of this chapter.

As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.45, SEC.29; P.L.38-1988, SEC.8; P.L.18-1992, SEC.25; P.L.25-1995, SEC.83; P.L.146-2008, SEC.728.

IC 36-7-14-17.5

Notice and hearing; amendment of resolution or plan; procedure

Sec. 17.5. (a) In addition to the requirements of section 17 of this chapter, if the resolution or plan for an existing redevelopment project area is proposed to be amended in a way that changes:

(1) parts of the area that are to be devoted to a public way, levee, sewerage, park, playground, or other public purposes;

(2) the proposed use of the land in the area; or

(3) requirements for rehabilitation, building requirements, proposed zoning, maximum densities, or similar requirements;

the commission must, at least ten (10) days before the public hearing under section 17 of this chapter, send the notice required by section 17 of this chapter by first class mail to affected neighborhood associations.

(b) In addition to the requirements of section 17 of this chapter, if the resolution or plan for an existing redevelopment project area is proposed to be amended in a way that:

(1) enlarges the boundaries of the area; or

(2) adds one (1) or more parcels to the list of parcels to be acquired;

the commission must, at least ten (10) days before the public hearing under section 17 of this chapter, send the notice required by section 17 of this chapter by first class mail to affected neighborhood associations and to persons owning property that is in the proposed enlargement of the area or that is proposed to be added to the acquisition list. If the enlargement of an area is proposed, notice must also be filed in accordance with section 17(b) of this chapter, and agencies and officers may not take actions prohibited by section 17(b) of this chapter in the proposed enlarged area.

(c) The commission may require that neighborhood associations register with the commission. The commission may adopt a rule that requires that a neighborhood association encompass a part of the geographic area included in or proposed to be included in a redevelopment project area, urban renewal area, or economic development area to qualify as an affected neighborhood association.

As added by P.L.114-1989, SEC.4. Amended by P.L.185-2005, SEC.14; P.L.146-2008, SEC.729.

IC 36-7-14-18

Appeals

Sec. 18. (a) A person who filed a written remonstrance with the redevelopment commission under section 17 of this chapter and is aggrieved by the final action taken may, within ten (10) days after that final action, file in the office of the clerk of the circuit or superior court a copy of the order of the commission and his remonstrance against that order, together with his bond conditioned to pay the costs of his appeal if the appeal is determined against him. The only ground of remonstrance that the court may hear is whether the proposed project will be of public utility and benefit. The burden of proof is on the remonstrator.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the remonstrances, and may confirm the final action of the commission or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

As added by Acts 1981, P.L.309, SEC.33.

IC 36-7-14-19

Acquisition of real property; procedure

Sec. 19. (a) If no appeal is taken or if an appeal is taken but is unsuccessful, the redevelopment commission shall proceed with the proposed project to the extent that money is available for that purpose.

(b) The redevelopment commission shall first approve and adopt a list of the real property and interests in real property to be acquired and the price to be offered to the owner of each parcel of interest. The prices to be offered may not exceed the average of two (2) independent appraisals of fair market value procured by the commission except that appraisals are not required in transactions with other governmental agencies. However, if the real property is less than five (5) acres in size and the fair market value of the real property or interest has been appraised by one (1) independent appraiser at less than ten thousand dollars ($10,000), the second appraisal may be made by a qualified employee of the department of redevelopment. The prices indicated on the list may not be exceeded unless specifically authorized by the commission or ordered by a court in condemnation proceedings. The commission may except from acquisition any real property in the area if the commission finds that such an acquisition is not necessary under the redevelopment plan. Appraisals made under this section are for the information of the commission and are not open for public inspection.

(c) Negotiations for the purchase of property may be carried on directly by the redevelopment commission, by its employees, or by expert negotiations, but no option, contract, or understanding relative to the purchase of real property is binding on the commission until approved and accepted by the commission in writing. The commission may authorize the payment of a nominal fee to bind an

option and as a part of the consideration for conveyance may agree to pay the expense incident to the conveyance and determination of the title of the property. Payment for the property purchased shall be made when and as directed by the commission but only on delivery of proper instruments conveying the title or interest of the owner to the "City (Town or County) of _____ for the use and benefit of its department of redevelopment".

(d) All real property and interests in real property acquired by the redevelopment commission are free and clear of all liens, assessments, and other governmental charges except for current property taxes, which shall be prorated to the date of acquisition.

(e) Notwithstanding subsections (a) through (d), the redevelopment commission may, before the time referred to in this section, accept gifts of property needed for the redevelopment of redevelopment project areas if the property is free and clear of all liens other than taxes, assessments, and other governmental charges. The commission may, before the time referred to in this section, take options on or contract for the acquisition of property needed for the redevelopment of redevelopment project areas if the options and contracts are not binding on the commission or the district until the time referred to in this section and until money is available to pay the consideration set out in the options or contracts.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.114-1989, SEC.5; P.L.35-1990, SEC.56; P.L.185-2005, SEC.15.

IC 36-7-14-20

Eminent domain; procedure; approval of legislative body

Sec. 20. (a) Subject to the approval of the legislative body of the unit that established the department of redevelopment, if the redevelopment commission considers it necessary to acquire real property in a redevelopment project area by the exercise of the power of eminent domain, the commission shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the unit on behalf of the department of redevelopment, in the circuit or superior court of the county in which the property is situated.

(b) Eminent domain proceedings under this section are governed by IC 32-24 and other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired under this section, but property belonging to the state or any political subdivision may not be acquired without its consent.

(c) The court having jurisdiction shall direct the clerk of the circuit court to execute a deed conveying the title of real property acquired under this section to the unit for the use and benefit of its department of redevelopment.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.2-2002, SEC.110; P.L.185-2005, SEC.16; P.L.146-2008, SEC.730.

IC 36-7-14-21

Commission authority in redevelopment area

Sec. 21. (a) The redevelopment commission may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of that area. It may also proceed with the repair and maintenance of buildings that have been acquired and are not to be cleared, and with the following with respect to environmental contamination:

(1) Investigation.

(2) Remediation.

The redevelopment commission may carry out activities under this subsection by labor employed directly by the commission or by contract. Contracts for clearance may provide that the contractor is entitled to retain and dispose of salvaged material, as a part of the contract price or on the basis of stated prices for the amounts of the various materials actually salvaged.

(b) All contracts for material or labor under this section shall be let under IC 36-1.

(c) In the planning and rezoning of the real property acquired, the opening, closing, relocation, and improvement of public ways, and the construction, relocation, and improvement of levees, sewers, parking facilities, and utility services, the redevelopment commission shall proceed in the same manner as private owners of the property. It may negotiate with the proper officers and agencies of the unit to secure the proper orders, approvals, and consents.

(d) Any construction work required in connection with improvements in the area described in the resolution may be carried out by:

(1) the appropriate municipal or county department or agency; or

(2) the department of redevelopment, if:

(A) all plans, specifications, and drawings are approved by the appropriate department or agency; and

(B) the statutory procedures for the letting of contracts by the appropriate department or agency are followed by the department of redevelopment.

(e) The redevelopment commission may pay any charges or assessments made on account of orders, approval, consents, and construction work under this section, or may agree to pay these assessments in installments as provided by statute in the case of private owners. The commission may:

(1) by special waiver filed with the municipal works board or county executive, waive the statutory procedure and notices required by law in order to create valid liens on private property; and

(2) cause any assessments to be spread on a different basis than that provided by statute.

(f) None of the real property acquired under this chapter may be set aside and dedicated for public ways, parking facilities, sewers, levees, parks, or other public purposes until the redevelopment commission has obtained the consent and approval of the department

or agency under whose jurisdiction the property will be placed.
As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.310, SEC.89; Acts 1982, P.L.33, SEC.30; P.L.221-2007, SEC.36.

IC 36-7-14-22
Public sale or lease of real property; procedure

Sec. 22. (a) This section does not apply to the sale or grant of real property or interests in real property to urban enterprise associations or community development corporations under section 22.2 of this chapter. The provisions of this section concerning publication and bidding procedures do not apply to sales, leases, or other dispositions of real property to other public agencies for public purposes.

(b) Before offering for sale or lease to the public any of the real property acquired, the redevelopment commission shall cause two (2) separate appraisals of the sale value, or rental value in case of a lease, to be made by independent appraisers. However, if the real property is less than five (5) acres in size and the fair market value of the real property or interest has been appraised by one (1) independent appraiser at less than ten thousand dollars ($10,000), the second appraisal may be made by a qualified employee of the department of redevelopment. In making appraisals, the appraisers shall take into consideration the size, location, and physical condition of the parcels, the advantages accruing to the parcels under the redevelopment plan, and all other factors having a bearing on the value of the parcels. The appraisals are solely for the information of the commission, and are not open for public inspection.

(c) The redevelopment commission shall then prepare an offering sheet showing the parcels to be offered and the offering prices, which may not be less than the average of the two (2) appraisals. Copies of the offering sheets shall be furnished to prospective buyers on request. Maps and plats showing the size and location of all parcels to be offered shall also be kept available for inspection at the office of the department.

(d) A notice shall be published in accordance with IC 5-3-1. The notice must state that at a designated time the commission will open and consider written offers for the purchase or lease of the real property being offered. In giving the notice it is not necessary to describe each parcel separately, or to specify the exact terms of disposition, but the notice:

(1) must state the general location of the parcels;

(2) call attention generally to any limitations on the use to be made of the real property offered; and

(3) state that a bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(e) At the time fixed in the notice the commission shall open and consider any offers received. These offers may consist of consideration in the form of cash, other property, or a combination of cash and other property. However, with respect to property other

than cash, the offer must be accompanied by evidence of the property's fair market value that is satisfactory to the commission in its sole discretion. All offers received shall be opened at public meetings of the commission and shall be kept open for public inspection.

(f) The commission may reject any bids and may make awards to the highest and best bidders. In determining the best bids, the commission shall take into consideration the following factors:

(1) The size and character of the improvements proposed to be made by the bidder on the real property bid on.

(2) The bidder's plans and ability to improve the real property with reasonable promptness.

(3) Whether the real property when improved will be sold or rented.

(4) The bidder's proposed sale or rental prices.

(5) The bidder's compliance with subsection (d)(3).

(6) Any factors that will assure the commission that the sale or lease, if made, will further the execution of the redevelopment plan and best serve the interest of the community, from the standpoint of both human and economic welfare.

(g) The commission may contract with a bidder in regard to the factors listed in subsection (f), and the contract may provide for the deposit of surety bonds, the making of good faith deposits, liquidated damages, the right of repurchase, or other rights and remedies if the bidder fails to comply with the contract.

(h) After the opening and consideration of the written offers filed in response to the notice, the commission may dispose of the remainder of the available real property either at public sale or by private negotiation carried on by the commission, its regular employees, or real estate experts employed for that purpose. For a period of thirty (30) days after the opening of the written offers, no sale or lease may be made at a price or rental less than that shown on the offering sheet, except in the case of sales or rentals of ten (10) or more parcels to a purchaser or lessee who agrees to improve the parcels immediately, but after that period the commission may adjust the offering prices in the manner the commission considers necessary to further the redevelopment plan.

(i) A conveyance under this section may not be made until the agreed consideration has been paid, unless the redevelopment commission passes a resolution expressly providing that the consideration does not have to be paid before the conveyance is made. In addition, such a resolution may provide for a mortgage or other security. All deeds, leases, land sale contracts, or other conveyances, and all contracts and agreements, including contracts of purchase and sale and contracts for advancements, loans, grants, contributions, or other aid, shall be executed in the name of the "City (or Town or County) of _____, Department of Redevelopment", and shall be signed by the president or vice president of the redevelopment commission and attested by its secretary. A seal is not required on these instruments or any other

instruments executed in the name of the department.
As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.45, SEC.30; P.L.114-1989, SEC.6; P.L.336-1989(ss), SEC.51; P.L.31-1994, SEC.17; P.L.39-1994, SEC.24; P.L.113-2002, SEC.5.

IC 36-7-14-22.1
Repealed
(*Repealed by P.L.1-2001, SEC.51.)*

IC 36-7-14-22.2
Sale or grant of real property to urban enterprise association or community development corporation; procedure
Sec. 22.2. (a) The commission may sell or grant, at no cost, title to real property to an urban enterprise association for the purpose of developing the real property if the following requirements are met:
(1) The urban enterprise association has incorporated as a nonprofit corporation under IC 5-28-15-14(b)(3).
(2) The parcel of property to be sold or granted is located entirely within the enterprise zone for which the urban enterprise association was created under IC 5-28-15-13.
(3) The urban enterprise association agrees to cause development on the parcel of property within a specified period that may not exceed five (5) years from the date of the sale or grant.
(4) The urban enterprise association agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the enterprise zone.
(b) The commission may sell or grant, at no cost, title to real property to a community development corporation (as defined in IC 4-4-28-2) for the purpose of providing low or moderate income housing or other development that will benefit or serve low or moderate income families if the following requirements are met:
(1) The community development corporation has as a major corporate purpose and function the provision of housing for low and moderate income families within the geographic area in which the parcel of real property is located.
(2) The community development corporation agrees to cause development that will serve or benefit low or moderate income families on the parcel of real property within a specified period, which may not exceed five (5) years from the date of the sale or grant.
(3) The community development corporation agrees that the community development corporation and each applicant, recipient, contractor, or subcontractor undertaking work in connection with the real property will:
(A) use lower income project area residents as trainees and as employees; and
(B) contract for work with business concerns located in the project area or owned in substantial part by persons residing

in the project area;

to the greatest extent feasible, as determined under the standards specified in 24 CFR 135.

(4) The community development corporation agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the community development corporation.

(c) To carry out the purposes of this section, the commission may secure from the county under IC 6-1.1-25-9(e) parcels of property acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(d) Before offering any parcel of property for sale or grant, the fair market value of the parcel of property must be determined by an appraiser, who may be an employee of the department. However, if the commission has obtained the parcel in the manner described in subsection (c), an appraisal is not required. An appraisal under this subsection is solely for the information of the commission and is not available for public inspection.

(e) The commission must decide at a public meeting whether the commission will sell or grant the parcel of real property. In making this decision, the commission shall give substantial weight to the extent to which and the terms under which the urban enterprise association or community development corporation will cause development on the property.

(f) Before conducting a meeting under subsection (g), the commission shall publish a notice in accordance with IC 5-3-1 indicating that at a designated time the commission will consider selling or granting the parcel of real property under this section. The notice must state the general location of the property, including the street address, if any, or a common description of the property other than the legal description.

(g) If the county agrees to transfer a parcel of real property to the commission to be sold or granted under this section, the commission may conduct a meeting to sell or grant the parcel to an urban enterprise zone or to a community development corporation even though the parcel has not yet been transferred to the commission. After the hearing, the commission may adopt a resolution directing the department to take appropriate steps necessary to acquire the parcel from the county and to transfer the parcel to the urban enterprise association or to the community development corporation.

(h) A conveyance of property under this section shall be made in accordance with section 22(i) of this chapter.

(i) An urban enterprise association that purchases or receives real property under this section shall report the terms of the conveyance to the board of the Indiana economic development corporation not later than thirty (30) days after the date the conveyance of the property is made.

As added by P.L.113-2002, SEC.6. Amended by P.L.1-2003, SEC.99; P.L.4-2005, SEC.134.

IC 36-7-14-22.5

Additional commission powers concerning real property

Sec. 22.5. (a) This section applies to the following:

(1) Real property:

(A) that was acquired by the commission to carry out a redevelopment project, an economic development area project, or an urban renewal project; and

(B) relative to which the commission has, at a public hearing, decided that the real property is not needed to complete the redevelopment activity, an economic development activity, or urban renewal activity in the project area.

(2) Real property acquired under this chapter that is not in a redevelopment project area, economic development area, or an urban renewal project area.

(3) Parcels of property secured from the county under IC 6-1.1-25-9(e) that were acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(4) Real property donated or transferred to the commission to be held and disposed of under this section.

However, this section does not apply to property acquired under section 32.5 of this chapter.

(b) The commission may do the following to or for real property described in subsection (a):

(1) Examine, classify, manage, protect, insure, and maintain the property.

(2) Eliminate deficiencies (including environmental deficiencies), carry out repairs, remove structures, and make improvements.

(3) Control the use of the property.

(4) Lease the property.

(5) Use any powers under section 12.2 of this chapter in relation to the property.

(c) The commission may enter into contracts to carry out part or all of the functions described in subsection (b).

(d) The commission may extinguish all delinquent taxes, special assessments, and penalties relative to real property donated to the commission to be held and disposed of under this section. The commission shall provide the county auditor with a list of the real property on which delinquent taxes, special assessments, and penalties are extinguished under this subsection.

(e) Real property described in subsection (a) may be sold, exchanged, transferred, granted, donated, or otherwise disposed of in any of the following ways:

(1) In accordance with section 22, 22.2, 22.6, or 22.7 of this chapter.

(2) In accordance with the provisions authorizing an urban homesteading program under IC 36-7-17.

(f) In disposing of real property under subsection (e), the commission may:

(1) group together properties for disposition in a manner that

will best serve the interest of the community, from the standpoint of both human and economic welfare; and

(2) group together nearby or similar properties to facilitate convenient disposition.

As added by P.L.169-2006, SEC.70.

IC 36-7-14-22.6

"Abutting landowner"; "offering price"; sale to abutting landowner; appraisal

Sec. 22.6. (a) As used in this section, "abutting landowner" means an owner of property that:

(1) touches, borders on, or is contiguous to the property that is the subject of sale; and

(2) does not constitute a:

(A) public easement; or

(B) public right-of-way.

(b) As used in this section, "offering price" means the appraised value of real property plus all costs associated with the sale, including:

(1) appraisal fees;

(2) title insurance;

(3) recording fees; and

(4) advertising costs.

(c) If the assessed value of a tract of real property to be sold is less than fifteen thousand dollars ($15,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the commission may proceed under this section.

(d) The commission may determine that:

(1) the highest and best use of the tract is sale to an abutting landowner;

(2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or

(3) it is economically unjustifiable to sell the tract under section 22 of this chapter.

(e) Not more than ten (10) days after the commission makes a determination under subsection (d), the commission shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

(1) the property may not be sold to a person who is ineligible under IC 36-1-11-16; and

(2) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the commission shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The commission shall also have each tract appraised. The appraiser must be a person who is professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than six thousand dollars ($6,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the commission is not required to have the tract appraised.

(g) If, not more than ten (10) days after the date of publication of the notice under subsection (e), the commission receives one (1) or more eligible offers to purchase a tract listed in the notice at or in excess of the offering price, the commission shall conduct the negotiation and sale of the tract under section 22(f), 22(g), and 22(i) of this chapter.

(h) Notwithstanding subsection (g), if not more than ten (10) days after the date of publication of the notice under subsection (e) the commission does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the commission shall conduct the negotiation and sale of the tract as follows:

(1) If only one (1) eligible abutting landowner makes an eligible offer to purchase the tract, then subject to IC 36-1-11-16 and without further appraisal or notice, the commission shall offer to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an eligible offer to purchase the tract, the tract shall be sold to the eligible abutting landowner who submits the highest eligible offer for the tract and who complies with any requirement under subsection (e)(2).

(3) If no eligible abutting landowner submits an eligible offer to purchase the tract, the commission may sell the tract to any person who submits the highest eligible offer for the tract, except a person who is ineligible to purchase the tract under IC 36-1-11-16.

As added by P.L.169-2006, SEC.71.

IC 36-7-14-22.7

Disposal of real property; appraisal

Sec. 22.7. (a) The commission may dispose of real property to which section 22.5 of this chapter applies by following the procedure set forth in this section.

(b) The commission shall first have the property appraised by two (2) appraisers. The appraisers must be:

(1) persons who are professionally engaged in making appraisals;

(2) persons who are licensed under IC 25-34.1; or

(3) employees of the political subdivision familiar with the value of the property.

The appraisers shall make a joint appraisal of the property.

(c) The commission may:

(1) negotiate a sale or transfer; and

(2) dispose of the property;

at a value that is not less than the appraised value determined under subsection (b).

(d) Disposal of real property under this chapter is subject to the approval of the commission. The commission may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1.

(e) In addition to any other reason for disapproving a disposal of property under this section, the commission may disapprove a sale of a tract of residential property to any bidder who does not by affidavit declare that the bidder will reside on that property for at least one (1) year after the bidder obtains possession of the property.

As added by P.L.169-2006, SEC.72.

IC 36-7-14-23

Unit officers; duties regarding department funds

Sec. 23. Each officer of the unit who has duties in respect to the funds and accounts of the unit shall perform the same duties with respect to the funds and accounts of the department of redevelopment, except as otherwise provided in this chapter. An officer performing these duties is not entitled to any compensation in addition to that paid him by the unit.

As added by Acts 1981, P.L.309, SEC.33.

IC 36-7-14-24

Payment of expenses incurred before tax levy; procedure

Sec. 24. (a) All expenses incurred by the department of redevelopment that must be paid before the collection of taxes levied under this chapter shall be paid in the manner prescribed by this section. The commission shall certify the items of expense to the fiscal officer of the unit requesting payment of the amounts certified. Subject to appropriation by the fiscal body of the unit, the fiscal officer shall then draw a warrant in the requested amount to be paid out of the general fund of the unit. If the unit has no unappropriated monies in its general fund, the fiscal officer of the unit may recommend to the fiscal body the temporary transfer from other funds of the unit of a sufficient amount to meet the items of expense, or the making of a temporary loan for that purpose. The fiscal body may make the transfer or authorize the temporary loan in the same manner that other transfers and temporary loans are made by the unit.

(b) The amount advanced by the unit under this section may not exceed fifty thousand dollars ($50,000), and the fund or funds of the unit from which the advancement is made shall be fully reimbursed and repaid by the redevelopment commission out of legally available revenues.

(c) The redevelopment commission may not use any part of the amount advanced by the unit under this section in the acquisition of real property.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.146-2008, SEC.731.

IC 36-7-14-25
Repealed

(Repealed, as amended by Acts 1981, P.L.45, SEC.31, and also as amended by Acts 1981, P.L.180, SEC.10, by Acts 1982, P.L.6, SEC.25.)

IC 36-7-14-25.1
Issuance of bonds; procedure; tax exemption; limitations; indebtedness of taxing district; approval for large issuance

Sec. 25.1. (a) In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 27 of this chapter, the taxes allocated under section 39 of this chapter, or other revenues of the district, or any combination of these sources, the redevelopment commission may, by resolution and subject to subsection (p), issue the bonds of the special taxing district in the name of the unit. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

(1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;

(2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;

(3) capitalized interest permitted by this chapter and a debt service reserve for the bonds to the extent the redevelopment commission determines that a reserve is reasonably required; and

(4) expenses that the redevelopment commission is required or permitted to pay under IC 8-23-17.

(b) If the redevelopment commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, the commission may provide for the total cost in one (1) issue of bonds.

(c) The bonds must be dated as set forth in the bond resolution and negotiable, subject to the requirements of the bond resolution for registering the bonds. The resolution authorizing the bonds must state:

(1) the denominations of the bonds;

(2) the place or places at which the bonds are payable; and

(3) the term of the bonds, which may not exceed:

(A) fifty (50) years, for bonds issued before July 1, 2008;

(B) thirty (30) years, for bonds issued after June 30, 2008, to finance:

(i) an integrated coal gasification powerplant (as defined in IC 6-3.1-29-6);

(ii) a part of an integrated coal gasification powerplant (as defined in IC 6-3.1-29-6); or

(iii) property used in the operation or maintenance of an integrated coal gasification powerplant (as defined in IC 6-3.1-29-6);

that received a certificate of public convenience and necessity from the Indiana utility regulatory commission under IC 8-1-8.5 et seq. before July 1, 2008; or

(C) twenty-five (25) years, for bonds issued after June 30, 2008, that are not described in clause (B).

The resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the redevelopment commission.

(d) The redevelopment commission shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds, subject to subsection (p). The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds must be executed by the appropriate officer of the unit and attested by the municipal or county fiscal officer.

(f) The bonds are exempt from taxation for all purposes.

(g) The municipal or county fiscal officer shall give notice of the sale of the bonds by publication in accordance with IC 5-3-1. The municipal fiscal officer, or county fiscal officer or executive, shall sell the bonds to the highest bidder, but may not sell them for less than ninety-seven percent (97%) of their par value. However, bonds payable solely or in part from tax proceeds allocated under section 39(b)(3) of this chapter, or other revenues of the district may be sold at a private negotiated sale.

(h) Except as provided in subsection (i), a redevelopment commission may not issue the bonds when the total issue, including bonds already issued and to be issued, exceeds two percent (2%) of the adjusted value of the taxable property in the special taxing district, as determined under IC 36-1-15.

(i) The bonds are not a corporate obligation of the unit but are an indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the redevelopment commission:

(1) from a special tax levied upon all of the property in the taxing district, as provided by section 27 of this chapter;

(2) from the tax proceeds allocated under section 39(b)(3) of this chapter;

(3) from other revenues available to the redevelopment commission; or

(4) from a combination of the methods stated in subdivisions (1) through (3).

If the bonds are payable solely from the tax proceeds allocated under section 39(b)(3) of this chapter, other revenues of the redevelopment

commission, or any combination of these sources, they may be issued in any amount without limitation.

(j) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(k) All laws relating to the giving of notice of the issuance of bonds, the giving of notice of a hearing on the appropriation of the proceeds of the bonds, the right of taxpayers to appear and be heard on the proposed appropriation, and the approval of the appropriation by the department of local government finance apply to all bonds issued under this chapter that are payable from the special benefits tax levied pursuant to section 27 of this chapter or from taxes allocated under section 39 of this chapter.

(l) All laws relating to:

(1) the filing of petitions requesting the issuance of bonds; and

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

apply to bonds issued under this chapter except for bonds payable solely from tax proceeds allocated under section 39(b)(3) of this chapter, other revenues of the redevelopment commission, or any combination of these sources.

(m) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(n) Any amount remaining in the debt service reserve after all of the bonds of the issue for which the debt service reserve was established have matured shall be:

(1) deposited in the allocation fund established under section 39(b)(3) of this chapter; and

(2) to the extent permitted by law, transferred to the county or municipality that established the department of redevelopment for use in reducing the county's or municipality's property tax levies for debt service.

(o) If bonds are issued under this chapter that are payable solely or in part from revenues to the redevelopment commission from a project or projects, the redevelopment commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects, but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the redevelopment commission. The redevelopment commission may establish fees and charges for the use of any project and covenant with the owners of

any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the redevelopment commission that are payable solely from revenues of the commission shall contain a statement to that effect in the form of bond.

(p) If the total principal amount of bonds authorized by a resolution of the redevelopment commission adopted before July 1, 2008, is equal to or greater than three million dollars ($3,000,000), the bonds may not be issued without the approval, by resolution, of the legislative body of the unit. Bonds authorized in any principal amount by a resolution of the redevelopment commission adopted after June 30, 2008, may not be issued without the approval of the legislative body of the unit.

As added by Acts 1982, P.L.6, SEC.24. Amended by P.L.72-1983, SEC.2; P.L.380-1987(ss), SEC.10; P.L.5-1988, SEC.215; P.L.114-1989, SEC.7; P.L.18-1990, SEC.292; P.L.6-1997, SEC.209; P.L.90-2002, SEC.473; P.L.224-2003, SEC.269; P.L.185-2005, SEC.17; P.L.219-2007, SEC.125; P.L.146-2008, SEC.732; P.L.203-2011, SEC.6.

IC 36-7-14-25.2

Leased facilities; procedure

Sec. 25.2. (a) A redevelopment commission may enter into a lease of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed:

(1) fifty (50) years, for a lease entered into before July 1, 2008; or

(2) twenty-five (25) years, for a lease entered into after June 30, 2008.

The lease may provide for payments to be made by the redevelopment commission from special benefits taxes levied under section 27 of this chapter, taxes allocated under section 39 of this chapter, any other revenues available to the redevelopment commission, or any combination of these sources.

(b) A lease may provide that payments by the redevelopment commission to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the redevelopment commission only after a public hearing by the redevelopment commission at which all interested parties are provided the opportunity to be heard. After the public hearing, the redevelopment commission may adopt a resolution authorizing the execution of the lease on behalf of the unit if it finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the redevelopment commission must be approved by an ordinance of the

fiscal body of the unit.

(d) Upon execution of a lease providing for payments by the redevelopment commission in whole or in part from the levy of special benefits taxes under section 27 of this chapter and upon approval of the lease by the unit's fiscal body, the redevelopment commission shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the redevelopment district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be.

(e) Upon the filing of the petition, the county auditor shall immediately certify a copy of it, together with such other data as may be necessary in order to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for a hearing in the redevelopment district, which must be not less than five (5) or more than thirty (30) days after the time is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the fiscal body, to the redevelopment commission, and to the first fifty (50) petitioners on the petition by a letter signed by the commissioner or deputy commissioner of the department and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease, and as to whether the payments under it are fair and reasonable, is final.

(f) A redevelopment commission entering into a lease payable from allocated taxes under section 39 of this chapter or other available funds of the redevelopment commission may:

(1) pledge the revenue to make payments under the lease pursuant to IC 5-1-14-4; and

(2) establish a special fund to make the payments.

(g) Lease rentals may be limited to money in the special fund so that the obligations of the redevelopment commission to make the lease rental payments are not considered debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(h) Except as provided in this section, no approvals of any governmental body or agency are required before the redevelopment commission enters into a lease under this section.

(i) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the

execution and approval of the lease. However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or enjoin the performance must be brought within thirty (30) days after the decision of the department.

(j) If a redevelopment commission exercises an option to buy a leased facility from a lessor, the redevelopment commission may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the redevelopment commission through auction, appraisal, or arms length negotiation. If the facility is sold at auction, after appraisal, or through negotiation, the redevelopment commission shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days of the hearing.

As added by P.L.380-1987(ss), SEC.11. Amended by P.L.90-2002, SEC.474; P.L.146-2008, SEC.733.

IC 36-7-14-25.3

Lessors of redevelopment facilities; effect of other statutory provisions

Sec. 25.3. (a) Any of the following persons may lease facilities referred to in section 25.2 of this chapter to a redevelopment commission under this chapter:

(1) A not-for-profit corporation organized under Indiana law or admitted to do business in Indiana.

(2) A redevelopment authority established under IC 36-7-14.5.

(b) Notwithstanding any other law, a lessor under this section and section 25.2 of this chapter is a qualified entity for purposes of IC 5-1.4.

(c) Notwithstanding any other law, a redevelopment facility leased by the redevelopment commission under this chapter from a lessor borrowing bond proceeds from a unit under IC 36-7-12 is an economic development facility for purposes of IC 36-7-11.9-3 and IC 36-7-12.

(d) Notwithstanding IC 36-7-12-25 and IC 36-7-12-26, payments by a redevelopment commission to a lessor described in subsection (c) may be made from sources set forth in section 25.2 of this chapter so long as the payments and the lease are structured to prevent the lease obligation from constituting a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

As added by P.L.380-1987(ss), SEC.12.

IC 36-7-14-25.5

Payment of redevelopment bonds or leases; pledge or covenant of legislative body

Sec. 25.5. (a) Notwithstanding any other law, the legislative body may pledge revenues received or to be received by the unit from:

(1) the unit's:

(A) certified shares of the county adjusted gross income tax under IC 6-3.5-1.1;

(B) distributive share of the county option income tax under IC 6-3.5-6; or

(C) distributions of county economic development income tax revenue under IC 6-3.5-7;

(2) any other source legally available to the unit for the purposes of this chapter; or

(3) any combination of revenues under subdivisions (1) through (2);

in any amount to pay amounts payable under section 25.1 or 25.2 of this chapter.

(b) The legislative body may covenant to adopt an ordinance to increase its tax rate under the county option income tax or any other revenues at the time it is necessary to raise funds to pay any amounts payable under section 25.1 or 25.2 of this chapter.

(c) The commission may pledge revenues received or to be received from any source legally available to the commission for the purposes of this chapter in any amount to pay amounts payable under section 25.1 or 25.2 of this chapter.

(d) The pledge or the covenant under this section may be for the life of the bonds issued under section 25.1 of this chapter, the term of a lease entered into under section 25.2 of this chapter, or for a shorter period as determined by the legislative body. Money pledged by the legislative body under this section shall be considered revenues or other money available to the commission under sections 25.1 through 25.2 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant so long as any bonds issued under section 25.1 of this chapter are outstanding or as long as any lease entered into under section 25.2 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

As added by P.L.380-1987(ss), SEC.13. Amended by P.L.38-1988, SEC.9; P.L.35-1990, SEC.57; P.L.172-2011, SEC.148.

IC 36-7-14-26

Capital fund; deposits; gifts; allocation fund

Sec. 26. (a) All proceeds from the sale of bonds under section 25.1 of this chapter shall be kept as a separate and specific fund to pay the expenses incurred in connection with the acquisition and redevelopment of property. The fund shall be known as the redevelopment district capital fund. Any surplus of funds remaining after all expenses are paid shall be paid into and become a part of the redevelopment district bond fund established under section 27 of this chapter.

(b) All gifts or donations that are given or paid to the department of redevelopment or to the unit for redevelopment purposes shall be promptly deposited to the credit of the redevelopment district capital fund. The redevelopment commission may use these gifts and donations for the purposes of this chapter.

(c) Before the eleventh day of each calendar month the fiscal officer shall notify the redevelopment commission and the officers of the unit who have duties in respect to the funds and accounts of the unit of the amount standing to the credit of the redevelopment district capital fund at the close of business on the last day of the preceding month.

(d) A redevelopment commission shall deposit in the allocation fund established under section 39(b)(3) of this chapter of an allocation area the proceeds from the sale or leasing of property in the area under section 22 of this chapter if:

(1) there are outstanding bonds that were issued to pay costs of redevelopment in the allocation area; and

(2) the bonds are payable solely or in part from tax proceeds allocated under section 39(b)(3) of this chapter.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.72-1983, SEC.3; P.L.38-1988, SEC.10; P.L.203-2011, SEC.7.

IC 36-7-14-27

Certain bonds or leases; special tax levy; disposition of accumulated revenues; review of sufficiency of levies

Sec. 27. (a) This section applies only to:

(1) bonds that are issued under section 25.1 of this chapter; and

(2) leases entered into under section 25.2 of this chapter;

which are payable from a special tax levied upon all of the property in the special taxing district. This section does not apply to bonds or leases that are payable solely from tax proceeds allocated under section 39(b)(3) of this chapter, other revenues of the redevelopment commission, or any combination of these sources.

(b) The redevelopment commission shall levy each year a special tax on all of the property of the redevelopment taxing district, in such a manner as to meet and pay the principal of the bonds as they mature, together with all accruing interest on the bonds or lease rental payments under section 25.2 of this chapter. The commission shall cause the tax levied to be certified to the proper officers as other tax levies are certified, and to the auditor of the county in which the redevelopment district is located, before the second day of October in each year. The tax shall be estimated and entered on the tax duplicate by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other state and county taxes are estimated, entered, collected, and enforced. The amount of the tax levied to pay bonds or lease rentals payable from the tax levied under this section shall be reduced by any amount available in the allocation fund established under section 39(b)(3) of this chapter or other revenues of the redevelopment commission to the extent such revenues have been set aside in the redevelopment bond fund.

(c) As the tax is collected, it shall be accumulated in a separate fund to be known as the redevelopment district bond fund and shall be applied to the payment of the bonds as they mature and the interest on the bonds as it accrues, or to make lease payments and to

no other purpose. All accumulations of the fund before their use for the payment of bonds and interest or to make lease payments shall be deposited with the depository or depositories for other public funds of the unit in accordance with IC 5-13, unless they are invested under IC 5-13-9.

(d) If there are no outstanding bonds that are payable solely or in part from tax proceeds allocated under section 39(b)(3) of this chapter and that were issued to pay costs of redevelopment in an allocation area that is located wholly or in part in the special taxing district, then all proceeds from the sale or leasing of property in the allocation area under section 22 of this chapter shall be paid into the redevelopment district bond fund and become a part of that fund. In arriving at the tax levy for any year, the redevelopment commission shall take into account the amount of the proceeds deposited under this subsection and remaining on hand.

(e) The tax levies provided for in this section are reviewable by other bodies vested by law with the authority to ascertain that the levies are sufficient to raise the amount that, with other amounts available, is sufficient to meet the payments under the lease payable from the levy of taxes.

As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.180, SEC.11; P.L.72-1983, SEC.4; P.L.19-1987, SEC.49; P.L.380-1987(ss), SEC.14; P.L.146-2008, SEC.734; P.L.203-2011, SEC.8.

IC 36-7-14-27.5

Tax anticipation warrants; authorization; procedure

Sec. 27.5. (a) The redevelopment commission may borrow money in anticipation of receipt of the proceeds of taxes levied for the redevelopment district bond fund and not yet collected, and may evidence this borrowing by issuing warrants of the redevelopment district. However, the aggregate principal amount of warrants issued in anticipation of and payable from the same tax levy or levies may not exceed an amount equal to eighty percent (80%) of that tax levy or levies, as certified by the department of local government finance, or as determined by multiplying the rate of tax as finally approved by the total assessed valuation (after deducting all mortgage deductions) within the redevelopment district, as most recently certified by the county auditor.

(b) The warrants may be authorized and issued at any time after the tax or taxes in anticipation of which they are issued have been levied by the redevelopment commission. For purposes of this section, taxes for any year are considered to be levied upon adoption by the commission of a resolution prescribing the tax levies for the year. However, the warrants may not be delivered and paid for before final approval of the tax levy or levies by the county board of tax adjustment or, if appealed, by the department of local government finance, unless the issuance of the warrants has been approved by the department.

(c) All action that this section requires or authorizes the

redevelopment commission to take may be taken by resolution, which need not be published or posted. The resolution takes effect immediately upon its adoption by the redevelopment commission. An action to contest the validity of tax anticipation warrants may not be brought later than ten (10) days after the sale date.

(d) In their resolution authorizing the warrants, the redevelopment commission must provide that the warrants mature at a time or times not later than December 31 after the year in which the taxes in anticipation of which the warrants are issued are due and payable.

(e) In their resolution authorizing the warrants, the redevelopment commission may provide:

(1) the date of the warrants;
(2) the interest rate of the warrants;
(3) the time of interest payments on the warrants;
(4) the denomination of the warrants;
(5) the form either registered or payable to bearer, of the warrants;
(6) the place or places of payment of the warrants, either inside or outside the state;
(7) the medium of payment of the warrants;
(8) the terms of redemption, if any, of the warrants, at a price not exceeding par value and accrued interest;
(9) the manner of execution of the warrants; and
(10) that all costs incurred in connection with the issuance of the warrants may be paid from the proceeds of the warrants.

(f) The warrants shall be sold for not less than par value, after notice inviting bids has been published under IC 5-3-1. The redevelopment commission may also publish the notice in other newspapers or financial journals.

(g) Warrants and the interest on them are not subject to any limitation contained in section 25.1 of this chapter, and are payable solely from the proceeds of the tax levy or levies in anticipation of which the warrants were issued. The authorizing resolution must pledge a sufficient amount of the proceeds of the tax levy or levies to the payment of the warrants and the interest.

As added by Acts 1981, P.L.310, SEC.90. Amended by P.L.1-1994, SEC.176; P.L.90-2002, SEC.475; P.L.224-2007, SEC.121; P.L.146-2008, SEC.735.

IC 36-7-14-28

Tax levy for planning, property acquisition, and expenses; deposit in capital and general funds

Sec. 28. (a) A tax at a rate not to exceed three and thirty-three hundredths cents ($0.0333) per one hundred dollars ($100) of assessed valuation in a municipality and a tax at a rate not to exceed one and thirty-three hundredths cents ($0.0133) per one hundred dollars ($100) of assessed valuation in a county may be levied each year for the purposes of this chapter, including:

(1) the payment, in whole or in part, of planning and survey costs;

(2) the costs of property acquisition and redevelopment; and

(3) the payment of all general expenses of the department of redevelopment.

However, a county may not levy this tax within the jurisdiction of a city redevelopment commission.

(b) Each year the redevelopment commission shall formulate and file a budget for the tax levy, in the same manner as executive departments of the unit are required to formulate and file budgets. This budget is subject to review and modification in the same manner as the budgets and tax levies formulated by executive departments of the unit.

(c) Revenues obtained from the tax levy for the payment in whole or in part of the costs of acquisition of land, rights-of-way, or other properties shall be deposited in the redevelopment district capital fund established under section 26 of this chapter. Other revenues obtained from the tax levy shall be deposited in a fund to be known as the redevelopment district general fund.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.380-1987(ss), SEC.15; P.L.6-1997, SEC.210.

IC 36-7-14-29

Payments from funds; procedure

Sec. 29. (a) All payments from any of the funds established by this chapter shall be made by warrants drawn by the proper officers of the unit upon vouchers of the redevelopment commission signed by the president or vice president and the secretary or executive secretary.

(b) Each of the funds established by this chapter is a continuing fund and does not revert to the general fund of the unit at the end of the calendar year.

As added by Acts 1981, P.L.309, SEC.33.

IC 36-7-14-30

Urban renewal projects; authorization

Sec. 30. In addition to its authority under any other section of this chapter, the redevelopment commission may plan and undertake urban renewal projects. For purposes of this chapter, an urban renewal project includes undertakings and activities for the elimination and the prevention of the conditions described in IC 36-7-1-3, and may involve any work or undertaking that is performed for those purposes and is related to a redevelopment project, or any rehabilitation or conservation work, or any combination of such an undertaking or work, such as the following:

(1) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements.

(2) Acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements on the property when necessary for the following:

(A) To eliminate unhealthful, unsanitary, or unsafe conditions.

(B) To mitigate or eliminate environmental contamination.
(C) To do any of the following:
(i) Lessen density.
(ii) Reduce traffic hazards.
(iii) Eliminate uses that are obsolete or otherwise detrimental to the public welfare.
(iv) Otherwise remove or prevent the spread of the conditions described in IC 36-7-1-3.
(v) Provide land for needed public facilities.

(3) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project.

(4) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.18; P.L.221-2007, SEC.37.

IC 36-7-14-31
Urban renewal plans

Sec. 31. An urban renewal project undertaken under this chapter must be undertaken in accordance with an urban renewal plan for the area of the project. For purposes of this chapter, an urban renewal plan is a plan for an urban renewal project that:

(1) conforms to the general plan for the municipality or county as a whole; and

(2) is sufficiently complete to indicate:

(A) land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation proposed to be carried out in the area of the urban renewal project;

(B) zoning and planning changes, if any;

(C) land uses;

(D) maximum densities;

(E) building requirements; and

(F) the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

As added by Acts 1981, P.L.309, SEC.33.

IC 36-7-14-32
Urban renewal projects; powers and duties of commissions; units and officers

Sec. 32. (a) In connection with the planning and undertaking of an urban renewal plan or urban renewal project, the redevelopment commission, municipal, county, public, and private officers, agencies, and bodies have all the rights, powers, privileges, duties, and immunities that they have with respect to a redevelopment plan or redevelopment project, as if all of the provisions of this chapter applicable to a redevelopment plan or redevelopment project were

applicable to an urban renewal plan or urban renewal project.

(b) In addition to its other powers, the redevelopment commission may also:

(1) make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;

(2) make plans for the enforcement of laws and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

(3) make preliminary plans outlining urban renewal activities for neighborhoods to embrace two (2) or more urban renewal areas;

(4) make preliminary surveys, including environmental assessments, to determine if the undertaking and carrying out of an urban renewal project are feasible;

(5) make plans for the relocation of persons (including families, business concerns, and others) displaced by an urban renewal project;

(6) make relocation payments to or with respect to persons (including families, business concerns, and others) displaced by an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of payments financed by the federal government; and

(7) develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of the conditions described in IC 36-7-1-3 in urban areas.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.19; P.L.221-2007, SEC.38.

IC 36-7-14-32.5

Acquisition of real property; procedure; purposes; approval of fiscal body

Sec. 32.5. (a) Subject to the approval of the fiscal body of the unit that established the department of redevelopment, the commission may acquire a parcel of real property by the exercise of eminent domain when the real property has all of the following characteristics:

(1) The real property meets at least one (1) of the conditions described in IC 32-24-4.5-7(1).

(2) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

(3) The condition of the real property has a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or the commission's designated hearing

examiner shall conduct a public meeting to determine whether a parcel of real property has the characteristics set forth in subsection (a). Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, the commission shall adopt a resolution setting out the commission's determination to exercise that power and directing the commission's attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court with jurisdiction in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-24.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.

(2) Sale to a family whose income is at or below the county's median income for families.

(3) Sale or grant to a neighborhood development corporation with a condition in the granting clause of the deed requiring the nonprofit development corporation to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the unit's median income for families.

(4) Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the unit's median income for families.

(f) A neighborhood development corporation or nonprofit corporation that receives property under this section must agree to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the corporation.

As added by P.L.114-1989, SEC.8. Amended by P.L.31-1994, SEC.19; P.L.2-2002, SEC.111; P.L.163-2006, SEC.20; P.L.146-2008, SEC.736.

IC 36-7-14-33

Urban renewal projects; cooperation with public entities

Sec. 33. (a) Any:

(1) political subdivision;

(2) other governmental entity;

(3) public instrumentality created by state law; or

(4) public body created by state law;

may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) The redevelopment commission may delegate to:

(1) an executive department of a unit or county;

(2) another governmental entity;

(3) a public instrumentality created by state law; or

(4) a public body created by state law;

any of the powers or functions of the commission with respect to the planning or undertaking of an urban renewal project in the area in which that department, entity, public instrumentality, or public body is authorized to act. The department, entity, public instrumentality, or public body may then carry out or perform those powers or functions for the commission.

(c) A unit, another governmental entity, a public instrumentality created by state law, or a public body created by state law may enter into agreements with the redevelopment commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project. These agreements may extend over any period, notwithstanding any other law.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.221-2007, SEC.39.

IC 36-7-14-34

Preparation of urban rehabilitation programs

Sec. 34. (a) The redevelopment commission may prepare a workable program:

(1) to use private and public resources to eliminate and prevent the conditions described in IC 36-7-1-3 in urban areas;

(2) to encourage needed urban rehabilitation;

(3) to provide for the redevelopment of areas needing redevelopment; or

(4) to undertake any feasible activities that are suitably employed to achieve the objectives of such a program.

(b) A program established under subsection (a) may include an official plan of action for:

(1) effectively dealing with the problem of areas needing redevelopment within the community; and

(2) the establishment and preservation of a well planned community with well organized residential neighborhoods of decent homes and suitable living environment for adequate family life.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.20.

IC 36-7-14-35

Federal aid; issuance of bonds, notes, and warrants to federal government; federal loan agreements as security for other loans; approval of fiscal body

Sec. 35. (a) Subject to the approval of the fiscal body of the unit that established the department of redevelopment, and in order to:

(1) undertake survey and planning activities under this chapter;

(2) undertake and carry out any redevelopment project, urban renewal project, or housing program;

(3) pay principal and interest on any advances;

(4) pay or retire any bonds and interest on them; or

(5) refund loans previously made under this section;

the redevelopment commission may apply for and accept advances, short term and long term loans, grants, contributions, and any other form of financial assistance from the federal government, or from any of its agencies. The commission may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the commission considers reasonable and appropriate, as long as those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the unit or its executive departments and officers, as well as the commission, notwithstanding any other provision of this chapter.

(b) Subject to the approval of the fiscal body of the unit that established the department of redevelopment, the redevelopment commission may issue and sell bonds, notes, or warrants to the federal government to evidence short term or long term loans made under this section, without notice of sale being given or a public offering being made.

(c) Notwithstanding the provisions of this or any other chapter, bonds, notes, or warrants issued by the redevelopment commission under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured (subject to other provisions of this section) in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at a time or times (which may be upon demand) and at a place or places;

(9) be subject to terms of redemption (with or without premium);

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the commission considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the unit or taxing district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by income, funds, and properties of the project becoming available to the redevelopment

commission under this chapter, as the commission specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation for all purposes.

(f) Bonds, notes, or warrants issued under this section must be executed by the appropriate officers of the unit in the name of the "City (or Town or County) of _____, Department of Redevelopment", and must be attested by the appropriate officers of the unit.

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the redevelopment commission shall certify a copy of that resolution to the officers of the unit who have duties with respect to bonds, notes, or warrants of the unit. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the unit who have duties with respect to the sale of bonds, notes, or warrants of the unit. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the redevelopment commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the redevelopment commission without regard to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.154-2006, SEC.71; P.L.146-2008, SEC.737.

IC 36-7-14-35.1
Repealed

(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-14-36
Neighborhood development programs; authorization; procedure; federal aid

Sec. 36. (a) In addition to all of the other powers, authority, and jurisdiction of a redevelopment commission operating under this chapter, a commission may undertake a neighborhood development program. A neighborhood development program may include one (1) or more contiguous or noncontiguous areas needing redevelopment. These areas may include redevelopment project areas or urban renewal project areas.

(b) Whenever the redevelopment commission finds that any area in the territory under their jurisdiction is an area needing redevelopment to an extent that cannot be corrected by regulatory processes or by the ordinary operations of private enterprise without resort to the provisions of this chapter, and that the public health and welfare would be benefited by the redevelopment or urban renewal of that area under this chapter, the commission shall prepare a description and map showing the boundaries of the area to be included in the neighborhood development program.

(c) After preparation of the description and map under subsection (b), the redevelopment commission shall adopt a resolution declaring, confirming, and delineating the general boundaries of the area and of the parts of that area that are to be designated as redevelopment project areas or urban renewal areas. However, an area may not be designated as a redevelopment project area or urban renewal area unless the required appraisals, maps, plats and plans have been prepared and all other requirements of this chapter are met.

(d) Areas designated as redevelopment project areas or urban renewal areas under this section are considered to be redevelopment project areas or urban renewal areas for all purposes of this chapter. Areas within the neighborhood development program area that are not so designated are not considered to be redevelopment project areas or urban renewal areas until designated as such by an amendment to the neighborhood development plan, adopted in the same manner and with the same procedure as a declaratory and confirmatory resolution declaring an area a redevelopment project area or urban renewal area.

(e) The redevelopment commission may make studies, appraisals, maps, plats, and plans of areas within the neighborhood development program area that have not been designated as redevelopment project areas or urban renewal project areas. However, the commission may not acquire any land in those areas until the neighborhood development plan has been amended to designate that land as a part of an urban renewal or redevelopment project area.

(f) The redevelopment commission may amend the neighborhood

development plan, in the manner prescribed by subsection (d), to include additional areas in the neighborhood development program areas, either generally or as urban renewal or redevelopment project areas.

(g) The redevelopment commission may apply for and accept advances, loans, grants, contributions, and any other forms of financial assistance from the federal government, may contract with the federal government for any costs arising from a neighborhood development program, or may otherwise contract with the federal government concerning a neighborhood development program, to the same extent as they may for urban renewal project areas.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.185-2005, SEC.21.

IC 36-7-14-37

Redevelopment districts and departments; tax exemptions

Sec. 37. (a) Real property acquired by the redevelopment district is exempt from taxation while owned by the district.

(b) All receipts of the department of redevelopment, including receipts from the sale of real property, personal property, and materials disposed of, are exempt from all taxes.

(c) All other property of the department of redevelopment is exempt from taxation.

As added by Acts 1981, P.L.309, SEC.33. Amended by P.L.192-2002(ss), SEC.176.

IC 36-7-14-38

Repealed

(*Repealed by P.L.72-1983, SEC.9.)*

IC 36-7-14-39 Version a

Distribution and allocation of taxes

Note: This version of section effective until 1-1-2013. See also following version of this section, effective 1-1-2013.

Sec. 39. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a declaratory resolution adopted under section 15 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local

government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable

personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A declaratory resolution adopted under section 15 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the first obligation was incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2 (before

its repeal)) for that year as determined under IC 6-1.1-21-4 (before its repeal) that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; times

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2 (before its repeal)) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter (before its repeal) in the same year.

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(L) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following:

(i) Make, when due, any payments required under clauses (A) through (K), including any payments of principal and interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.

(ii) Make any reimbursements required under this

subdivision.

(iii) Pay any expenses required under this subdivision.

(iv) Establish, augment, or restore any debt service reserve under this subdivision.

The allocation fund may not be used for operating expenses of the commission.

(4) Except as provided in subsection (g), before July 15 of each year the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3), plus the amount necessary for other purposes described in subdivision (3).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (3) or lessors under section 25.3 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. The amount sufficient for purposes specified in subsection (b)(3) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(3), except that where reference is made in subsection (b)(3) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base

assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(3) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.57, SEC.40; Acts 1981, P.L.180, SEC.12; P.L.23-1983, SEC.17; P.L.72-1983, SEC.5; P.L.9-1986, SEC.9; P.L.393-1987(ss), SEC.4; P.L.37-1988, SEC.25; P.L.38-1988, SEC.11; P.L.114-1989, SEC.9; P.L.41-1992, SEC.5; P.L.18-1992, SEC.26; P.L.25-1995, SEC.84; P.L.85-1995, SEC.40; P.L.255-1997(ss), SEC.15; P.L.90-2002, SEC.476; P.L.192-2002(ss), SEC.177; P.L.4-2005, SEC.135; P.L.185-2005, SEC.22; P.L.216-2005, SEC.6; P.L.154-2006, SEC.72; P.L.146-2008, SEC.738; P.L.88-2009, SEC.13; P.L.182-2009(ss), SEC.404; P.L.203-2011, SEC.9.

IC 36-7-14-39 Version b

Distribution and allocation of taxes

Note: This version of section effective 1-1-2013. See also preceding version of this section, effective until 1-1-2013.

Sec. 39. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a declaratory resolution adopted under section 15 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the

area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A declaratory resolution adopted under section 15 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the first obligation was incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount

determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2 (before its repeal)) for that year as determined under IC 6-1.1-21-4 (before its repeal) that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; times

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2 (before its repeal)) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter (before its repeal) in the same year.

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(L) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay

the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following:

(i) Make, when due, any payments required under clauses (A) through (K), including any payments of principal and interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.

(ii) Make any reimbursements required under this subdivision.

(iii) Pay any expenses required under this subdivision.

(iv) Establish, augment, or restore any debt service reserve under this subdivision.

The allocation fund may not be used for operating expenses of the commission.

(4) Except as provided in subsection (g), before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3), plus the amount necessary for other purposes described in subdivision (3).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (3) or lessors under section 25.3 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing

unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. The amount sufficient for purposes specified in subsection (b)(3) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes

specified in subsection (b)(3), except that where reference is made in subsection (b)(3) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment of real property in an area under IC 6-1.1-4-4 and after each reassessment in an area under a reassessment plan prepared under IC 6-1.1-4-4.2, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the reassessment of the real property in the area on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(3) than would otherwise have been received if the general reassessment, the reassessment under the reassessment plan, or the annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

As added by Acts 1981, P.L.309, SEC.33. Amended by Acts 1981, P.L.57, SEC.40; Acts 1981, P.L.180, SEC.12; P.L.23-1983, SEC.17; P.L.72-1983, SEC.5; P.L.9-1986, SEC.9; P.L.393-1987(ss), SEC.4; P.L.37-1988, SEC.25; P.L.38-1988, SEC.11; P.L.114-1989, SEC.9; P.L.41-1992, SEC.5; P.L.18-1992, SEC.26; P.L.25-1995, SEC.84; P.L.85-1995, SEC.40; P.L.255-1997(ss), SEC.15; P.L.90-2002,

SEC.476; P.L.192-2002(ss), SEC.177; P.L.4-2005, SEC.135; P.L.185-2005, SEC.22; P.L.216-2005, SEC.6; P.L.154-2006, SEC.72; P.L.146-2008, SEC.738; P.L.88-2009, SEC.13; P.L.182-2009(ss), SEC.404; P.L.203-2011, SEC.9; P.L.112-2012, SEC.55.

IC 36-7-14-39.1
Repealed

(*Repealed by P.L.146-2008, SEC.812.)*

IC 36-7-14-39.2
Designated taxpayer; modification of definition of property taxes; allocation provision of declaratory resolution

Sec. 39.2. (a) This section applies to a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) As used in this section, "designated taxpayer" means any taxpayer designated by the commission in a declaratory resolution adopted or amended under section 15 or 17.5 of this chapter and with respect to which the commission finds that taxes to be derived from the taxpayer's depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of that personal property, are reasonably expected to exceed in one (1) or more future years the taxes to be derived from the taxpayer's real property in the allocation area in excess of the taxes attributable to the base assessed value of that real property.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 39(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property of designated taxpayers, in accordance with the procedures and limitations set forth in this section and section 39 of this chapter. If such a modification is included in the resolution for purposes of section 39 of this chapter, the term "base assessed value" with respect to the depreciable personal property of designated taxpayers means the net assessed value of all the depreciable personal property as finally determined for the assessment date immediately preceding:

(1) the effective date of the modification, for modifications adopted before July 1, 1995; and

(2) the adoption date of the modification for modifications adopted after June 30, 1995;

as adjusted under section 39(h) of this chapter.

As added by P.L.170-1990, SEC.3. Amended by P.L.12-1992, SEC.170; P.L.25-1995, SEC.85; P.L.119-2012, SEC.207.

IC 36-7-14-39.3
Definitions; legalization of certain declaratory resolutions and actions of redevelopment commissions; effect of certain amendments to section

Sec. 39.3. (a) As used in this section, "depreciable personal

property" refers to:

(1) all of the designated taxpayer's depreciable personal property that is located in the allocation area; and

(2) all other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area.

(b) As used in this section, "designated taxpayer" means any taxpayer designated by the commission in a declaratory resolution adopted or amended under section 15 or 17.5 of this chapter, and with respect to which the commission finds that taxes to be derived from the depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of that personal property, are needed to pay debt service or to provide security for bonds issued under section 25.1 of this chapter or to make payments or to provide security on leases payable under section 25.2 of this chapter in order to provide local public improvements for a particular allocation area. However, a commission may not designate a taxpayer after June 30, 1992, unless the commission also finds that:

(1) the taxpayer's property in the allocation area will consist primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects or regulated amusement devices (as defined in IC 22-12-1-19.1) and related improvements; and

(2) the taxpayer's property in the allocation area will not consist primarily of retail, commercial, or residential projects, other than an amusement park or tourism industry project.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 39(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of the designated taxpayers in accordance with the procedures and limitations set forth in this section and section 39 of this chapter. If such a modification is included in the resolution, for purposes of section 39 of this chapter the term "base assessed value" with respect to the depreciable personal property means the net assessed value of all the depreciable personal property as finally determined for the assessment date immediately preceding:

(1) the effective date of the modification, for modifications adopted before July 1, 1995; and

(2) the adoption date of the modification for modifications adopted after June 30, 1995;

as adjusted under section 39(h) of this chapter.

(d) A declaratory resolution of a city redevelopment commission that is adopted before March 20, 1990, is legalized and validated as if it had been adopted under this section.

(e) An action taken by a redevelopment commission before February 24, 1992, to designate a taxpayer, modify the definition of property taxes, or establish a base assessed value as described in this section, as in effect on February 24, 1992, is legalized and validated

as if this section, as in effect on February 24, 1992, had been in effect on the date of the action.

(f) The amendment made to this section by P.L.41-1992, does not affect actions taken pursuant to P.L.35-1990.

(g) A declaratory resolution or an amendment to a declaratory resolution that was adopted by:

(1) a county redevelopment commission for a county; or

(2) a city redevelopment commission for a city;

before February 26, 1992, is legalized and validated as if the declaratory resolution or amendment had been adopted under this section as amended by P.L.147-1992.

As added by P.L.35-1990, SEC.59. Amended by P.L.147-1992, SEC.1; P.L.41-1992, SEC.6; P.L.1-1993, SEC.244; P.L.19-1994, SEC.17; P.L.25-1995, SEC.86; P.L.172-2011, SEC.149; P.L.220-2011, SEC.664; P.L.6-2012, SEC.244.

IC 36-7-14-39.5
Repealed

(*Repealed by P.L.146-2008, SEC.813.)*

IC 36-7-14-40
Violations; penalties

Sec. 40. A person who knowingly:

(1) applies any money raised under this chapter to any purpose other than those permitted by this chapter; or

(2) fails to follow the voucher and warrant procedure prescribed by this chapter in expending any money raised under this chapter;

commits a Class C felony.

As added by Acts 1981, P.L.309, SEC.33.

IC 36-7-14-41
Economic development area; determination; enlargement

Sec. 41. (a) The commission may, by following the procedures set forth in sections 15 through 17 of this chapter, approve a plan for and determine that a geographic area in the redevelopment district is an economic development area. Designation of an economic development area is subject to judicial review in the manner prescribed in section 18 of this chapter.

(b) The commission may determine that a geographic area is an economic development area if it finds that:

(1) the plan for the economic development area:

(A) promotes significant opportunities for the gainful employment of its citizens;

(B) attracts a major new business enterprise to the unit;

(C) retains or expands a significant business enterprise existing in the boundaries of the unit; or

(D) meets other purposes of this section and sections 2.5 and 43 of this chapter;

(2) the plan for the economic development area cannot be

achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under this section and sections 2.5 and 43 of this chapter because of:

(A) lack of local public improvement;

(B) existence of improvements or conditions that lower the value of the land below that of nearby land;

(C) multiple ownership of land; or

(D) other similar conditions;

(3) the public health and welfare will be benefited by accomplishment of the plan for the economic development area;

(4) the accomplishment of the plan for the economic development area will be a public utility and benefit as measured by:

(A) the attraction or retention of permanent jobs;

(B) an increase in the property tax base;

(C) improved diversity of the economic base; or

(D) other similar public benefits; and

(5) the plan for the economic development area conforms to other development and redevelopment plans for the unit.

(c) The determination that a geographic area is an economic development area must be approved by the unit's legislative body. The approval may be given either before or after judicial review is requested. The requirement that the unit's legislative body approve economic development areas does not prevent the commission from amending the plan for the economic development area. However, the enlargement of any boundary in the economic development area must be approved by the unit's legislative body.

As added by P.L.380-1987(ss), SEC.16 and P.L.393-1987(ss), SEC.5. Amended by P.L.114-1989, SEC.11; P.L.146-2008, SEC.739; P.L.172-2011, SEC.150.

IC 36-7-14-42
Repealed

(*Repealed by P.L.192-1988, SEC.3.)*

IC 36-7-14-43
Rights, powers, privileges, and immunities exercisable by commission in economic development area; conditions

Sec. 43. (a) All of the rights, powers, privileges, and immunities that may be exercised by the commission in a redevelopment project area or urban renewal area may be exercised by the commission in an economic development area, subject to the following:

(1) The content and manner of exercise of these rights, powers, privileges, and immunities shall be determined by the purposes and nature of an economic development area.

(2) Real property (or interests in real property) relative to which action is taken in an economic development area is not required to meet the conditions described in IC 36-7-1-3.

(3) The special tax levied in accordance with section 27 of this chapter may be used to carry out activities under this chapter in

economic development areas.

(4) Bonds may be issued in accordance with section 25.1 of this chapter to defray expenses of carrying out activities under this chapter in economic development areas if no other revenue sources are available for this purpose.

(5) The tax exemptions set forth in section 37 of this chapter are applicable in economic development areas.

(6) An economic development area may be an allocation area for the purposes of distribution and allocation of property taxes.

(7) The commission may not use its power of eminent domain under section 20 of this chapter to carry out activities under this chapter in an economic development area.

(b) The content and manner of discharge of duties set forth in section 11 of this chapter shall be determined by the purposes and nature of an economic development area.

As added by P.L.192-1988, SEC.2. Amended by P.L.185-2005, SEC.23; P.L.146-2008, SEC.740.

IC 36-7-14-44

Military base reuse area

Sec. 44. A redevelopment project area, an urban renewal area, or an economic development area established under this chapter may not include any land that constitutes part of a military base reuse area established under IC 36-7-30.

As added by P.L.26-1995, SEC.2. Amended by P.L.185-2005, SEC.24.

IC 36-7-14-44.2

Quadrennial fiscal analysis; report

Sec. 44.2. On a quadrennial basis, the general assembly shall provide for an evaluation of the provisions of this chapter, giving first priority to using the Indiana economic development corporation established under IC 5-28-3. The evaluation shall be a fiscal analysis, including an assessment of the effectiveness of the provisions of this chapter to:

(1) create new jobs;

(2) increase income; and

(3) increase the tax base;

in the jurisdiction of the unit. The fiscal analysis may also consider impacts on tax burdens borne by property owners. The fiscal analysis may also include a review of the practices and experiences of other states or political subdivisions with laws similar to the provisions of this chapter. The Indiana economic development corporation established under IC 5-28-3 or another person or entity designated by the general assembly shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives before December 1, 1999, and every fourth year thereafter. The report submitted to the president pro tempore of the senate and the speaker of the house of representatives must be in an electronic format under IC 5-14-6.

As added by P.L.25-1995, SEC.87. Amended by P.L.4-2005, SEC.136.

IC 36-7-14-45
Establishment of program for housing; notices; conditions

Sec. 45. (a) The commission may establish a program for housing by resolution. The program, which may include any relevant elements the commission considers appropriate, may be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 39 and 48 of this chapter for the accomplishment of the program. The program must be approved by the municipal legislative body or county executive as specified in section 17 of this chapter.

(b) The notice and hearing provisions of sections 17 and 17.5 of this chapter, including notice under section 17(c) of this chapter to a taxing unit that is wholly or partly located within an allocation area, apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 18 of this chapter.

(c) Before formal submission of any housing program to the commission, the department of redevelopment:

(1) shall consult with persons interested in or affected by the proposed program;

(2) shall provide the affected neighborhood associations, residents, and township assessors with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program; and

(3) shall hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

As added by P.L.154-2006, SEC.73.

IC 36-7-14-46
Commission authority in program for housing

Sec. 46. (a) Except as provided in subsection (b), all the rights, powers, privileges, and immunities that may be exercised by the commission in blighted, deteriorated, or deteriorating areas may be exercised by the commission in implementing its program for housing, including the following:

(1) The special tax levied in accordance with section 27 of this chapter may be used to accomplish the housing program.

(2) Bonds may be issued under this chapter to accomplish the housing program, but only one (1) issue of bonds may be issued and payable from increments in any allocation area except for refunding bonds or bonds issued in an amount necessary to complete a housing program for which bonds were previously issued.

(3) Leases may be entered into under this chapter to accomplish the housing program.

(4) The tax exemptions set forth in section 37 of this chapter are applicable.

(5) Property taxes may be allocated under section 39 of this chapter.

(b) A commission may not exercise the power of eminent domain in implementing its program for housing.

As added by P.L.154-2006, SEC.74.

IC 36-7-14-47

Commission findings required; contents

Sec. 47. The commission must make the following findings in the resolution adopting a housing program under section 45 of this chapter:

(1) Not more than twenty-five (25) acres of the area included in the allocation area has been annexed during the preceding five (5) years.

(2) No area within the allocation area has been annexed within the preceding five (5) years over a remonstrance of a majority of the owners of land within the annexed area.

(3) The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:

(A) the lack of public improvements;

(B) the existence of improvements or conditions that lower the value of the land below that of nearby land; or

(C) other similar conditions.

(4) The public health and welfare will be benefited by accomplishment of the program.

(5) The accomplishment of the program will be of public utility and benefit as measured by:

(A) the provision of adequate housing for low and moderate income persons;

(B) an increase in the property tax base; or

(C) other similar public benefits.

(6) At least one-third (1/3) of the parcels in the allocation area established by the program are vacant.

(7) At least seventy-five percent (75%) of the allocation area is used for residential purposes or is planned to be used for residential purposes.

(8) At least one-third (1/3) of the residential units in the allocation area were constructed before 1941.

(9) At least one-third (1/3) of the parcels in the allocation area have at least one (1) of the following characteristics:

(A) The dwelling unit on the parcel is not permanently occupied.

(B) The parcel is the subject of a governmental order, issued under a statute or an ordinance, requiring the correction of a housing code violation or unsafe building condition.

(C) Two (2) or more property tax payments on the parcel are delinquent.

(D) The parcel is owned by local, state, or federal government.

(10) The total area within the county or municipality that is included in any allocation area established for a housing program under section 45 of this chapter does not exceed one hundred fifty (150) acres.

As added by P.L.154-2006, SEC.75.

IC 36-7-14-48

Allocation of property taxes; fund; use; credit calculation; limitation on distribution of fund

Sec. 48. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 45 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

(1) The construction, rehabilitation, or repair of residential units within the allocation area.

(2) The construction, reconstruction, or repair of any infrastructure (including streets, sidewalks, and sewers) within or serving the allocation area.

(3) The acquisition of real property and interests in real property within the allocation area.

(4) The demolition of real property within the allocation area.

(5) The provision of financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(6) The provision of financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).

(7) For property taxes first due and payable before January 1, 2009, providing each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, the commission may provide this credit only if the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 45

of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) (before its repeal) for that year as determined under IC 6-1.1-21-4(a)(1) (before its repeal) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) (before its repeal) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) The commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c). Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2) (before its repeal) that under IC 6-1.1-22-9 are due and payable in a year. The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 25.2 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 39(b) of this chapter, the allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 39(b)(3)(A) through 39(b)(3)(H) and 39(b)(3)(J) of this chapter for property that is residential in nature.

(2) Reimburse the county or municipality for expenditures made by the county or municipality in order to accomplish the

housing program in that allocation area.

The allocation fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for a program adopted under section 45 of this chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to:

(A) make the distribution required under section 39(b)(2);

(B) make, when due, principal and interest payments on bonds described in section 39(b)(3) of this chapter;

(C) pay the amount necessary for other purposes described in section 39(b)(3) of this chapter; and

(D) reimburse the county or municipality for anticipated expenditures described in subsection (e)(2).

(2) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(A) state the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter; or

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-12-37) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) (before its repeal) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2) (before its repeal).

As added by P.L.154-2006, SEC.76. Amended by P.L.219-2007,

SEC.126; P.L.146-2008, SEC.741; P.L.1-2009, SEC.165; P.L.203-2011, SEC.10.

IC 36-7-14.5
Chapter 14.5. Redevelopment Authority

IC 36-7-14.5-1
Application of chapter
Sec. 1. This chapter applies to each unit having a commission.
As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-2
"Authority" defined
Sec. 2. As used in this chapter, "authority" refers to a redevelopment authority created by this chapter.
As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-3
"Board" defined
Sec. 3. As used in this chapter, "board" refers to the board of directors of the authority.
As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-4
"Bonds" defined
Sec. 4. As used in this chapter, "bonds" means bonds, notes, or other evidence of indebtedness issued by the authority.
As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-5
"Commission" defined
Sec. 5. As used in this chapter, "commission" refers to a redevelopment commission established under IC 36-7-14 or a military base reuse authority established under IC 36-7-30 and located outside the boundaries of a county with a consolidated city.
As added by P.L.380-1987(ss), SEC.18. Amended by P.L.2-1989, SEC.29; P.L.26-1995, SEC.3.

IC 36-7-14.5-6
"Local public improvement" defined
Sec. 6. As used in this chapter, "local public improvement" means any of the following:
(1) A redevelopment project.
(2) A purpose of a commission under IC 36-7-14 or IC 36-7-30.
(3) A purpose of an authority under this chapter.
As added by P.L.380-1987(ss), SEC.18. Amended by P.L.2-1989, SEC.30; P.L.26-1993, SEC.2; P.L.26-1995, SEC.4.

IC 36-7-14.5-7
Creation of redevelopment authority
Sec. 7. (a) A _____ Redevelopment Authority (the blank to be filled in with a name designated by the legislative body of the unit) may be created in the unit as a separate body corporate and

politic and as an instrumentality of the unit to exercise any power granted to the authority under this chapter.

(b) An authority may be created by ordinance of the legislative body of the unit.

As added by P.L.380-1987(ss), SEC.18. Amended by P.L.26-1993, SEC.3.

IC 36-7-14.5-8

Composition of board; term of office; vacancy; removal for cause; oath of office; compensation

Sec. 8. (a) The board is composed of three (3) members, who must be residents of the unit appointed by the executive of the unit.

(b) A member is entitled to serve a three (3) year term. A member may be reappointed to subsequent terms.

(c) If a vacancy occurs on the board, the executive of the unit shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) A board member may be removed for cause by the executive of the unit.

(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the board.

(f) A member may not receive a salary, and no profit or money of the authority inures to the benefit of a member.

As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-9

Annual organizational meeting; election of officers; special meetings; quorum

Sec. 9. (a) Immediately after January 15 of each year, the board shall hold an organizational meeting. It shall elect one (1) of the members president, another vice president, and another secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. The board may elect an assistant secretary-treasurer.

(b) Special meetings may be called by the president of the board or any two (2) members of the board.

(c) A majority of the members constitutes a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-10

Bylaws; rules

Sec. 10. The board may adopt such bylaws and rules as it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care.

As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-11
Purposes of authority

Sec. 11. The authority is organized for the following purposes:

(1) Financing, constructing, and leasing local public improvements to the commission.

(2) Financing and constructing additional improvements to local public improvements owned by the authority and leasing them to the commission.

(3) Acquiring all or a portion of one (1) or more local public improvements from the commission by purchase or lease and leasing these local public improvements back to the commission, with any additional improvements that may be made to them.

(4) Acquiring all or a portion of one (1) or more local public improvements from the commission by purchase or lease to fund or refund indebtedness incurred on account of those local public improvements to enable the commission to make a savings in debt services obligations or lease rental obligations or to obtain relief from covenants that the commission considers to be unduly burdensome.

(5) In a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed and if specified in the ordinance creating the authority or in another ordinance adopted by the executive body of the unit, an authority may exercise any of the powers of a redevelopment commission established under IC 36-7-14, including the establishment, in accordance with IC 36-7-14, of one (1) or more economic development areas in the county in addition to an economic development area established under section 12.5 of this chapter. However, an economic development area that includes any part of a military base described in section 12.5(a) of this chapter is subject to the requirements of section 12.5 of this chapter. An action taken by an authority under this subdivision shall be treated as if the action were taken under the law granting the power to the redevelopment commission.

As added by P.L.380-1987(ss), SEC.18. Amended by P.L.26-1993, SEC.4; P.L.190-2005, SEC.10; P.L.1-2006, SEC.566.

IC 36-7-14.5-12
Powers and duties of authority; dissolution of authority

Sec. 12. (a) In order to accomplish the purposes set forth in section 11(a) of this chapter, the authority may do the following:

(1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, or equip local public improvements.

(2) Lease those local public improvements to the commission.

(3) Sue, be sued, plead, or be impleaded, but all actions against the authority must be brought in the circuit or superior court of the county in which the authority is located.

(4) Condemn, appropriate, lease, rent, purchase, or hold any

real or personal property needed or considered useful in connection with local public improvements.

(5) Acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter.

(6) Enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a local public improvement.

(7) Design, order, contract for, or construct, reconstruct, or renovate any local public improvements or improvements thereto.

(8) Employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, or other employees necessary for construction of local public improvements or improvements to them.

(9) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties or the execution of its powers under this chapter.

(10) Take any other action necessary to implement the authority's purposes as set forth in section 11(a) of this chapter.

(b) Whenever the board determines that:

(1) the purposes for which the authority was formed have been substantially fulfilled; and

(2) all bonds issued and all other obligations incurred by the authority have been fully paid or satisfied or provision for the payment of the bonds and obligations has been made in accordance with the terms of the resolution or trust indenture securing them;

the board may declare the authority dissolved. On the effective date of the resolution of dissolution, the title to all funds and other property owned by the authority at the time of the dissolution vests in the commission on behalf of the unit creating the commission. However, if the commission is not in existence, the title vests in the unit.

As added by P.L.380-1987(ss), SEC.18. Amended by P.L.26-1993, SEC.5.

IC 36-7-14.5-12.3

Powers that may be exercised by county executive

Sec. 12.3. (a) This section applies to a redevelopment commission in a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed.

(b) The county executive body may adopt an ordinance to elect to allow the authority for the county to exercise the powers described in section 11(5) of this chapter. An ordinance adopted under this section may also do any of the following:

(1) Establish or change the:

(A) number of members on the board of the authority; or

(B) name of the authority;

that would otherwise apply under this chapter.

(2) Provide for any other matter that is necessary or appropriate to carry out the powers described in section 11(5) or 12.5 of this chapter.

The county executive may amend or rescind an ordinance adopted under this section if the rights of holders of bonded indebtedness, leases, or other obligations (as defined under 5-1-3-1) of the authority are not adversely affected.

As added by P.L.190-2005, SEC.11.

IC 36-7-14.5-12.5

Economic development area in counties with military base closings; powers; allocation areas; distribution of taxes

Sec. 12.5. (a) This section applies only to an authority in a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed.

(b) In order to accomplish the purposes set forth in section 11 of this chapter, an authority may create an economic development area:

(1) by following the procedures set forth in IC 36-7-14-41 for the establishment of an economic development area by a redevelopment commission; and

(2) with the same effect as if the economic development area was created by a redevelopment commission.

The area established under this section shall be established only in the area where a United States government military base that is scheduled for closing or is completely or partially inactive or closed is or was located.

(c) In order to accomplish the purposes set forth in section 11 of this chapter, an authority may do the following in a manner that serves an economic development area created under this section:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of economic development areas located within the corporate boundaries of the unit.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of economic development areas on the terms and conditions that the authority considers best for the unit and the unit's inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for redevelopment purposes.

(5) Repair and maintain structures acquired for redevelopment purposes.

(6) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.

(7) Survey or examine any land to determine whether the land should be included within an economic development area to be acquired for redevelopment purposes and to determine the value of that land.
(8) Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:
(A) real property acquired or being acquired for redevelopment purposes; or
(B) any economic development area within the jurisdiction of the authority.
(9) Institute or defend in the name of the unit any civil action, but all actions against the authority must be brought in the circuit or superior court of the county where the authority is located.
(10) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the authority.
(11) Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit subject to the same conditions and procedures that apply to the exercise of the power of eminent domain by a redevelopment commission under IC 36-7-14.
(12) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.
(13) Appoint clerks, guards, laborers, and other employees the authority considers advisable, except that those appointments must be made in accordance with the merit system of the unit if such a system exists.
(14) Prescribe the duties and regulate the compensation of employees of the authority.
(15) Provide a pension and retirement system for employees of the authority by using the public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.
(16) Discharge and appoint successors to employees of the authority subject to subdivision (13).
(17) Rent offices for use of the department or authority, or accept the use of offices furnished by the unit.
(18) Equip the offices of the authority with the necessary furniture, furnishings, equipment, records, and supplies.
(19) Design, order, contract for, and construct, reconstruct, improve, or renovate the following:
(A) Any local public improvement or structure that is necessary for redevelopment purposes or economic development within the corporate boundaries of the unit.
(B) Any structure that enhances development or economic development.
(20) Contract for the construction, extension, or improvement of pedestrian skyways (as defined in IC 36-7-14-12.2(c)).

(21) Accept loans, grants, and other forms of financial assistance from, or contract with, the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(22) Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the authority and the execution of the powers of the authority under this chapter.

(23) Take any action necessary to implement the purpose of the authority.

(24) Provide financial assistance, in the manner that best serves the purposes set forth in section 11 of this chapter, including grants and loans, to enable private enterprise to develop, redevelop, and reuse military base property or otherwise enable private enterprise to provide social and economic benefits to the citizens of the unit.

(d) An authority may designate all or a portion of an economic development area created under this section as an allocation area by following the procedures set forth in IC 36-7-14-39 for the establishment of an allocation area by a redevelopment commission. The allocation provision may modify the definition of "property taxes" under IC 36-7-14-39(a) to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of designated taxpayers in accordance with the procedures applicable to a commission under IC 36-7-14-39.3. IC 36-7-14-39.3 applies to such a modification. An allocation area established by an authority under this section is a special taxing district authorized by the general assembly to enable the unit to provide special benefits to taxpayers in the allocation area by promoting economic development that is of public use and benefit. For allocation areas established for an economic development area created under this section after June 30, 1997, and to the expanded portion of an allocation area for an economic development area that was established before June 30, 1997, and that is expanded under this section after June 30, 1997, the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date, must be allocated. All of the provisions of IC 36-7-14-39 apply to an allocation area created under this section, except that the authority shall be vested with the rights and duties of a commission as referenced in those sections, and except that, notwithstanding IC 36-7-14-39(b)(3), property tax proceeds paid into the allocation fund may be used by the authority only to do one (1) or more of the following:

(1) Pay the principal of and interest and redemption premium on any obligations incurred by the special taxing district or any other entity for the purpose of financing or refinancing military base reuse activities in or serving or benefiting that allocation area.

(2) Establish, augment, or restore the debt service reserve for

obligations payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the authority (including lease rental revenues).

(3) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(4) Reimburse any other governmental body for expenditures made by it that benefits or provides for local public improvements or structures in or serving or benefiting that allocation area.

(5) Pay expenses incurred by the authority that benefit or provide for local public improvements or structures that are in the allocation area or serving or benefiting the allocation area.

(6) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(A) in the allocation area; and

(B) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in clause (B). The reimbursements under this subdivision must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(e) In addition to other methods of raising money for property acquisition, redevelopment, or economic development activities in or directly serving or benefiting an economic development area created by an authority under this section, and in anticipation of the taxes allocated under subsection (d), other revenues of the authority, or any combination of these sources, the authority may, by resolution, issue the bonds of the special taxing district in the name of the unit. Bonds issued under this section may be issued in any amount without limitation. The following apply if such a resolution is adopted:

(1) The authority shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(2) The bonds must be executed by the appropriate officer of the unit and attested by the unit's fiscal officer.

(3) The bonds are exempt from taxation for all purposes.

(4) Bonds issued under this section may be sold at public sale in accordance with IC 5-1-11 or at a negotiated sale.

(5) The bonds are not a corporate obligation of the unit but are an indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the authority:

(A) from the tax proceeds allocated under subsection (d);

(B) from other revenues available to the authority; or

(C) from a combination of the methods stated in clauses (A) and (B).

(6) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(7) Laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers and voters to remonstrate against the issuance of bonds do not apply to bonds issued under this section.

(8) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(9) If bonds are issued under this chapter that are payable solely or in part from revenues to the authority from a project or projects, the authority may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority. The authority may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the authority that are payable solely from revenues of the authority shall contain a statement to that effect in the form of bond.

(f) Notwithstanding section 8(a) of this chapter, an ordinance adopted under section 11 of this chapter may provide, or be amended to provide, that the board of directors of the authority shall be composed of not fewer than three (3) nor more than eleven (11) members, who must be residents of or be employed at a place of employment located within the unit. The members shall be appointed by the executive of the unit.

(g) The acquisition of real and personal property by an authority under this section is not subject to the provisions of IC 5-22, IC 36-1-10.5, IC 36-7-14-19, or any other statutes governing the purchase of property by public bodies or their agencies.

(h) An authority may negotiate for the sale, lease, or other disposition of real and personal property without complying with the provisions of IC 5-22-22, IC 36-1-11, IC 36-7-14-22, or any other statute governing the disposition of public property.

(i) Notwithstanding any other law, utility services provided within an economic development area established under this section are subject to regulation by the appropriate regulatory agencies unless the utility service is provided by a utility that provides utility service solely within the geographic boundaries of an existing or a closed military installation, in which case the utility service is not subject to regulation for purposes of rate making, regulation, service

delivery, or issuance of bonds or other forms of indebtedness. However, this exemption from regulation does not apply to utility service if the service is generated, treated, or produced outside the boundaries of the existing or closed military installation.

As added by P.L.26-1993, SEC.6. Amended by P.L.26-1995, SEC.5; P.L.255-1997(ss), SEC.16; P.L.49-1997, SEC.78; P.L.2-1998, SEC.85; P.L.90-2002, SEC.477; P.L.192-2002(ss), SEC.179; P.L.190-2005, SEC.12; P.L.185-2005, SEC.25; P.L.1-2006, SEC.567; P.L.219-2007, SEC.127; P.L.146-2008, SEC.742; P.L.182-2009(ss), SEC.405; P.L.104-2010, SEC.1; P.L.203-2011, SEC.11.

IC 36-7-14.5-13

Refunding bonds

Sec. 13. (a) Bonds issued under IC 36-7-14 may be refunded as provided in this section.

(b) The commission may:

(1) lease all or a portion of a local public improvement or improvements to the authority, which may be at a nominal lease rental with a lease back to the commission, conditioned upon the authority assuming bonds issued under IC 36-7-14 and issuing its bonds to refund those bonds; and

(2) sell all or a portion of a local public improvement or improvements to the authority for a price sufficient to provide for the refunding of those bonds and lease back the local public improvement or improvements from the authority.

As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-14

Lease of local public improvements to commission; provisions

Sec. 14. (a) Before a lease may be entered into, the commission must find that the lease rental provided for is fair and reasonable.

(b) A lease of local public improvements from the authority to the commission:

(1) must comply with IC 36-7-14-25.2 or IC 36-7-30-20;

(2) may not require payment of lease rental for a newly constructed local public improvement or for improvements to an existing local public improvement except to the extent that the local public improvement or improvements thereto have been completed and are ready for occupancy or use;

(3) may contain provisions:

(A) allowing the commission to continue to operate an existing local public improvement until completion of the improvements, reconstruction, or renovation; and

(B) requiring payment of lease rentals for an existing local public improvement being used, reconstructed, or renovated;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the commission to purchase the local public improvement upon the terms stated in the lease

during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the local public improvement, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a local public improvement;

(7) may provide that the commission shall agree to:

(A) pay all taxes and assessments thereon;

(B) maintain insurance thereon for the benefit of the authority; and

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(8) may provide that the lease rental payments by the commission shall be made from any one (1) or more of the sources set forth in IC 36-7-14-25.2 or IC 36-7-30-20.

As added by P.L.380-1987(ss), SEC.18. Amended by P.L.35-1990, SEC.60; P.L.26-1995, SEC.6.

IC 36-7-14.5-15

Legal authority for lease agreements

Sec. 15. This chapter and IC 36-7-14-25.2 or IC 36-7-30-20, contain full and complete authority for leases between the authority and the commission. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or the commission or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this chapter and IC 36-7-14-25.2 or IC 36-7-30-20.

As added by P.L.380-1987(ss), SEC.18. Amended by P.L.26-1995, SEC.7.

IC 36-7-14.5-16

Plans and specifications for local public improvements to be constructed; approval by commission

Sec. 16. If the lease provides for a local public improvement or improvements thereto to be constructed by the authority, the plans and specifications shall be submitted to and approved by the commission.

As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-17

Easement or license agreements between authority and commission; recordation

Sec. 17. The authority and the commission may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county.

As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-18

Lease or sale of property from commission to authority

Sec. 18. (a) The commission may lease for a nominal lease rental, or sell to the authority, one (1) or more local public improvements or portions thereof or land upon which a local public improvement is located or is to be constructed.

(b) Any lease of all or a portion of a local public improvement by the commission to the authority must be for a term equal to the term of the lease of that local public improvement back to the redevelopment commission.

(c) The commission may sell property to the authority for such amount as it determines to be in the best interest of the commission, which amount may be paid from the proceeds of bonds of the authority.

As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-19

Bonds; procedures; use of revenue

Sec. 19. (a) The authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring property;

(2) constructing, improving, reconstructing, or renovating one (1) or more local public improvements; or

(3) funding or refunding bonds issued under this chapter or IC 36-7-14.

(b) The bonds are payable solely from the lease rentals from the lease of the local public improvement for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within fifty (50) years.

(f) The board shall sell the bonds at public or private sale upon such terms as determined by the board.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of the acquisition or construction, or both, of local public improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the local public improvements and all related buildings, facilities, structures, and improvements;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the local public improvements that are necessary or desirable to make the local public improvements suitable for use and operations;

(4) architectural, engineering, consultant, and attorney fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;
(7) interest during construction and for a period thereafter determined by the board, but in no event to exceed five (5) years;
(8) financial advisory fees;
(9) insurance during construction;
(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, and interest on, the bonds being refunded or refinanced.

As added by P.L.380-1987(ss), SEC.18. Amended by P.L.35-1990, SEC.61.

IC 36-7-14.5-20
Authority for issuance of bonds; legal investment status of bonds

Sec. 20. (a) This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board of any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this chapter.

(b) Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

As added by P.L.380-1987(ss), SEC.18. Amended by P.L.42-1993, SEC.97.

IC 36-7-14.5-21
Trust indenture securing bonds

Sec. 21. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:
(1) pledge or assign lease rentals, receipts, and income from leased local public improvements, but may not mortgage land or local public improvements;
(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and board;
(3) set forth the rights and remedies of bondholders and trustee; and
(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the authority under this

section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.
As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-22
Issuance of bonds by commission upon exercise of option to purchase leased property

Sec. 22. If the commission exercises its option to purchase leased property, it may issue its bonds as authorized by statute.
As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.5-23
Tax-exempt status of authority property and bonds

Sec. 23. All:

(1) property owned by the authority;
(2) revenues of the authority; and
(3) bonds issued by the authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.
As added by P.L.380-1987(ss), SEC.18. Amended by P.L.21-1990, SEC.53; P.L.254-1997(ss), SEC.30.

IC 36-7-14.5-24
Action contesting validity of bonds

Sec. 24. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or
(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.
As added by P.L.380-1987(ss), SEC.18.

IC 36-7-14.7
Repealed

(*Repealed by P.L.2-1989, SEC.56.)*

IC 36-7-15
Repealed

(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-15.1

Chapter 15.1. Redevelopment of Areas in Marion County Needing Redevelopment

IC 36-7-15.1-1

Application of chapter

Sec. 1. This chapter applies in each county having a consolidated city.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.84-1987, SEC.5.

IC 36-7-15.1-1.3

Effect of change of reference from "blighted, deteriorated, or deteriorating area" to "area needing redevelopment"

Sec. 1.3. (a) After June 30, 2005, a reference in any statute, rule, ordinance, resolution, contract, or other document or record to a blighted, deteriorated, or deteriorating area established under this chapter shall be treated as a reference to an area needing redevelopment (as defined in IC 36-7-1-3).

(b) After June 30, 2005, a reference in any statute, rule, ordinance, resolution, contract, or other document or record to a redevelopment area established under this chapter shall be treated as a reference to a redevelopment project area established under IC 36-7-14 or this chapter.

As added by P.L.20-2010, SEC.10.

IC 36-7-15.1-2

Declaration of policy

Sec. 2. (a) The assessment, clearance, remediation, replanning, and redevelopment of areas needing redevelopment are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise, due to the necessity for the exercise of the power of eminent domain, the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens, and the cost of these projects.

(b) The conditions that exist in areas needing redevelopment are beyond remedy and control by regulatory processes because of the obsolescence and deteriorated conditions of improvements, environmental contamination, faulty land use, shifting of population, and technological and social changes.

(c) The assessment, clearing, remediation, replanning, and redevelopment of areas needing redevelopment will benefit the health, safety, morals, and welfare and will serve to protect and increase property values in the county and the state.

(d) The assessment, clearance, remediation, replanning, and redevelopment of areas needing redevelopment under this chapter are public uses and purposes for which public money may be spent and private property may be acquired.

(e) This chapter shall be liberally construed to carry out the purposes of this section.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.185-2005, SEC.26; P.L.221-2007, SEC.40.

IC 36-7-15.1-3
Definitions

Sec. 3. Except as provided in section 37 of this chapter, as used in this chapter:

"Commission" refers to the metropolitan development commission acting as the redevelopment commission of the consolidated city, subject to IC 36-3-4-23.

"Department" refers to the department of metropolitan development, subject to IC 36-3-4-23.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.102-1999, SEC.2.

IC 36-7-15.1-4
Redevelopment district constituting special taxing district

Sec. 4. (a) The redevelopment district referred to in IC 36-3-1-6 constitutes a special taxing district for the purpose of levying and collecting special benefit taxes for redevelopment purposes as provided in this chapter.

(b) All of the taxable property within the redevelopment district is considered to be benefited by redevelopment projects carried out under this chapter to the extent of the special taxes levied under this chapter.

As added by Acts 1982, P.L.77, SEC.8.

IC 36-7-15.1-5
Pecuniary interests of commissioners and nonvoting advisers

Sec. 5. A member of the commission or a nonvoting adviser appointed under IC 36-7-4-207 may not have a pecuniary interest in any contract, employment, purchase, or sale made under this chapter. However, any property required for redevelopment purposes in which a member or nonvoting adviser has a pecuniary interest may be acquired but only by gift or condemnation.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.146-2008, SEC.743.

IC 36-7-15.1-6
Duties of commission

Sec. 6. The commission shall:

(1) investigate, study, and survey areas needing redevelopment within the redevelopment district;

(2) investigate, study, determine, and to the extent possible combat the causes of the conditions described in IC 36-7-1-3;

(3) promote the use of land in the manner that best serves the interests of the consolidated city and its inhabitants, both from the standpoint of human needs and economic values;

(4) cooperate:

(A) with the departments and agencies of:

(i) the city; and
(ii) other governmental entities; and
(B) with:
(i) public instrumentalities; and
(ii) public bodies;
created by state law;
in the manner that best serves the purposes of this chapter;
(5) make findings and reports on its activities under this section, and keep those reports open to inspection by the public at the offices of the department;
(6) select and acquire the areas needing redevelopment to be redeveloped under this chapter; and
(7) replan and dispose of the areas needing redevelopment in the manner that best serves the social and economic interests of the city and its inhabitants.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.185-2005, SEC.27; P.L.221-2007, SEC.41.

IC 36-7-15.1-7
Powers of commission

Sec. 7. (a) In carrying out its duties and purposes under this chapter, the commission may do the following:

(1) Acquire by purchase, exchange, gift, grant, lease, or condemnation, or any combination of methods, any real or personal property or interest in property needed for the redevelopment of areas needing redevelopment that are located within the redevelopment district.
(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, invest in, or otherwise dispose of, through any combination of methods, property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the city and its inhabitants.
(3) Acquire from and sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the city, or to any other governmental agency, for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes, on any terms that may be agreed upon.
(4) Clear real property acquired for redevelopment purposes.
(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:
(A) Hazardous substances.
(B) Petroleum.
(C) Other pollutants.
(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for

redevelopment purposes:

(A) Hazardous substances.

(B) Petroleum.

(C) Other pollutants.

(7) Repair and maintain structures acquired or to be acquired for redevelopment purposes.

(8) Enter upon, survey, or examine any land, to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes, and determine the value of that land.

(9) Appear before any other department or agency of the city, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any area needing redevelopment within the jurisdiction of the commission.

(10) Subject to section 13 of this chapter, exercise the power of eminent domain in the name of the city, within the redevelopment district, in the manner prescribed by this chapter.

(11) Establish a uniform fee schedule whenever appropriate for the performance of governmental assistance, or for providing materials and supplies to private persons in project or program related activities.

(12) Expend, on behalf of the redevelopment district, all or any part of the money available for the purposes of this chapter.

(13) Contract for the construction, extension, or improvement of pedestrian skyways.

(14) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(15) Provide financial assistance (including grants and loans) to enable individuals and families to purchase or lease residential units within the district. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(16) Provide financial assistance (including grants and loans) to neighborhood development corporations to permit them to:

(A) provide financial assistance for the purposes described in subdivision (15); or

(B) construct, rehabilitate, or repair commercial property within the district.

(17) Require as a condition of financial assistance to the owner of a multiunit residential structure that any of the units leased by the owner must be leased:

(A) for a period to be determined by the commission, which may not be less than five (5) years;

(B) to families whose income does not exceed eighty percent (80%) of the county's median income for families; and

(C) at an affordable rate.

Conditions imposed by the commission under this subdivision remain in force throughout the period determined under clause (A), even if the owner sells, leases, or conveys the property. The subsequent owner or lessee is bound by the conditions for the remainder of the period.

(18) Provide programs in job training, job enrichment, and basic skill development for residents of an enterprise zone.

(19) Provide loans and grants for the purpose of stimulating business activity in an enterprise zone or providing employment for residents of an enterprise zone.

(20) Contract for the construction, extension, or improvement of:

(A) public ways, sidewalks, sewers, waterlines, parking facilities, park or recreational areas, or other local public improvements (as defined in IC 36-7-15.3-6) or structures that are necessary for redevelopment of areas needing redevelopment or economic development within the redevelopment district; or

(B) any structure that enhances development or economic development.

(b) In addition to its powers under subsection (a), the commission may plan and undertake, alone or in cooperation with other agencies, projects for the redevelopment of, rehabilitating, preventing the spread of, or eliminating slums or areas needing redevelopment, both residential and nonresidential, which projects may include any of the following:

(1) The repair or rehabilitation of buildings or other improvements by the commission, owners, or tenants.

(2) The acquisition of real property.

(3) Either of the following with respect to environmental contamination on real property:

(A) Investigation.

(B) Remediation.

(4) The demolition and removal of buildings or improvements on buildings acquired by the commission where necessary for any of the following:

(A) To eliminate unhealthful, unsanitary, or unsafe conditions.

(B) To mitigate or eliminate environmental contamination.

(C) To lessen density.

(D) To reduce traffic hazards.

(E) To eliminate obsolete or other uses detrimental to public welfare.

(F) To otherwise remove or prevent the conditions described in IC 36-7-1-3.

(G) To provide land for needed public facilities.

(5) The preparation of sites and the construction of

improvements (such as public ways and utility connections) to facilitate the sale or lease of property.

(6) The construction of buildings or facilities for residential, commercial, industrial, public, or other uses.

(7) The disposition in accordance with this chapter, for uses in accordance with the plans for the projects, of any property acquired in connection with the projects.

(c) The commission may use its powers under this chapter relative to real property and interests in real property obtained by voluntary sale or transfer, even though the real property and interests in real property are not located in a redevelopment or urban renewal project area established by the adoption and confirmation of a resolution under sections 8(c), 9, 10, and 11 of this chapter. In acquiring real property and interests in real property outside of a redevelopment or urban renewal project area, the commission shall comply with section 12(b) through 12(e) of this chapter. The commission shall hold, develop, use, and dispose of this real property and interests in real property substantially in accordance with section 15 of this chapter.

(d) As used in this section, "pedestrian skyway" means a pedestrian walkway within or outside of the public right-of-way and through and above public or private property and buildings, including all structural supports required to connect skyways to buildings or buildings under construction. Pedestrian skyways constructed, extended, or improved over or through public or private property constitute public property and public improvements, constitute a public use and purpose, and do not require vacation of any public way or other property.

(e) All powers that may be exercised under this chapter by the commission may also be exercised by the commission in carrying out its duties and purposes under IC 36-7-15.3.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.358-1983, SEC.1; P.L.23-1984, SEC.17; P.L.84-1987, SEC.6; P.L.193-1988, SEC.1; P.L.2-1989, SEC.31; P.L.14-1991, SEC.14; P.L.185-2005, SEC.28; P.L.221-2007, SEC.42; P.L.146-2008, SEC.744.

IC 36-7-15.1-8

Assembly of data; adoption of resolution; amendment of resolution or plan

Sec. 8. (a) Whenever the commission finds that:

(1) an area in the redevelopment district is an area needing redevelopment;

(2) the conditions described in IC 36-7-1-3 cannot be corrected in the area by regulatory processes or by the ordinary operations of private enterprise without resort to this chapter; and

(3) the public health and welfare will be benefited by:

(A) the acquisition and redevelopment of the area under this chapter as a redevelopment project area or an urban renewal area; or

(B) the amendment of the resolution or plan, or both, for an

existing redevelopment project area or urban renewal area; and

(4) in the case of an amendment to the resolution or plan for an existing redevelopment project area or urban renewal area:

(A) the amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter; and

(B) the resolution or plan, with the proposed amendment, conforms to the comprehensive plan for the unit;

the commission shall cause to be prepared a redevelopment or urban renewal plan.

(b) The redevelopment or urban renewal plan must include:

(1) maps, plats, or maps and plats, showing:

(A) the boundaries of the area in which property would be acquired for, or otherwise affected by, the establishment of a redevelopment project area or urban renewal area, or the amendment of the resolution or plan for an existing area;

(B) the location of the various parcels of property, public ways, and other features affecting the acquisition, clearance, replatting, replanning, rezoning, or redevelopment of the area or areas, indicating any parcels of property to be excluded from the acquisition or otherwise excluded from the effects of the establishment of the redevelopment project area or the amendment of the resolution or plan for an existing area; and

(C) the parts of the area acquired that are to be devoted to public ways, levees, sewerage, parks, playgrounds, and other public purposes;

(2) lists of the owners of the various parcels of property proposed to be acquired for, or otherwise affected by, the establishment of an area or the amendment of the resolution or plan for an existing area; and

(3) an estimate of the costs, if any, to be incurred for the acquisition and redevelopment of property.

(c) This subsection applies to the initial establishment of a redevelopment project area or urban renewal area. After completion of the data required by subsection (b), the commission shall adopt a resolution declaring that:

(1) the area needing redevelopment is a detriment to the social or economic interests of the consolidated city and its inhabitants;

(2) it will be of public utility and benefit to acquire the area and redevelop it under this chapter; and

(3) the area is designated as a redevelopment project area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area and identify the interests in real or personal property, if any, that the department proposes to acquire in the area.

(d) This subsection applies to the amendment of the resolution or

plan for an existing redevelopment project area or urban renewal area. After completion of the data required by subsection (b), the redevelopment commission shall adopt a resolution declaring that:

(1) it will be of public utility and benefit to amend the resolution or plan for the area; and

(2) any additional area to be acquired under the amendment is designated as part of the existing redevelopment project area or urban renewal area for purposes of this chapter.

The resolution must state the general boundaries of the redevelopment project area or urban renewal area, including any changes made to those boundaries by the amendment, and describe the activities that the department is permitted to take under the amendment, with any designated exceptions.

(e) For the purpose of adopting a resolution under subsection (c) or (d), it is sufficient to describe the boundaries of the redevelopment project area by its location in relation to public ways or streams, or otherwise, as determined by the commission. Property proposed for acquisition may be described by street numbers or location.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.358-1983, SEC.2; P.L.14-1991, SEC.15; P.L.185-2005, SEC.29; P.L.146-2008, SEC.745; P.L.172-2011, SEC.151.

IC 36-7-15.1-9

Conformity of resolution and redevelopment plan with comprehensive city development plan; submission of resolution and plan to legislative body for approval

Sec. 9. (a) After or concurrent with adoption of a resolution under section 8 of this chapter, the commission shall determine whether the resolution and the redevelopment plan conform to the comprehensive plan of development for the consolidated city and approve or disapprove the resolution and plan proposed. If the commission approves the resolution and plan, it shall submit the resolution and plan to the legislative body of the consolidated city, which may approve or disapprove the resolution and plan.

(b) In determining the location and extent of a redevelopment project area proposed to be acquired for redevelopment, the commission shall give consideration to transitional and permanent provisions for adequate housing for the residents of the area who will be displaced by the redevelopment project.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.185-2005, SEC.30; P.L.146-2008, SEC.746.

IC 36-7-15.1-10

Notice and hearing on resolution; filing remonstrance; final action taken by commission

Sec. 10. (a) After approval by the commission and the legislative body of the consolidated city under section 9 of this chapter, the commission shall publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1. The notice must:

(1) state that maps, plats, or maps and plats have been prepared

and can be inspected at the office of the department; and

(2) name a date when the commission will:

(A) receive and hear remonstrances and other testimony from persons interested in or affected by the proceeding pertaining to the proposed project or other actions to be taken under the resolution; and

(B) determine the public utility and benefit of the proposed project or other actions.

All persons affected in any manner by the hearing, including all taxpayers of the redevelopment district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the commission by the notice given under this section.

(b) A copy of the notice of the hearing on the resolution shall be filed in the office of the commission, board of zoning appeals, works board, park board, and any other departments, bodies, or officers of the consolidated city having to do with planning, variances from zoning ordinances, land use, or the issuance of building permits. These agencies and officers shall take notice of the pendency of the hearing, and until the commission confirms, modifies and confirms, or rescinds the resolution, or the confirmation of the resolution is set aside on appeal, they may not, without approval of the commission:

(1) authorize any construction on property or sewers in the area described in the resolution, including substantial modifications, rebuilding, conversion, enlargement, additions, and major structural improvements; or

(2) take any action regarding the zoning or rezoning of property, or the opening, closing, or improvement of public ways in the area described in the resolution.

This subsection does not prohibit the granting of permits for ordinary maintenance or minor remodeling, or for changes necessary for the continued occupancy of buildings in the area.

(c) If the resolution to be considered at the hearing includes a provision establishing or amending an allocation provision under section 26 of this chapter, the commission shall file the following information with each taxing unit that is wholly or partly located within the allocation area:

(1) A copy of the notice required by subsection (a).

(2) A statement disclosing the impact of the allocation area, including the following:

(A) The estimated economic benefits and costs incurred by the allocation area, as measured by increased employment and anticipated growth of real property assessed values.

(B) The anticipated impact on tax revenues of each taxing unit.

The commission shall file the information required by this subsection with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the hearing.

(d) At the hearing, which may be adjourned from time to time, the

commission shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the commission shall take final action determining the public utility and benefit of the proposed project or other actions to be taken under the resolution, and confirming, modifying and confirming, or rescinding the resolution. The final action taken by the commission shall be recorded and is final and conclusive, except that an appeal may be taken under section 11 of this chapter.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.38-1988, SEC.13; P.L.14-1991, SEC.16; P.L.25-1995, SEC.88; P.L.146-2008, SEC.747.

IC 36-7-15.1-10.5

Notice

Sec. 10.5. (a) In addition to the requirements of section 10 of this chapter, if the resolution or plan for an existing redevelopment project area or urban renewal area is proposed to be amended in a way that changes:

(1) parts of the area that are to be devoted to a public way, levee, sewerage, park, playground, or other public purpose;

(2) the proposed use of the land in the area; or

(3) requirements for rehabilitation, building requirements, proposed zoning, maximum densities, or similar requirements;

the commission must, at least ten (10) days before the public hearing under section 10 of this chapter, send the notice required by section 10 of this chapter by first class mail to affected neighborhood associations.

(b) In addition to the requirements of section 10 of this chapter, if the resolution or plan for an existing redevelopment project area or urban renewal area is proposed to be amended in a way that:

(1) enlarges the boundaries of the area; or

(2) adds one (1) or more parcels to the list of parcels to be acquired;

the commission must, at least ten (10) days before the public hearing under section 10 of this chapter, send the notice required by section 10 of this chapter by first class mail to affected neighborhood associations and to persons owning property that is in the proposed enlargement of the area or that is proposed to be added to the acquisition list. If the enlargement of an area is proposed, notice must also be filed in accordance with section 10(b) of this chapter, and agencies and officers may not take actions prohibited by section 10(b) in the proposed enlarged area.

(c) The commission may require that neighborhood associations register with the commission. The commission may adopt a rule that requires that a neighborhood association encompass a part of the geographic area included in or proposed to be included in a redevelopment project area, urban renewal area, or economic development area to qualify as an affected neighborhood association.

As added by P.L.193-1988, SEC.2. Amended by P.L.185-2005,

SEC.31; P.L.146-2008, SEC.748.

IC 36-7-15.1-11
Remonstrance; appeal

Sec. 11. (a) A person who filed a written remonstrance with the commission under section 10 of this chapter and is aggrieved by the final action taken may, within ten (10) days after that final action, file with the presiding judge of the superior court a copy of the order of the commission and the person's remonstrance against that order, together with the person's bond, as provided by IC 34-13-5-7, in the event the appeal is determined against the person. The burden of proof is on the remonstrator, and no change of venue may be granted.

(b) An appeal under this section shall be promptly heard by the court without a jury. Except in a county containing a consolidated city, all the judges of the court, or a majority of the judges if not all are available, shall hear the appeal. In a county containing a consolidated city, the appeal shall be heard by one (1) judge unless rules adopted by the court or by the Indiana supreme court require an appeal to be heard by additional judges. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. The court shall decide the appeal based on the record and evidence before the commission, not by trial de novo. It may confirm the final action of the commission or sustain the remonstrances. If the appeal is decided in a county that does not contain a consolidated city, the vote of at least a majority of all the elected judges is required to confirm the final action of the commission or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions. An appeal to the court of appeals or supreme court has priority over all other civil appeals.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.1-1998, SEC.207; P.L.141-2007, SEC.4.

IC 36-7-15.1-12
Acquisition of real property by commission

Sec. 12. (a) If no appeal is taken, or if an appeal is taken but is unsuccessful, the commission shall proceed with the proposed project, to the extent that money is available for that purpose.

(b) The commission shall first approve and adopt a list of the real property and interests in real property to be acquired, and the price to be offered to the owner of each parcel or interests. The prices to be offered may not exceed the average of two (2) independent appraisals of fair market value procured by the commission, except that appraisals are not required in transactions with other governmental agencies. However, if the real property is less than five (5) acres in size and the fair market value of the real property or interest has been appraised by one (1) independent appraiser at less than ten thousand dollars ($10,000), the second appraisal may be made by a qualified employee of the department. The prices

indicated on the list may not be exceeded unless specifically authorized by the commission under section 7 of this chapter or ordered by a court in condemnation proceedings. The commission may except from acquisition any real property in the area if it finds that such an acquisition is not necessary under the redevelopment plan. Appraisals made under this section are for the information of the commission and are not open for public inspection.

(c) Negotiations for the purchase of property may be carried on directly by the commission, by its employees, or by expert negotiators employed for that purpose. The commission shall adopt a standard form of option for use in negotiations, but no option, contract, or understanding relative to the purchase of real property is binding on the commission until approved and accepted by the commission in writing. The commission may authorize the payment of a nominal fee to bind an option, and as a part of the consideration for conveyance may agree to pay the expense incident to the conveyance and determination of the title of the property. Payment for the property purchased shall be made when and as directed by the commission, but only on delivery of proper instruments conveying the title or interest of the owner to "City of _____ for the use and benefit of its Department of Metropolitan Development".

(d) Notwithstanding subsections (a) through (c), the commission may, before the time referred to in this section, accept gifts of property needed for the redevelopment of redevelopment project areas. The commission may, before the time referred to in this section, take options on or contract for the acquisition of property needed for the redevelopment of redevelopment project areas if the options and contracts are not binding on the commission or the redevelopment district until the time referred to in this section and until money is available to pay the consideration set out in the options or contracts.

(e) Section 15(a) through 15(h) of this chapter does not apply to exchanges of real property (or interests in real property) in connection with the acquisition of real property (or interests in real property) under this section. In acquiring real property (or interests in real property) under this section the commission may, as an alternative to offering payment of money as specified in subsection (b), offer for the real property (or interest in real property) that the commission desires to acquire:

(1) exchange of real property or interests in real property owned by the redevelopment district;

(2) exchange of real property or interests in real property owned by the redevelopment district, along with the payment of money by the commission; or

(3) exchange of real property or interests in real property owned by the redevelopment district along with the payment of money by the owner of the real property or interests in real property that the commission desires to acquire.

The commission shall have the fair market value of the real property or interests in real property owned by the redevelopment district

appraised as specified in section 15(b) of this chapter. The appraisers may not also appraise the value of the real property or interests in real property to be acquired by the redevelopment district. The commission shall establish the nature of the offer to the owner based on the difference between the average of the two (2) appraisals of the fair market value of the real property or interests in real property to be acquired by the commission and the average of the appraisals of fair market value of the real property or interests in real property to be exchanged by the commission.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.358-1983, SEC.3; P.L.222-1986, SEC.1; P.L.193-1988, SEC.3; P.L.14-1991, SEC.17; P.L.185-2005, SEC.32.

IC 36-7-15.1-13

Eminent domain; approval by city-county legislative body

Sec. 13. (a) Subject to the approval of the city-county legislative body, if the commission considers it necessary to acquire real property in a redevelopment project area by the exercise of the power of eminent domain, it shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court of the county.

(b) Eminent domain proceedings under this section are governed by IC 32-24.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.2-2002, SEC.112; P.L.185-2005, SEC.33; P.L.146-2008, SEC.749.

IC 36-7-15.1-14

Clearing and planning by commission; repair and maintenance; environmental contamination; labor and contracts; utilities; payments; public dedication

Sec. 14. (a) The commission may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of that area. It may also proceed with any of the following:

(1) The repair and maintenance of buildings that have been acquired and are not to be cleared.

(2) Investigation of environmental contamination.

(3) Remediation of environmental contamination.

The commission may carry out the activities under this subsection by labor employed directly by the commission or by contract. Contracts for clearance may provide that the contractor is entitled to retain and dispose of salvaged material, as a part of the contract price or on the basis of stated prices for the amounts of the various materials actually salvaged.

(b) All contracts for material or labor under this section shall be let under IC 36-1.

(c) In the replanning and rezoning of the real property acquired, the opening, closing, relocation, and improvement of public ways, and the construction, relocation, or improvement of levees, sewers,

and utility services, the commission shall proceed in the same manner as private owners of property. It may negotiate with the proper officers and agencies to secure the proper orders, approvals, and consents.

(d) The commission may pay any charges or assessments made on account of orders, approvals, consents, and construction work under this section, or may agree to pay these assessments in installments as provided by statute in the case of private owners. The commission may:

(1) by special waiver filed with the works board, waive the statutory procedure and notices required by law in order to create valid liens on private property; and

(2) cause any assessments to be spread on a different basis than that provided by statute.

(e) None of the real property acquired under this chapter may be set aside and dedicated for public ways, sewers, levees, parks, or other public purposes until the commission has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.221-2007, SEC.43.

IC 36-7-15.1-15

Appraisal, publication, and bidding requirements

Sec. 15. (a) This section does not apply to the sale or grant of real property or interests in real property to:

(1) nonprofit corporations, community development corporations, or neighborhood development corporations under section 15.1 of this chapter; or

(2) an urban enterprise association under section 15.2 of this chapter.

The provisions of this section concerning appraisal, publication, and bidding requirements do not apply to sales, leases, or other dispositions of real or personal property or interests in property to other public agencies, including the federal government or any agency or department of the federal government, for public purposes.

(b) Before offering for sale, exchange, or lease (or a combination of methods) to the public any of the property or interests acquired, the commission shall cause two (2) separate appraisals of the fair market value to be made by independent appraisers. However, if the property is less than five (5) acres in size and the fair market value of the real property or interest has been appraised by one (1) independent appraiser at less than ten thousand dollars ($10,000), the second appraisal may be made by a qualified employee of the department. In the case of an exchange, the same appraiser may not appraise both of the properties to be exchanged. In making appraisals, the appraisers shall take into consideration the size, location, and physical condition of the parcels, the advantages accruing to the parcels under the redevelopment plan, and all other factors having a bearing on the value of the parcels. The appraisals

are solely for the information of the commission and are not open for public inspection.

(c) The commission shall then prepare an offering sheet showing the parcels to be offered and the offering prices, which may not be less than the average of the two (2) appraisals. Copies of the offering sheets shall be furnished to prospective buyers on request. Maps, plats, or maps and plats showing the size and location of all parcels to be offered shall also be kept available for inspection at the office of the department.

(d) A notice shall be published in accordance with IC 5-3-1. The notice must state that at a designated time the commission will open and consider written offers for the purchase or lease of the property or interests being offered. In giving the notice it is not necessary to describe each parcel separately, or to specify the exact terms of disposition, but the notice:

(1) must state the general location of the parcels;

(2) call attention generally to any limitations in the redevelopment or urban renewal plan on the use to be made of the real property offered; and

(3) state that a bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(e) At the time fixed in the notice the commission shall open and consider any offers received. The offers may consist of consideration in the form of cash, other property, or a combination of cash and property. However, with respect to property other than cash, the offer must be accompanied by evidence of the property's fair market value that is satisfactory to the commission in the commission's sole discretion. All offers received shall be opened at public meetings of the commission and shall be kept open for public inspection.

(f) The commission may reject any or all bids or may make awards to the highest and best bidders. In determining the best bids, the commission shall take into consideration the following factors:

(1) The size and character of the improvements proposed to be made by the bidder on the real property bid on.

(2) The bidder's plans and ability to improve the real property with reasonable promptness.

(3) Whether the real property when improved will be sold or rented.

(4) The bidder's proposed sale or rental prices.

(5) The bidder's compliance with subsection (d)(3).

(6) Any factors that will assure the commission that the sale or lease, if made, will further the execution of the redevelopment plan and best serve the interest of the community, from the standpoint of both human and economic welfare.

(g) The commission may contract with a bidder in regard to the factors listed in subsection (f), and the contract may provide for the deposit of surety bonds, the making of good faith deposits, liquidated damages, the right of reversion or repurchase, or other rights and

remedies if the bidder fails to comply with the contract.

(h) After the opening, consideration, and determination of the written offers filed in response to the notice, the commission may dispose of all or part of the remaining available property or interests for any approved use, either at public sale or by private negotiation carried on by the commission, its regular employees, or real estate experts employed for that purpose. For a period of thirty (30) days after the opening of the written offers and determination on them, no sale, exchange, or lease may be made at a price or rental less than that shown on the offering sheet, except in the case of sales or rentals of:

(1) ten (10) or more parcels to a purchaser or lessee who agrees to improve the parcels immediately;

(2) parcels of property to individuals or families whose income is at or below the county's median income for individual and family income, respectively, for the purpose of constructing single family or two (2) family housing; or

(3) parcels of property to a contractor or developer for the purpose of constructing single family or two (2) family housing for individuals or families whose income is at or below the county's median income for individual and family income, respectively;

but after that period the commission may adjust the offering prices in the manner it considers necessary to further the redevelopment or urban renewal plan.

(i) A conveyance under this section may not be made until the agreed consideration has been paid, unless the commission adopts a resolution:

(1) stating that consideration does not have to be paid before the conveyance is made; and

(2) setting forth an arrangement for future payment of consideration or provision of an infrastructure credit against the consideration, or both.

If full consideration is not paid before the conveyance is made, the commission may use a land sale contract or mortgage to secure payment of the consideration or may accept as a credit against the agreed consideration a contractual obligation to perform public infrastructure work related to the property being conveyed. All deeds, land sale contracts, leases, or other conveyances, and all contracts and agreements, including contracts of purchase, sale, or exchange and contracts for advancements, loans, grants, contributions, or other aid, shall be executed in the name of the "City of_____, Department of Metropolitan Development", and shall be executed by the president or vice president of the commission or by the director of the department if authorized. A seal is not required on these instruments or any other instruments executed in the name of the department.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.193-1988, SEC.4; P.L.336-1989(ss), SEC.52; P.L.14-1991, SEC.18; P.L.28-1993, SEC.13; P.L.113-2002, SEC.7.

IC 36-7-15.1-15.1

Grant or sale at no cost of real property to qualifying corporation for low or moderate income housing; notice and hearing

Sec. 15.1. (a) As used in this section, "qualifying corporation" refers to a nonprofit corporation or neighborhood development corporation that meets the requirements of subsection (b)(1) and the criteria established by the county fiscal body under subsection (i).

(b) The commission may sell or grant at no cost title to real property to a nonprofit corporation or neighborhood development corporation for the purpose of providing low or moderate income housing or other development that will benefit or serve low or moderate income families if the following requirements are met:

(1) The nonprofit corporation or neighborhood development corporation has, as a major corporate purpose and function, the provision of housing for low and moderate income families within the geographic area in which the parcel of property is located.

(2) The qualifying corporation agrees to cause development that will serve or benefit low or moderate income families on the parcel of property within a specified period, which may not exceed five (5) years from the date of the sale or grant.

(3) The qualifying corporation, if the qualifying corporation is a neighborhood development corporation, agrees that the qualifying corporation and each applicant, recipient, contractor, or subcontractor undertaking work in connection with the real property will:

(A) use lower income project area residents as trainees and as employees; and

(B) contract for work with business concerns located in the project area or owned in substantial part by persons residing in the project area;

to the greatest extent feasible, as determined under the standards specified in 24 CFR 135.

(4) The county fiscal body has determined that the corporation meets the criteria established under subsection (i).

(5) The qualifying corporation agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the qualifying corporation.

(c) To carry out the purposes of this section, the commission may secure from the county under IC 6-1.1-25-9(e) parcels of property acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(d) Before offering any parcel of property for sale or grant, the fair market value of the parcel of property must be determined. The fair market value may be determined by an appraisal made by a qualified employee of the department. However, if the qualified employee of the department determines that:

(1) the property:

(A) is less than five (5) acres in size; and

(B) has a fair market value that is less than ten thousand

dollars ($10,000); or

(2) if the commission has obtained the parcel in the manner described in subsection (c);

an appraisal is not required. An appraisal under this subsection is solely for the information of the commission and is not available for public inspection.

(e) The commission must decide whether the commission will sell or grant the parcel of real property at a public meeting. In making this decision, the commission shall give substantial weight to the extent to which and the terms under which the qualifying corporation will cause development to serve or benefit families of low or moderate income. If more than one (1) qualifying corporation is interested in acquiring a parcel of real property, the commission shall conduct a hearing at which a representative of each corporation may state the reasons why the commission should sell or grant the parcel to that corporation.

(f) Before conducting a hearing under subsection (e), the commission shall publish a notice in accordance with IC 5-3-1 indicating that at a designated time the commission will consider selling or granting the parcel of real property under this section. The notice must state the general location of the property, including the street address if any, or a common description of the property other than the legal description.

(g) If the county agrees to transfer a parcel of real property to the commission to be sold or granted under this section, the commission may conduct a hearing to sell or grant the parcel to a qualifying corporation even though the parcel has not yet been transferred to the commission. After the hearing, the commission may adopt a resolution directing the department to take appropriate steps necessary to acquire the parcel from the county and to transfer the parcel to the qualifying corporation.

(h) A conveyance of property to a qualifying corporation under this section shall be made in accordance with section 15(i) of this chapter.

(i) The county fiscal body shall establish criteria for determining the eligibility of nonprofit corporations and neighborhood development corporations for sales or grants of real property under this section. A nonprofit corporation or neighborhood development corporation may apply to the county fiscal body for a determination concerning the corporation's compliance with the criteria established under this subsection.

As added by P.L.14-1991, SEC.19. Amended by P.L.31-1994, SEC.20; P.L.39-1994, SEC.26; P.L.2-1995, SEC.133; P.L.86-1999, SEC.3; P.L.177-2003, SEC.10.

IC 36-7-15.1-15.2

Sale or grant of real property to urban enterprise association

Sec. 15.2. (a) The commission may sell or grant, at no cost, title to real property to an urban enterprise association for the purpose of developing the real property if the following requirements are met:

(1) The urban enterprise association has incorporated as a nonprofit corporation under IC 5-28-15-14(b)(3).

(2) The parcel of property to be sold or granted is located entirely within the enterprise zone for which the urban enterprise association was created under IC 5-28-15-13.

(3) The urban enterprise association agrees to cause development on the parcel of property within a specified period that may not exceed five (5) years from the date of the sale or grant.

(4) The urban enterprise association agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the enterprise zone.

(b) To carry out the purposes of this section, the commission may secure from the county under IC 6-1.1-25-9(e) parcels of property acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(c) Before offering any parcel of property for sale or grant, the fair market value of the parcel of property must be determined by an appraiser, who may be an employee of the department. However, if the commission has obtained the parcel in the manner described in subsection (b), an appraisal is not required. An appraisal under this subsection is solely for the information of the commission and is not available for public inspection.

(d) The commission must decide at a public meeting whether the commission will sell or grant the parcel of real property. In making this decision, the commission shall give substantial weight to the extent to which and the terms under which the urban enterprise association will cause development on the property.

(e) Before conducting a meeting under subsection (d), the commission shall publish a notice in accordance with IC 5-3-1 indicating that at a designated time the commission will consider selling or granting the parcel of real property under this section. The notice must state the general location of the property, including the street address, if any, or a common description of the property other than the legal description.

(f) If the county agrees to transfer a parcel of real property to the commission to be sold or granted under this section, the commission may conduct a meeting to sell or grant the parcel to an urban enterprise zone even though the parcel has not yet been transferred to the commission. After the hearing, the commission may adopt a resolution directing the department to take appropriate steps necessary to acquire the parcel from the county and to transfer the parcel to the urban enterprise association.

(g) A conveyance of property to an urban enterprise association under this section shall be made in accordance with section 15(i) of this chapter.

(h) An urban enterprise association that purchases or receives real property under this section shall report the terms of the conveyance to the board of the Indiana economic development corporation not later than thirty (30) days after the date the conveyance of the

property is made.
As added by P.L.113-2002, SEC.8. Amended by P.L.4-2005, SEC.137.

IC 36-7-15.1-15.5
Additional powers of commission

Sec. 15.5. (a) This section applies to the following:

(1) Real property:

(A) that was acquired by the commission to carry out a redevelopment project, an economic development area project, or an urban renewal project; and

(B) relative to which the commission has, at a public hearing, decided that the real property is not needed to complete the redevelopment activity, an economic development area activity, or urban renewal activity in the project area.

(2) Real property acquired under this chapter that is not in a redevelopment project area, an economic development area, or an urban renewal project area.

(3) Parcels of property secured from the county under IC 6-1.1-25-9(e) that were acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(4) Real property donated or transferred to the commission to be held and disposed of under this section.

However, this section does not apply to property acquired under section 22.5 of this chapter.

(b) The commission may do the following to or for real property described in subsection (a):

(1) Examine, classify, manage, protect, insure, and maintain the property.

(2) Eliminate deficiencies (including environmental deficiencies), carry out repairs, remove structures, and make improvements.

(3) Control the use of the property.

(4) Lease the property.

(5) Use any powers under section 7(a) or 7(b) of this chapter in relation to the property.

(c) The commission may enter into contracts to carry out part or all of the functions described in subsection (b).

(d) The commission may extinguish all delinquent taxes, special assessments, and penalties relative to real property donated to the commission to be held and disposed of under this section. The commission shall provide the county auditor with a list of the real property on which delinquent taxes, special assessments, and penalties are extinguished under this subsection.

(e) Real property described in subsection (a) may be sold, exchanged, transferred, granted, donated, or otherwise disposed of in any of the following ways:

(1) In accordance with section 15, 15.1, 15.2, 15.6, or 15.7 of this chapter.

(2) In accordance with the provisions authorizing an urban homesteading program under IC 36-7-17.

(f) In disposing of real property under subsection (e), the commission may:

(1) group together properties for disposition in a manner that will best serve the interest of the community, from the standpoint of both human and economic welfare; and

(2) group together nearby or similar properties to facilitate convenient disposition.

As added by P.L.169-2006, SEC.73.

IC 36-7-15.1-15.6

"Abutting landowner"; "offering price"; sale of property to abutting landowner; appraisal

Sec. 15.6. (a) As used in this section, "abutting landowner" means an owner of property that:

(1) touches, borders on, or is contiguous to the property that is the subject of sale; and

(2) does not constitute a:

(A) public easement; or

(B) public right-of-way.

(b) As used in this section, "offering price" means the appraised value of real property plus all costs associated with the sale, including:

(1) appraisal fees;

(2) title insurance;

(3) recording fees; and

(4) advertising costs.

(c) If the assessed value of a tract of real property to be sold is less than fifteen thousand dollars ($15,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the commission may proceed under this section.

(d) The commission may determine that:

(1) the highest and best use of the tract is sale to an abutting landowner;

(2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or

(3) it is economically unjustifiable to sell the tract under section 15 of this chapter.

(e) Not more than ten (10) days after the commission makes a determination under subsection (d), the commission shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

(1) the property may not be sold to a person who is ineligible under IC 36-1-11-16; and

(2) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the commission shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The commission shall also have each tract appraised. The appraiser must be a person who is professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than six thousand dollars ($6,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the commission is not required to have the tract appraised.

(g) If, not more than ten (10) days after the date of publication of the notice under subsection (e), the commission receives one (1) or more eligible offers to purchase a tract listed in the notice at or in excess of the offering price, the commission shall conduct the negotiation and sale of the tract under section 15(f), 15(g), and 15(i) of this chapter.

(h) Notwithstanding subsection (g), if not more than ten (10) days after the date of publication of the notice under subsection (e) the commission does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the commission shall conduct the negotiation and sale of the tract as follows:

(1) If only one (1) eligible abutting landowner makes an eligible offer to purchase the tract, then subject to IC 36-1-11-16 and without further appraisal or notice, the commission shall offer to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an eligible offer to purchase the tract, the tract shall be sold to the eligible abutting landowner who submits the highest eligible offer for the tract and who complies with any requirement under subsection (e)(2).

(3) If no eligible abutting landowner submits an eligible offer to purchase the tract, the commission may sell the tract to any person who submits the highest eligible offer for the tract, except a person who is ineligible to purchase the tract under IC 36-1-11-16.

As added by P.L.169-2006, SEC.74.

IC 36-7-15.1-15.7

Disposal of real property; appraisal

Sec. 15.7. (a) The commission may dispose of real property to which section 15.5 of this chapter applies by following the procedure set forth in this section.

(b) The commission shall first have the property appraised by two (2) appraisers. The appraisers must be:

(1) persons professionally engaged in making appraisals;

(2) persons licensed under IC 25-34.1; or

(3) employees of the political subdivision familiar with the value of the property.

The appraisers shall make a joint appraisal of the property.

(c) The commission may:

(1) negotiate a sale or transfer; and

(2) dispose of the property;

at a value that is not less than the appraised value determined under subsection (b).

(d) Disposal of real property under this chapter is subject to the approval of the commission. The commission may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1.

(e) In addition to any other reason for disapproving a disposal of property under this section, the commission may disapprove a sale of a tract of residential property to any bidder who does not by affidavit declare that the bidder will reside on that property for at least one (1) year after the bidder obtains possession of the property.

As added by P.L.169-2006, SEC.75.

IC 36-7-15.1-16

Special tax on property in redevelopment district

Sec. 16. (a) For the purpose of raising money to carry out this chapter or IC 36-7-15.3, the city-county legislative body may levy each year a special tax upon all property in the redevelopment district. The tax so levied each year shall be certified to the fiscal officers of the city and the county before November 1 of each year. The tax shall be estimated and entered upon the tax duplicates by the county auditor, and shall be collected and enforced by the county treasurer in the same manner as state and county taxes are estimated, entered, collected, and enforced.

(b) As the tax is collected by the county treasurer, it shall be accumulated and kept in a separate fund to be known as the redevelopment district fund and shall be expended and applied only for the purposes of this chapter or IC 36-7-15.3.

(c) The amount of the special tax levy shall be based on the budget of the department but may not exceed one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of taxable valuation in the redevelopment district, except as otherwise provided in this chapter.

(d) The budgets and tax levies under this chapter are subject to review and modification in the manner prescribed by IC 36-3-6.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.84-1987, SEC.7; P.L.2-1989, SEC.32; P.L.6-1997, SEC.211; P.L.146-2008, SEC.750; P.L.137-2012, SEC.120.

IC 36-7-15.1-17

Redevelopment district bonds

Sec. 17. (a) In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project

area, and in anticipation of the special tax to be levied under section 19 of this chapter, the taxes allocated under section 26 of this chapter, or other revenues of the redevelopment district, the commission may, by resolution, issue the bonds of the redevelopment district in the name of the consolidated city and in accordance with IC 36-3-5-8. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

(1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;

(2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;

(3) capitalized interest permitted in this chapter and a debt service reserve for the bonds, to the extent that the redevelopment commission determines that a reserve is reasonably required;

(4) the total cost of all clearing and construction work provided for in the resolution; and

(5) expenses that the commission is required or permitted to pay under IC 8-23-17.

(b) If the commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, the commission may provide for the total cost in one (1) issue of bonds.

(c) The bonds must be dated as set forth in the bond resolution and negotiable subject to the requirements of the bond resolution for the registration of the bonds. The resolution authorizing the bonds must state:

(1) the denominations of the bonds;

(2) the place or places at which the bonds are payable; and

(3) the term of the bonds, which may not exceed:

(A) fifty (50) years, for bonds issued before July 1, 2008; or

(B) twenty-five (25) years, for bonds issued after June 30, 2008.

The resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the commission.

(d) The commission shall certify a copy of the resolution authorizing the bonds to the fiscal officer of the consolidated city, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds shall be executed by the city executive and attested by the fiscal officer. The interest coupons, if any, shall be executed by the facsimile signature of the fiscal officer.

(f) The bonds are exempt from taxation as provided by IC 6-8-5.

(g) The city fiscal officer shall sell the bonds according to law.

Notwithstanding IC 36-3-5-8, bonds payable solely or in part from tax proceeds allocated under section 26(b)(3) of this chapter or other revenues of the district may be sold at private negotiated sale and at a price or prices not less than ninety-seven percent (97%) of the par value.

(h) The bonds are not a corporate obligation of the city but are an indebtedness of the redevelopment district. The bonds and interest are payable:

(1) from a special tax levied upon all of the property in the redevelopment district, as provided by section 19 of this chapter;

(2) from the tax proceeds allocated under section 26(b)(3) of this chapter;

(3) from other revenues available to the commission; or

(4) from a combination of the methods stated in subdivisions (1) through (3);

and from any revenues of the designated project. If the bonds are payable solely from the tax proceeds allocated under section 26(b)(3) of this chapter, other revenues of the redevelopment commission, or any combination of these sources, they may be issued in any amount without limitation.

(i) Proceeds from the sale of the bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issue.

(j) Notwithstanding IC 36-3-5-8, the laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers and voters to remonstrate against, or vote on, the issuance of bonds applicable to bonds issued under this chapter do not apply to bonds payable solely or in part from tax proceeds allocated under section 26(b)(3) of this chapter, other revenues of the commission, or any combination of these sources.

(k) If bonds are issued under this chapter that are payable solely or in part from revenues to the commission from a project or projects, the commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects, but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission. The commission may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the commission that are payable solely from revenues of the commission must contain a statement to that effect in the form of bond.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.72-1983, SEC.6; P.L.84-1987, SEC.8; P.L.2-1989, SEC.33; P.L.18-1990,

SEC.293; P.L.14-1991, SEC.20; P.L.185-2005, SEC.34; P.L.219-2007, SEC.128; P.L.146-2008, SEC.751; P.L.203-2011, SEC.12.

IC 36-7-15.1-17.1
Lease of property to commission; conditions

Sec. 17.1. (a) A commission may enter into a lease of any property that may be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed:

(1) fifty (50) years, for a lease entered into before July 1, 2008; or

(2) twenty-five (25) years, for a lease entered into after June 30, 2008.

The lease may provide for payments to be made by the commission from special benefits taxes levied under section 19 of this chapter, taxes allocated under section 26 of this chapter, any other revenue available to the commission, or any combination of these sources.

(b) A lease may provide that payments by the commission to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the commission only after a public hearing by the commission at which all interested parties are given the opportunity to be heard. Notice of the hearing must be given by publication in accordance with IC 5-3-1. After the public hearing, the commission may adopt a resolution authorizing the execution of the lease on behalf of the unit if it finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the commission must be approved by an ordinance of the fiscal body of the unit.

(d) Upon execution of a lease providing for payments by the commission in whole or in part from the levy of special benefits taxes under section 19 of this chapter and upon approval of the lease by the fiscal body, the commission shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be. Upon the filing of the petition, the county auditor shall immediately certify a copy of it, together with such other data as may be necessary in order to present

the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for the hearing in the redevelopment district, which must be not less than five (5) or more than thirty (30) days after the time for the hearing is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the fiscal body, to the commission, and to the first fifty (50) petitioners on the petition by a letter signed by the commissioner or deputy commissioner of the department and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease and as to whether the payments under it are fair and reasonable, is final.

(e) A commission entering into a lease payable from allocated taxes under section 26 of this chapter or revenues or other available funds of the commission may:

(1) pledge the revenue to make payments under the lease pursuant to IC 5-1-14-4; and

(2) establish a special fund to make the payments.

Lease rentals may be limited to money in the special fund so that the obligations of the commission to make the lease rental payments are not considered a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, no approvals of any governmental body or agency are required before the commission enters into a lease under this section.

(g) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease. However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or to enjoin performance must be brought within thirty (30) days after the decision of the department.

(h) If a commission exercises an option to buy a leased facility from a lessor, the commission may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the commission through auction, appraisal, or arms length negotiation. If the facility is sold at auction, after appraisal, or through negotiation, the commission shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days after the hearing.

As added by P.L.84-1987, SEC.9. Amended by P.L.90-2002, SEC.478; P.L.146-2008, SEC.752.

IC 36-7-15.1-17.2

Persons authorized as lessors

Sec. 17.2. (a) Any of the following persons may lease facilities referred to in section 17.1 of this chapter to a commission:

(1) A not-for-profit corporation organized under Indiana law or admitted to do business in Indiana.

(2) An authority established under IC 36-10-9.1.

(b) Notwithstanding any other law, a lessor under this section and section 17.1 of this chapter is a qualified entity for purposes of IC 5-1.4-1-10.

(c) Notwithstanding any other law, a redevelopment facility leased by the commission under this chapter from a lessor borrowing bond proceeds from a unit under IC 36-7-12 is an economic development facility for purposes of IC 36-7-11.9-3 and IC 36-7-12.

(d) Notwithstanding IC 36-7-12-25 and IC 36-7-12-26, payments by the commission to a lessor described in subsection (c) may be made from sources set forth in section 17.1 of this chapter so long as the payments and the lease are structured to prevent the lease obligation from constituting debt of the unit or the district for purposes of the Constitution of the State of Indiana.

As added by P.L.84-1987, SEC.10.

IC 36-7-15.1-17.5

Pledge of revenues

Sec. 17.5. (a) Notwithstanding any other law, the legislative body may pledge revenues received or to be received by the unit from:

(1) the unit's:

(A) certified shares of the county adjusted gross income tax under IC 6-3.5-1.1;

(B) distributive share of the county option income tax under IC 6-3.5-6; or

(C) distributions of county economic development income tax revenue under IC 6-3.5-7;

(2) any other source legally available to the unit for the purposes of this chapter; or

(3) combination of revenues under subdivisions (1) through (2);

in any amount to pay amounts payable under section 17 or 17.1 of this chapter.

(b) The legislative body may covenant to adopt an ordinance to increase its tax rate under the county option income tax or any other revenues at the time it is necessary to raise funds to pay any amounts payable under section 17 or 17.1 of this chapter.

(c) The commission may pledge revenues received or to be received from any source legally available to it for the purposes of this chapter in any amount to pay amounts payable under section 17 or 17.1 of this chapter.

(d) The pledge or the covenant under this section may be for the life of the bonds issued under section 17 of this chapter, the term of a lease entered into under section 17.1 of this chapter, or for a shorter period as determined by the legislative body. Money pledged by the legislative body under this section shall be considered revenues or

other money available to the commission under sections 17 through 17.1 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant so long as any bonds issued under section 17 of this chapter are outstanding or as long as any lease entered into under section 17.1 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

As added by P.L.84-1987, SEC.11. Amended by P.L.2-1989, SEC.34; P.L.172-2011, SEC.152.

IC 36-7-15.1-18

Redevelopment district fund

Sec. 18. (a) All proceeds from the sale of bonds under section 17 of this chapter shall be kept as a separate and specific fund to pay the expenses incurred in connection with the acquisition and redevelopment of property. The fund shall be known as the redevelopment district fund. Any surplus of funds remaining after all expenses are paid shall be paid into and become a part of the redevelopment district bond fund established under section 19 of this chapter.

(b) All gifts, donations, proceeds of sales, or other payments that are given or paid to the department or to the consolidated city for redevelopment purposes shall be promptly deposited to the credit of the redevelopment district fund. The commission may use these gifts and donations for the purposes of this chapter.

(c) Before the eleventh day of each calendar month the city fiscal officer shall notify the commission and the officers of the city who have duties in respect to the funds and accounts of the city of the amount standing to the credit of the redevelopment district fund at the close of business on the last day of the preceding month.

As added by Acts 1982, P.L.77, SEC.8.

IC 36-7-15.1-19

Redevelopment district bond fund; special tax

Sec. 19. (a) This section applies only to:

(1) bonds that are issued under section 17 of this chapter; or

(2) leases entered into under section 17.1 of this chapter;

that are payable from a special tax levied upon all of the property in the redevelopment district. This section does not apply to bonds or leases that are payable solely from tax proceeds allocated under section 26(b)(3) of this chapter, other revenues of the commission, or any combination of these sources.

(b) The city-county legislative body shall levy each year a special tax on all of the property of the redevelopment district, in such a manner as to meet and pay:

(1) the principal of the bonds as they mature, together with all accruing interest on the bonds; or

(2) lease rental payments under section 17.1 of this chapter.

The tax levied shall be certified to the fiscal officers of the consolidated city and the county before October 2 in each year. The

tax shall be estimated and entered on the tax duplicate by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other state and county taxes are estimated, entered, collected, and enforced.

(c) As the tax is collected, it shall be accumulated in a separate fund to be known as the redevelopment district bond fund and shall be applied to the payment of the bonds as they mature and the interest on the bonds as it accrues, or to make lease payments and to no other purpose. All accumulations of the fund before their use for the payment of bonds and interest or to make lease payments shall be deposited with the depository or depositories for other public funds of the city in accordance with the statutes concerning the deposit of public funds, unless they are invested under IC 5-13.

(d) The tax levies provided for in this section are reviewable by other bodies vested by law with the authority to ascertain that the levies are sufficient to raise the amount that, with other amounts available, is sufficient to meet the payments under the lease payable from the levy of taxes.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.72-1983, SEC.7; P.L.84-1987, SEC.12; P.L.2-1989, SEC.35; P.L.203-2011, SEC.13.

IC 36-7-15.1-20

Urban renewal projects

Sec. 20. In addition to its authority under any other section of this chapter, the commission may plan and undertake urban renewal projects. For purposes of this chapter, an urban renewal project includes undertakings and activities for the elimination or the prevention of the development or spread of the conditions described in IC 36-7-1-3, and may involve any work or undertaking that is performed for those purposes constituting a redevelopment project, or any rehabilitation or conservation work, or any combination of such an undertaking or work, such as the following:

(1) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements.

(2) Acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements on the property when necessary to do any of the following:

(A) Eliminate unhealthful, unsanitary, or unsafe conditions.

(B) Mitigate or eliminate environmental contamination.

(C) Lessen density.

(D) Reduce traffic hazards.

(E) Eliminate uses that are obsolete or otherwise detrimental to the public welfare.

(F) Otherwise remove or prevent the spread of the conditions described in IC 36-7-1-3.

(G) Provide land for needed public facilities.

(3) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project.

(4) The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.185-2005, SEC.35; P.L.221-2007, SEC.44.

IC 36-7-15.1-21
Urban renewal plan

Sec. 21. An urban renewal project undertaken under this chapter must be undertaken in accordance with an urban renewal plan for the area of the project. For purposes of this chapter, an urban renewal plan is a plan for an urban renewal project that:

(1) conforms to the comprehensive plan for the county as a whole; and

(2) is sufficiently complete to indicate:

(A) land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation proposed to be carried out in the area of the urban renewal project;

(B) zoning and planning changes, if any;

(C) land uses;

(D) maximum densities;

(E) building requirements; and

(F) the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

As added by Acts 1982, P.L.77, SEC.8.

IC 36-7-15.1-22
Commission powers and duties concerning planning and urban renewal plans and projects

Sec. 22. (a) In connection with the planning and undertaking of an urban renewal plan or urban renewal project, the commission and all public and private officers, agencies, and bodies have all the rights, powers, privileges, duties, and immunities that they have with respect to a redevelopment plan or redevelopment project, as if all of the provisions of this chapter applicable to a redevelopment plan or redevelopment project were applicable to an urban renewal plan or urban renewal project.

(b) In addition to its other powers, the commission may also:

(1) make plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements;

(2) make plans for the enforcement of laws and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;

(3) make preliminary plans outlining urban renewal activities for neighborhoods to embrace two (2) or more urban renewal areas;

(4) make preliminary surveys, including environmental assessments, to determine if the undertaking and carrying out of an urban renewal project are feasible;

(5) make plans for the relocation of persons (including families, business concerns, and others) displaced by an urban renewal project;

(6) make relocation payments in accordance with eligibility requirements of IC 8-23-17 or the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 (42 U.S.C. 4621 et seq.) to or with respect to persons (including families, business concerns, and others) displaced by an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of payments financed by the federal government; and

(7) develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of the conditions described in IC 36-7-1-3 in urban areas.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.14-1991, SEC.21; P.L.185-2005, SEC.36; P.L.221-2007, SEC.45.

IC 36-7-15.1-22.5

Acquisition through eminent domain; public meeting; notice; resolution and petition; approval by county fiscal body

Sec. 22.5. (a) Subject to the approval of the county fiscal body, the commission may acquire a parcel of real property by the exercise of eminent domain when the following conditions exist:

(1) The real property meets at least one (1) of the conditions described in IC 32-24-4.5-7(1).

(2) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

(3) The real property suffers from one (1) or more of the conditions listed in IC 36-7-1-3, resulting in a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or its designated hearing examiner shall conduct a public meeting to determine whether the conditions set forth in subsection (a) exist relative to a parcel of real property. Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing, and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, it shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-24.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.

(2) Sale to a family whose income is at or below the county's median income for families.

(3) Sale or grant to a neighborhood development corporation or other nonprofit corporation, with a condition in the granting clause of the deed requiring the nonprofit organization to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the county's median income for families. However, a nonprofit organization is eligible for a sale or grant under this subdivision only if the county fiscal body has determined that the nonprofit organization meets the criteria established under subsection (f).

(4) Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the county's median income for families.

(f) The county fiscal body shall establish criteria for determining the eligibility of neighborhood development corporations and other nonprofit corporations for sales and grants of real property under subsection (e)(3). A neighborhood development corporation or other nonprofit corporation may apply to the county fiscal body for a determination concerning the corporation's compliance with the criteria established under this subsection.

(g) A neighborhood development corporation or nonprofit corporation that receives property under this section must agree to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the corporation.

As added by P.L.193-1988, SEC.5. Amended by P.L.31-1994, SEC.21; P.L.86-1999, SEC.4; P.L.2-2002, SEC.113; P.L.185-2005, SEC.37; P.L.163-2006, SEC.21; P.L.146-2008, SEC.753.

IC 36-7-15.1-23

Aid and cooperation of public entities; delegation; agreements

Sec. 23. (a) Any:

(1) political subdivision;

(2) other governmental entity;

(3) public instrumentality created by state law; or

(4) public body created by state law;

may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) The commission may delegate to:

(1) an executive department of the consolidated city or county;

(2) another governmental entity;
(3) a public instrumentality created by state law; or
(4) a public body created by state law;

any of the powers or functions of the commission with respect to the planning or undertaking of an urban renewal project in the area in which that department or entity is authorized to act. The department, entity, public instrumentality, or public body may then carry out or perform those powers or functions for the commission.

(c) A unit, another governmental entity, a public instrumentality created by state law, or a public body created by state law may enter into agreements with the commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project. These agreements may extend over any period, notwithstanding any other law.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.221-2007, SEC.46.

IC 36-7-15.1-24

Financial assistance; federal aid; issuance of bonds, notes, and warrants; approval by legislative body

Sec. 24. (a) Subject to the approval of the legislative body of the consolidated city, and in order to:

(1) undertake survey and planning activities under this chapter;
(2) undertake and carry out any redevelopment project, urban renewal project, economic development plan, or housing program;
(3) pay principal and interest on any advances;
(4) pay or retire any bonds and interest on them; or
(5) refund loans previously made under this section;

the commission may apply for and accept advances, short term and long term loans, grants, contributions, loan guarantees, and any other form of financial assistance from the federal government, or from any of its agencies. The commission may apply for and accept loans under this section from sources other than the federal government or federal agencies but only if the loans are unconditionally guaranteed by the federal government or federal agencies. The commission may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the commission considers reasonable and appropriate, as long as those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the consolidated city or its executive departments and officers, as well as the commission, notwithstanding any other provision of this chapter.

(b) Subject to the approval of the fiscal body of the consolidated city, the commission may issue and sell bonds, notes, or warrants:

(1) to the federal government to evidence short term or long term loans made under this section; or

(2) to persons or entities other than the federal government to evidence short or long term loans made under this section that are unconditionally guaranteed by the federal government or federal agencies;

without notice of sale being given or a public offering being made.

(c) Notwithstanding any other law, bonds, notes, or warrants issued by the commission under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured (subject to other provisions of this section) in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at a time or times (which may be upon demand) and at a place or places;

(9) be subject to terms of redemption (with or without premium);

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the commission considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the city or redevelopment district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by income, funds, and properties of the project becoming available to the commission under this chapter or by grant funds from the federal government, as the commission specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation as provided by IC 6-8-5.

(f) Bonds, notes, or warrants issued under this section shall be executed by the city executive and attested by the fiscal officer in the name of the "City of _____, Department of Metropolitan Development".

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the commission shall certify a copy of that resolution to the officers of the city who have duties with respect to bonds, notes, or warrants of the city. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the city who have duties with respect to the sale of bonds, notes, or warrants of the city. If an officer whose signature appears on any bonds, notes, or warrants issued under this

section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if he had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the commission without regard to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.2-1989, SEC.36; P.L.146-2008, SEC.754.

IC 36-7-15.1-25
Tax exemptions

Sec. 25. (a) Real property acquired by the redevelopment district is exempt from taxation while owned by the district.

(b) All receipts of the department, including receipts from the sale of real property, personal property, and materials disposed of, are exempt from all taxes.

(c) As used in this subsection, "year one" means any calendar year and "year two" means the calendar year following year one. When real property is acquired by the redevelopment district during the period from assessment on March 1 of year one to the last day of February of year two, the taxes due in year two shall be prorated between the seller and the city. When the proration is made, the auditor shall remove the city's prorated share from the tax duplicate by auditor's correction.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.192-1984, SEC.12; P.L.14-1991, SEC.22; P.L.192-2002(ss), SEC.180.

IC 36-7-15.1-26 Version a
Real property tax allocation and distribution

Note: This version of section effective until 1-1-2013. See also following version of this section, effective 1-1-2013.

Sec. 26. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section 8 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June

30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 26.2 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A resolution adopted under section 8 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the first obligation was incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds

of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 19 of this chapter.

(D) Pay the principal of and interest on bonds issued by the consolidated city to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 17.1 of this chapter.

(G) Reimburse the consolidated city for expenditures for local public improvements (which include buildings, parking facilities, and other items set forth in section 17 of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(J) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following:

(i) Make, when due, any payments required under clauses (A) through (I), including any payments of principal and interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.

(ii) Make any reimbursements required under this subdivision.

(iii) Pay any expenses required under this subdivision.

(iv) Establish, augment, or restore any debt service reserve under this subdivision.

The special fund may not be used for operating expenses of the commission.

(4) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3) plus the amount necessary for other purposes described in subdivision (3) and subsection (g).

(B) Provide a written notice to the county auditor, the legislative body of the consolidated city, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is

wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (3).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the

enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in the enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(3). However, where reference is made in subsection (b)(3) to the allocation area, the reference refers for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(3) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is

determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.72-1983, SEC.8; P.L.393-1987(ss), SEC.7; P.L.37-1988, SEC.26; P.L.14-1991, SEC.23; P.L.41-1992, SEC.7; P.L.18-1992, SEC.27; P.L.2-1995, SEC.134; P.L.25-1995, SEC.89; P.L.85-1995, SEC.41; P.L.255-1997(ss), SEC.17; P.L.90-2002, SEC.479; P.L.4-2005, SEC.138; P.L.185-2005, SEC.38; P.L.216-2005, SEC.7; P.L.154-2006, SEC.77; P.L.146-2008, SEC.755; P.L.88-2009, SEC.14; P.L.182-2009(ss), SEC.406; P.L.203-2011, SEC.14.

IC 36-7-15.1-26 Version b

Real property tax allocation and distribution

Note: This version of section effective 1-1-2013. See also preceding version of this section, effective until 1-1-2013.

Sec. 26. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section 8 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally

determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 26.2 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A resolution adopted under section 8 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of

property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the first obligation was incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred

by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 19 of this chapter.

(D) Pay the principal of and interest on bonds issued by the consolidated city to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 17.1 of this chapter.

(G) Reimburse the consolidated city for expenditures for local public improvements (which include buildings, parking facilities, and other items set forth in section 17 of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(J) Pay the costs of carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following:

(i) Make, when due, any payments required under clauses (A) through (I), including any payments of principal and

interest on bonds and other obligations payable under this subdivision, any payments of premiums under this subdivision on the redemption before maturity of bonds, and any payments on leases payable under this subdivision.

(ii) Make any reimbursements required under this subdivision.

(iii) Pay any expenses required under this subdivision.

(iv) Establish, augment, or restore any debt service reserve under this subdivision.

The special fund may not be used for operating expenses of the commission.

(4) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3) plus the amount necessary for other purposes described in subdivision (3) and subsection (g).

(B) Provide a written notice to the county auditor, the legislative body of the consolidated city, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (3).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in the enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(3). However, where reference is made in subsection (b)(3) to the allocation area, the reference refers for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment of real property in an area under IC 6-1.1-4-4 and after each reassessment under a reassessment plan prepared under IC 6-1.1-4-4.2, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the reassessment of the real property in the area on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(3) than would otherwise have been received if the general reassessment, reassessment under the reassessment plan, or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

As added by Acts 1982, P.L.77, SEC.8. Amended by P.L.72-1983, SEC.8; P.L.393-1987(ss), SEC.7; P.L.37-1988, SEC.26; P.L.14-1991, SEC.23; P.L.41-1992, SEC.7; P.L.18-1992, SEC.27; P.L.2-1995, SEC.134; P.L.25-1995, SEC.89; P.L.85-1995, SEC.41; P.L.255-1997(ss), SEC.17; P.L.90-2002, SEC.479; P.L.4-2005, SEC.138; P.L.185-2005, SEC.38; P.L.216-2005, SEC.7;

P.L.154-2006, SEC.77; P.L.146-2008, SEC.755; P.L.88-2009, SEC.14; P.L.182-2009(ss), SEC.406; P.L.203-2011, SEC.14; P.L.112-2012, SEC.56.

IC 36-7-15.1-26.1
Repealed

(*Repealed by P.L.146-2008, SEC.812.)*

IC 36-7-15.1-26.2
Definitions; amendment of resolution; property taxes

Sec. 26.2. (a) As used in this section, "depreciable personal property" refers to all of the designated taxpayer's depreciable personal property that is located in the allocation area.

(b) As used in this section, "designated taxpayer" means a taxpayer designated by the commission in a declaratory resolution adopted or amended under section 8 or 10.5 of this chapter, and with respect to which the commission finds that:

(1) taxes to be derived from the taxpayer's depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of that personal property, are needed to pay debt service for bonds issued under section 17 of this chapter or to make payments on leases payable under section 17.1 of this chapter in order to provide local public improvements for a particular allocation area;

(2) the taxpayer's property in the allocation area will consist primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, transportation, or convention center hotel related projects or regulated amusement devices (as defined in IC 22-12-1-19.1) and related improvements; and

(3) the taxpayer's property in the allocation area will not consist primarily of retail, commercial, or residential projects, other than an amusement park or tourism industry project.

For purposes of subdivision (3), a convention center hotel project is not considered a retail, commercial, or residential project.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 26(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property of designated taxpayers in accordance with the procedures and limitations set forth in this section and section 26 of this chapter. If such a modification is included in the resolution, for purposes of section 26 of this chapter the term "base assessed value" with respect to the depreciable personal property of designated taxpayers means the net assessed value of the depreciable personal property as finally determined for the assessment date immediately preceding:

(1) the effective date of the modification, for modifications adopted before July 1, 1995; and

(2) the adoption date of the modification for modifications adopted after June 30, 1995;

as adjusted under section 26(h) of this chapter.
As added by P.L.41-1992, SEC.8. Amended by P.L.25-1995, SEC.90; P.L.234-2007, SEC.205; P.L.172-2011, SEC.153.

IC 36-7-15.1-26.5
Repealed
(*Repealed by P.L.146-2008, SEC.813.)*

IC 36-7-15.1-26.7
Repealed
(*Repealed by P.L.146-2008, SEC.813.)*

IC 36-7-15.1-26.9
Repealed
(*Repealed by P.L.146-2008, SEC.813.)*

IC 36-7-15.1-27
Crimes and offenses
Sec. 27. A person who knowingly:
(1) applies any money raised under this chapter to any purpose other than those permitted by this chapter; or
(2) fails to follow the voucher and warrant procedure prescribed by law in expending any money raised under this chapter;
commits a Class C felony.
As added by Acts 1982, P.L.77, SEC.8.

IC 36-7-15.1-28
Planning and development as public and governmental function; goals; public purpose; construction
Sec. 28. (a) The planning, replanning, development, and redevelopment of economic development areas are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise due to:
(1) the necessity for the exercise of the power of eminent domain;
(2) the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens; and
(3) the costs of these projects.
(b) The planning, replanning, development, and redevelopment of economic development areas will:
(1) benefit the health, safety, morals, and welfare;
(2) increase the economic well-being of the county and the state; and
(3) serve to protect and increase property values in the county and the state.
(c) The planning, replanning, development, and redevelopment of economic development areas under this section and sections 29, 30, 57, and 58 of this chapter are public uses and purposes for which public money may be spent and private property may be acquired.
(d) This section and sections 29, 30, 57, and 58 of this chapter

shall be liberally construed to carry out the purposes of this section. *As added by P.L.222-1986, SEC.2. Amended by P.L.102-1999, SEC.3.*

IC 36-7-15.1-29
Determination of economic development area; approval; requirements; procedures

Sec. 29. (a) The commission may, by following the procedures set forth in sections 8, 9, and 10 of this chapter, approve a plan for and determine that a geographic area in the redevelopment district is an economic development area. Designation of an economic development area is subject to judicial review in the manner prescribed in section 11 of this chapter.

(b) The commission may determine that a geographic area is an economic development area if it finds:

(1) the plan for the economic development area:

(A) promotes significant opportunities for the gainful employment of its citizens;

(B) attracts a major new business enterprise to the unit;

(C) retains or expands a significant business enterprise existing in the boundaries of the unit; or

(D) meets other purposes of this section and sections 28 and 30 of this chapter;

(2) the plan for the economic development area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under this section and sections 28 and 30 of this chapter because of:

(A) lack of local public improvement;

(B) existence of improvements or conditions that lower the value of the land below that of nearby land;

(C) multiple ownership of land; or

(D) other similar conditions;

(3) the public health and welfare will be benefited by accomplishment of the plan for the economic development area;

(4) the accomplishment of the plan for the economic development area will be a public utility and benefit as measured by:

(A) attraction or retention of permanent jobs;

(B) increase in the property tax base;

(C) improved diversity of the economic base; or

(D) other similar public benefits; and

(5) the plan for the economic development area conforms to the comprehensive plan of development for the consolidated city.

(c) The determination that a geographic area is an economic development area must be approved by the city-county legislative body. The approval may be given either before or after judicial review is requested. The requirement that the city-county legislative body approve economic development areas does not prevent the commission from amending the plan for the economic development area.

As added by P.L.222-1986, SEC.3. Amended by P.L.146-2008, SEC.757; P.L.172-2011, SEC.154.

IC 36-7-15.1-30
Powers of commission

Sec. 30. (a) All of the rights, powers, privileges, and immunities that may be exercised by the commission in a redevelopment project area or urban renewal area may be exercised by the commission in an economic development area, subject to the following:

(1) The content and manner of exercise of these rights, powers, privileges, and immunities shall be determined by the purposes and nature of an economic development area.

(2) Real property (or interests in real property) relative to which action is taken under this section or section 28 or 29 of this chapter in an economic development area is not required to meet the conditions described in IC 36-7-1-3.

(3) The special tax levied in accordance with section 16 of this chapter may be used to carry out activities under this chapter in economic development areas.

(4) Bonds may be issued in accordance with section 17 of this chapter to defray expenses of carrying out activities under this chapter in economic development areas if no other revenue sources are available for this purpose.

(5) The tax exemptions set forth in section 25 of this chapter are applicable in economic development areas.

(6) An economic development area may be an allocation area for the purposes of distribution and allocation of property taxes.

(7) The commission may not use its power of eminent domain under section 13 of this chapter to carry out activities under this chapter in economic development areas.

(b) The content and manner of discharge of duties set forth in section 6 of this chapter shall be determined by the purposes and nature of an economic development area.

As added by P.L.222-1986, SEC.4. Amended by P.L.185-2005, SEC.39; P.L.146-2008, SEC.758.

IC 36-7-15.1-31
Findings of general assembly

Sec. 31. The general assembly finds the following:

(1) There exists within areas needing redevelopment a shortage of safe and affordable housing for persons of low and moderate income.

(2) The planning, replanning, development, and redevelopment of housing within areas needing redevelopment are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of:

(A) the necessity for the exercise of the power of eminent domain;

(B) the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens;

and

(C) the costs of these projects.

(3) The provision of affordable housing for persons of low or moderate income does not compete with the ordinary operation of private enterprise.

(4) It is in the public interest that work on the provision of housing be commenced as soon as possible to relieve the need for this housing, which constitutes an emergency.

(5) The absence of affordable housing in areas needing redevelopment necessitates excessive and disproportionate expenditures of public funds for crime prevention, public health and safety, fire and accident prevention, and other public services and facilities.

(6) The planning, replanning, development, and redevelopment of housing within areas needing redevelopment will do the following:

(A) Benefit the health, safety, morals, and welfare of the county and the state.

(B) Serve to protect and increase property values in the county and the state.

(C) Benefit persons of low and moderate income by making affordable housing available to them.

(D) Reduce public expenditures required for governmental functions such as police and fire protection and other services.

(7) The planning, replanning, development, and redevelopment of housing within areas needing redevelopment under this section and sections 32 through 35 of this chapter are:

(A) necessary in the public interest; and

(B) public uses and purposes for which public money may be spent and private property may be acquired.

(8) This section and sections 32 through 35 of this chapter shall be liberally construed to carry out the purposes of this section and this chapter.

As added by P.L.193-1988, SEC.7. Amended by P.L.185-2005, SEC.40.

IC 36-7-15.1-32

Housing program; notice and hearing; neighbor associations and residents

Sec. 32. (a) The commission must establish a program for housing. The program, which may include such elements as the commission considers appropriate, must be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 26 and 35 of this chapter for the accomplishment of the program.

(b) The notice and hearing provisions of sections 10 and 10.5 of this chapter apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 11 of this chapter.

(c) Before formal submission of any housing program to the commission, the department shall consult with persons interested in or affected by the proposed program and provide the affected neighborhood associations, residents, township assessors (if any), and the county assessor with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program. The department may hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

As added by P.L.193-1988, SEC.8. Amended by P.L.219-2007, SEC.130; P.L.146-2008, SEC.759.

IC 36-7-15.1-33

Commission rights, powers, privileges, and immunities

Sec. 33. All of the rights, powers, privileges, and immunities that may be exercised by the commission in redevelopment project areas may be exercised by the commission in implementing its program for housing including the following:

(1) The special tax levied in accordance with section 16 of this chapter may be used to accomplish the housing program.

(2) Bonds may be issued under this chapter to accomplish the housing program, but only one (1) issue of bonds may be issued and payable from increments in any allocation area except for refunding bonds or bonds issued in an amount necessary to complete a housing program for which bonds were previously issued.

(3) Leases may be entered into under this chapter to accomplish the housing program.

(4) The tax exemptions set forth in section 25 of this chapter are applicable.

(5) Property taxes may be allocated under section 26 of this chapter.

As added by P.L.193-1988, SEC.9. Amended by P.L.185-2005, SEC.41.

IC 36-7-15.1-34

Housing program; resolution; findings

Sec. 34. The commission must make the following findings in the resolution adopting a housing program under section 32 of this chapter:

(1) The program meets the purposes of section 31 of this chapter.

(2) The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:

(A) lack of public improvements;

(B) existence of improvements or conditions that lower the value of the land below that of nearby land; or

(C) other similar conditions.

(3) The public health and welfare will be benefited by

accomplishment of the program.

(4) The accomplishment of the program will be of public utility and benefit as measured by:

(A) provision of adequate housing for low and moderate income persons;

(B) increase in the property tax base; or

(C) other similar public benefits.

(5) At least one-third (1/3) of the parcels in the allocation area established by the program are vacant.

(6) At least three-fourths (3/4) of the allocation area is used for residential purposes or is planned to be used for residential purposes.

(7) At least one-third (1/3) of the residential units in the allocation area were constructed before 1941.

(8) At least one-third (1/3) of the parcels in the allocation area have one (1) or more of the following characteristics:

(A) The dwelling unit on the parcel is not permanently occupied.

(B) The parcel is the subject of a governmental order, issued under a statute or ordinance, requiring the correction of a housing code violation or unsafe building condition.

(C) Two (2) or more property tax payments on the parcel are delinquent.

(D) The parcel is owned by local, state, or federal government.

As added by P.L.193-1988, SEC.10. Amended by P.L.1-1993, SEC.246.

IC 36-7-15.1-35

Base assessed value; special fund use for allocation area program; maximum additional credit; resolution

Sec. 35. (a) Notwithstanding section 26(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 32 of this chapter, "base assessed value" means the net assessed value of all of the land as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 26(h) of this chapter. However, "base assessed value" does not include the value of real property improvements to the land.

(b) The special fund established under section 26(b) of this chapter for the allocation area for a program adopted under section 32 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

(1) The construction, rehabilitation, or repair of residential units within the allocation area.

(2) The construction, reconstruction, or repair of infrastructure (such as streets, sidewalks, and sewers) within or serving the allocation area.

(3) The acquisition of real property and interests in real property within the allocation area.

(4) The demolition of real property within the allocation area.

(5) To provide financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(6) To provide financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).

(7) For property taxes first due and payable before 2009, to provide each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, this credit may be provided by the commission only if the city-county legislative body establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 32 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2 (before its repeal)) for that year as determined under IC 6-1.1-21-4(a)(1) (before its repeal) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2 (before its repeal)) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) Except as provided in subsection (g), the commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c), by applying one-half (1/2) of the credit to each installment of taxes (as defined in IC 6-1.1-21-2 (before its repeal)) that under IC 6-1.1-22-9 are due and payable in a year. Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2 (before its repeal)). The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the

allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 17.1 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 26(b) of this chapter, the special fund established under section 26(b) of this chapter for the allocation area for a program adopted under section 32 of this chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 26(b)(3)(A) through 26(b)(3)(H) of this chapter.

(2) Reimburse the consolidated city for expenditures made by the city in order to accomplish the housing program in that allocation area.

The special fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 26(b) of this chapter, the commission shall, relative to the special fund established under section 26(b) of this chapter for an allocation area for a program adopted under section 32 of this chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to:

(A) make the distribution required under section 26(b)(2) of this chapter;

(B) make, when due, principal and interest payments on bonds described in section 26(b)(3) of this chapter;

(C) pay the amount necessary for other purposes described in section 26(b)(3) of this chapter; and

(D) reimburse the consolidated city for anticipated expenditures described in subsection (e)(2).

(2) Provide a written notice to the county auditor, the legislative body of the consolidated city, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(A) state the amount, if any, of excess assessed value that the

commission has determined may be allocated to the respective taxing units in the manner prescribed in section 26(b)(1) of this chapter; or

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in section 26(b)(1) of this chapter.

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1 (before its repeal)) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2 (before its repeal)) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2 (before its repeal)).

As added by P.L.193-1988, SEC.11. Amended by P.L.2-1989, SEC.38; P.L.192-2002(ss), SEC.182; P.L.1-2004, SEC.66 and P.L.23-2004, SEC.68; P.L.219-2007, SEC.131; P.L.146-2008, SEC.760; P.L.42-2011, SEC.78; P.L.203-2011, SEC.15; P.L.6-2012, SEC.245.

IC 36-7-15.1-35.5

Supplemental housing program; housing trust fund; low income housing trust fund advisory committee

Sec. 35.5. (a) The general assembly finds the following:

(1) Federal law permits the sale of a multiple family housing project that is or has been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development without requiring the continuation of that project based assistance.

(2) Such a sale displaces the former residents of a multiple family housing project described in subdivision (1) and increases the shortage of safe and affordable housing for persons of low and moderate income within the county.

(3) The displacement of families and individuals from affordable housing requires increased expenditures of public funds for crime prevention, public health and safety, fire and accident prevention, and other public services and facilities.

(4) The establishment of a supplemental housing program under this section will do the following:

(A) Benefit the health, safety, morals, and welfare of the county and the state.

(B) Serve to protect and increase property values in the county and the state.

(C) Benefit persons of low and moderate income by making affordable housing available to them.

(5) The establishment of a supplemental housing program under this section and sections 32 through 35 of this chapter is:

(A) necessary in the public interest; and

(B) a public use and purpose for which public money may be spent and private property may be acquired.

(b) In addition to its other powers with respect to a housing program under sections 32 through 35 of this chapter, the commission may establish a supplemental housing program. Except as provided by this section, the commission has the same powers and duties with respect to the supplemental housing program that the commission has under sections 32 through 35 of this chapter with respect to the housing program.

(c) One (1) allocation area may be established for the supplemental housing program. The commission is not required to make the findings required under section 34(5) through 34(8) of this chapter with respect to the allocation area. However, the commission must find that the property contained within the boundaries of the allocation area consists solely of one (1) or more multiple family housing projects that are or have been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development or have been owned at one time by a public housing agency. The allocation area need not be contiguous. The definition of "base assessed value" set forth in section 35(a) of this chapter applies to the special fund established under section 26(b) of this chapter for the allocation area.

(d) The special fund established under section 26(b) of this chapter for the allocation area established under this section may be used only for the following purposes:

(1) Subject to subdivision (2), on January 1 and July 1 of each year the balance of the special fund shall be transferred to the housing trust fund established under subsection (e).

(2) The commission may provide each taxpayer in the allocation area a credit for property tax replacement in the manner provided by section 35(b)(7) of this chapter. Transfers made under subdivision (1) shall be reduced by the amount necessary to provide the credit.

(e) The commission shall, by resolution, establish a housing trust fund to be administered, subject to the terms of the resolution, by:

(1) the housing division of the consolidated city; or

(2) the department, division, or agency that has been designated to perform the public housing function by an ordinance adopted under IC 36-7-18-1.

(f) The housing trust fund consists of:

(1) amounts transferred to the fund under subsection (d);

(2) payments in lieu of taxes deposited in the fund under IC 36-3-2-11;

(3) gifts and grants to the fund;
(4) investment income earned on the fund's assets;
(5) money deposited in the fund under IC 36-2-7-10(j); and
(6) other funds from sources approved by the commission.

(g) The commission shall, by resolution, establish uses for the housing trust fund. However, the uses must be limited to:

(1) providing financial assistance to those individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, to enable those individuals and families to purchase or lease residential units within the county;
(2) paying expenses of administering the fund;
(3) making grants, loans, and loan guarantees for the development, rehabilitation, or financing of affordable housing for individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, including the elderly, persons with disabilities, and homeless individuals and families; and
(4) providing technical assistance to nonprofit developers of affordable housing.

(h) At least fifty percent (50%) of the dollars allocated for production, rehabilitation, or purchase of housing must be used for units to be occupied by individuals and families whose income is at or below fifty percent (50%) of the county's area median income for individuals and families, respectively.

(i) The low income housing trust fund advisory committee is established. The low-income housing trust fund advisory committee consists of eleven (11) members. The membership of the low income housing trust fund advisory committee is comprised of:

(1) one (1) member appointed by the mayor, to represent the interests of low income families;
(2) one (1) member appointed by the mayor, to represent the interests of owners of subsidized, multifamily housing communities;
(3) one (1) member appointed by the mayor, to represent the interests of banks and other financial institutions;
(4) one (1) member appointed by the mayor, of the department of metropolitan development;
(5) three (3) members representing the community at large appointed by the commission, from nominations submitted to the commission as a result of a general call for nominations from neighborhood associations, community based organizations, and other social services agencies;
(6) one (1) member appointed by and representing the Coalition for Homeless Intervention and Prevention of Greater Indianapolis;
(7) one (1) member appointed by and representing the Local Initiatives Support Corporation;
(8) one (1) member appointed by and representing the Indianapolis Coalition for Neighborhood Development; and

(9) one (1) member appointed by and representing the Indianapolis Neighborhood Housing Partnership.

Members of the low income housing trust fund advisory committee serve for a term of four (4) years, and are eligible for reappointment. If a vacancy exists on the committee, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy. A committee member may be removed at any time by the appointing authority who appointed the committee member.

(j) The low income housing trust fund advisory committee shall make recommendations to the commission regarding:

(1) the development of policies and procedures for the uses of the low income housing trust fund; and

(2) long term sources of capital for the low income housing trust fund, including:

(A) revenue from:

(i) development ordinances;

(ii) fees; or

(iii) taxes;

(B) financial market based income;

(C) revenue derived from private sources; and

(D) revenue generated from grants, gifts, donations, or income in any other form, from a:

(i) government program;

(ii) foundation; or

(iii) corporation.

(k) The county treasurer shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

As added by P.L.19-2000, SEC.3. Amended by P.L.211-2007, SEC.48.

IC 36-7-15.1-36

Military base reuse area

Sec. 36. A redevelopment project area, an urban renewal area, or an economic development area established under this chapter may not include land that constitutes part of a military base reuse area established under IC 36-7-30.

As added by P.L.26-1995, SEC.8. Amended by P.L.185-2005, SEC.42.

IC 36-7-15.1-36.2

Quadrennial fiscal analysis; report

Sec. 36.2. On a quadrennial basis, the general assembly shall provide for an evaluation of the provisions of this chapter, giving first priority to using the Indiana economic development corporation established under IC 5-28-3. The evaluation must be a fiscal analysis, including an assessment of the effectiveness of the provisions of this chapter to:

(1) create new jobs;

(2) increase income; and
(3) increase the tax base;
in the jurisdiction of the county. The fiscal analysis may also consider impacts on tax burdens borne by property owners. The fiscal analysis may also include a review of the practices and experiences of other states or political subdivisions with laws similar to the provisions of this chapter. The Indiana economic development corporation established under IC 5-28-3 or another person or entity designated by the general assembly shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives before December 1, 2007, and every fourth year thereafter.
As added by P.L.25-1995, SEC.91. Amended by P.L.4-2005, SEC.139.

IC 36-7-15.1-36.3
Annual report; contents

Sec. 36.3. (a) Within thirty (30) days after the close of each calendar year, the commission shall file with the mayor a report setting out the commission's activities during the preceding calendar year.

(b) The report required by subsection (a) must show the names of the then qualified and acting commissioners, the names of the officers of that body, the number of regular employees and their fixed salaries or compensation, the amount of the expenditures made during the preceding year and their general purpose, an accounting of the tax increment revenues expended by any entity receiving the tax increment revenues as a grant or loan from the commission, the amount of funds on hand at the close of the calendar year, and other information necessary to disclose the activities of the commission and the results obtained.

(c) A copy of each report filed under this section must be submitted to the department of local government finance in an electronic format under IC 5-14-6.
As added by P.L.112-2012, SEC.57.

IC 36-7-15.1-37
Additional definitions; applicability of certain sections

Sec. 37. (a) As used in this section and sections 38 through 58 of this chapter:

"City" or "excluded city" refers to an excluded city (as defined in IC 36-3-1-7) but does not refer to an excluded city described in IC 36-7-14-1(b).

"Commission" refers to the metropolitan development commission acting as the redevelopment commission of an excluded city.

(b) Sections 38 through 58 of this chapter do not apply to an excluded city described in IC 36-7-14-1(b).
As added by P.L.102-1999, SEC.4. Amended by P.L.190-2005, SEC.13; P.L.1-2006, SEC.568.

IC 36-7-15.1-38
Redevelopment districts

Sec. 38. (a) There exists in each excluded city a redevelopment district comprised of all land situated within the geographic boundaries of each respective excluded city.

(b) Each redevelopment district described in subsection (a) constitutes a special taxing district for the purpose of levying and collecting special benefit taxes for redevelopment purposes as provided in this chapter.

(c) All of the taxable property within each redevelopment district established by subsection (a) is considered to be benefited by redevelopment projects carried out under sections 37 through 58 of this chapter to the extent of the special taxes levied under sections 37 through 58 of this chapter.

As added by P.L.102-1999, SEC.5.

IC 36-7-15.1-39
Powers and duties of commission; eminent domain

Sec. 39. (a) A commission has the duties set forth in section 6 of this chapter.

(b) A commission may exercise all the powers set forth in section 7 of this chapter, except that all powers regarding condemnation and eminent domain under this section are vested solely in the legislative body of an excluded city. Eminent domain proceedings under this section are governed by IC 32-24.

As added by P.L.102-1999, SEC.6. Amended by P.L.2-2002, SEC.114.

IC 36-7-15.1-40
Establishment of redevelopment project area; amendment to redevelopment resolutions; appeals

Sec. 40. (a) A commission shall establish a redevelopment project area by following the procedures set forth in sections 8 through 10 of this chapter. The establishment of a redevelopment project area under this subsection must also be approved by resolution of the legislative body of the excluded city.

(b) A commission may amend a resolution or plan for a redevelopment project area or economic development area by following the procedures set forth in sections 8 through 10.5 of this chapter. An amendment made under this subsection must also be approved by resolution of the legislative body of the excluded city.

(c) A person who filed a written remonstrance with the commission under subsection (a) and is aggrieved by the final action taken may seek appeal of the action by following the procedures for appeal set forth in section 11 of this chapter. The appeal hearing is governed by the procedures of section 11(b) of this chapter.

As added by P.L.102-1999, SEC.7. Amended by P.L.185-2005, SEC.43; P.L.146-2008, SEC.761.

IC 36-7-15.1-41

Assistance from public entities with redevelopment or economic development projects; agreements

Sec. 41. (a) A political subdivision, another governmental entity, a public instrumentality created by state law, or a public body created by state law may, in the area in which it is authorized to act, do all things necessary to aid and cooperate in the planning and undertaking of a redevelopment or economic development project, including furnishing the financial and other assistance that it is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project.

(b) A unit, another governmental entity, a public instrumentality created by state law, or a public body created by state law may enter into agreements with the commission or any other entity respecting action to be taken under this chapter, including the furnishing of funds or other assistance in connection with a redevelopment or economic development plan or project. These agreements may extend over any period, notwithstanding any other law.

As added by P.L.102-1999, SEC.8. Amended by P.L.221-2007, SEC.47.

IC 36-7-15.1-42

Approval of real property to be acquired; negotiations for purchase; methods and means of acquisition

Sec. 42. (a) If no appeal is taken, or if an appeal is taken but is unsuccessful, the commission shall proceed with the proposed project, to the extent that money is available for that purpose.

(b) The commission shall first approve and adopt a list of the real property and interests in real property to be acquired and the price to be offered to the owner of each parcel or interest. The prices to be offered may not exceed the average of two (2) independent appraisals of fair market value procured by the commission, except that appraisals are not required in transactions with other governmental agencies. However, if the real property is less than five (5) acres in size and the fair market value of the real property or interest has been appraised by one (1) independent appraiser at less than ten thousand dollars ($10,000), the second appraisal may be made by a qualified employee of the department. The prices indicated on the list may not be exceeded unless specifically authorized by the commission under section 39 of this chapter or ordered by a court in condemnation proceedings. The commission may except from acquisition any real property in the area if it finds that such an acquisition is not necessary under the redevelopment plan. Appraisals made under this section are for the information of the commission and are not open for public inspection.

(c) Negotiations for the purchase of property may be carried on directly by the commission, by its employees, or by expert negotiators employed for that purpose. The commission shall adopt a standard form of option for use in negotiations, but no option, contract, or understanding relative to the purchase of real property is binding on the commission until approved and accepted by the

commission in writing. The commission may authorize the payment of a nominal fee to bind an option and as a part of the consideration for conveyance may agree to pay the expense incident to the conveyance and determination of the title of the property. Payment for the property purchased shall be made when and as directed by the commission, but only on delivery of proper instruments conveying the title or interest of the owner to "City [or Town] of _____ for the use and benefit of its Redevelopment District".

(d) Notwithstanding subsections (a) through (c), the commission may, before the time referred to in this section, accept gifts of property needed for the redevelopment of redevelopment project areas. The commission may, before the time referred to in this section, take options on or contract for the acquisition of property needed for the redevelopment of redevelopment project areas if the options and contracts are not binding on the commission or the redevelopment district until the time referred to in this section and until money is available to pay the consideration set out in the options or contracts.

(e) Section 44(a) through 44(h) of this chapter does not apply to exchanges of real property (or interests in real property) in connection with the acquisition of real property (or interests in real property) under this section. In acquiring real property (or interests in real property) under this section the commission may, as an alternative to offering payment of money as specified in subsection (b), offer for the real property (or interest in real property) that the commission desires to acquire:

(1) exchange of real property or interests in real property owned by the redevelopment district;

(2) exchange of real property or interests in real property owned by the redevelopment district, along with the payment of money by the commission; or

(3) exchange of real property or interests in real property owned by the redevelopment district along with the payment of money by the owner of the real property or interests in real property that the commission desires to acquire.

The commission shall have the fair market value of the real property or interests in real property owned by the redevelopment district appraised as specified in section 44(b) of this chapter. The appraisers may not also appraise the value of the real property or interests in real property to be acquired by the redevelopment district. The commission shall establish the nature of the offer to the owner based on the difference between the average of the two (2) appraisals of the fair market value of the real property or interests in real property to be acquired by the commission and the average of the appraisals of fair market value of the real property or interests in real property to be exchanged by the commission.

As added by P.L.102-1999, SEC.9. Amended by P.L.185-2005, SEC.44.

IC 36-7-15.1-43

Additional powers of commission

Sec. 43. A commission has the powers and must follow the procedures set forth in section 14 of this chapter.

As added by P.L.102-1999, SEC.10.

IC 36-7-15.1-44

Appraisal, publication, and bidding requirements; exceptions; procedures

Sec. 44. (a) The provisions of this section concerning appraisal, publication, and bidding requirements do not apply to sales, leases, or other dispositions of real or personal property interests in property to other public agencies, including the federal government or any agency or department of the federal government, for public purposes.

(b) Before offering for sale, exchange, or lease (or a combination of methods) to the public any of the property or interests acquired, the commission shall cause two (2) separate appraisals of the fair market value to be made by independent appraisers. However, if the property is less than five (5) acres in size and the fair market value of the real property or interest has been appraised by one (1) independent appraiser at less than ten thousand dollars ($10,000), the second appraisal may be made by a qualified employee of the department. In the case of an exchange, the same appraiser may not appraise both of the properties to be exchanged. In making appraisals, the appraisers shall take into consideration the size, location, and physical condition of the parcels, the advantages accruing to the parcels under the redevelopment plan, and all other factors having a bearing on the value of the parcels. The appraisals are solely for the information of the commission and are not open for public inspection.

(c) The commission shall then prepare an offering sheet showing the parcels to be offered and the offering prices, which may not be less than the average of the two (2) appraisals. Copies of the offering sheets shall be furnished to prospective buyers on request. Maps, plats, or maps and plats showing the size and location of all parcels to be offered shall also be kept available for inspection at the office of the department.

(d) A notice shall be published in accordance with IC 5-3-1. The notice must state that at a designated time the commission will open and consider written offers for the purchase or lease of the property or interests being offered. In giving the notice it is not necessary to describe each parcel separately or to specify the exact terms of disposition, but the notice must:

(1) state the general location of the parcels;

(2) call attention generally to any limitations in the redevelopment plan on the use to be made of the real property offered; and

(3) state that a bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(e) At the time fixed in the notice, the commission shall open and consider any offers received. The offers may consist of consideration in the form of cash, other property, or a combination of cash and property. However, with respect to property other than cash, the offer must be accompanied by evidence of the property's fair market value that is satisfactory to the commission in the commission's sole discretion. All offers received shall be opened at public meetings of the commission and shall be kept open for public inspection.

(f) The commission may reject any or all bids or may make awards to the highest and best bidders. In determining the best bids, the commission shall take into consideration the following factors:

(1) The size and character of the improvements proposed to be made by the bidder on the real property bid on.

(2) The bidders' plans and ability to improve the real property with reasonable promptness.

(3) Whether the real property when improved will be sold or rented.

(4) The bidder's proposed sale or rental prices.

(5) The bidder's compliance with subsection (d)(3).

(6) Any factors that will assure the commission that the sale or lease, if made, will further the execution of the redevelopment plan and best serve the interest of the community, from the standpoint of both human and economic welfare.

(g) The commission may contract with a bidder in regard to the factors listed in subsection (f), and the contract may provide for the deposit of surety bonds, the making of good faith deposits, liquidated damages, the right of reversion or repurchase, or other rights and remedies if the bidder fails to comply with the contract.

(h) After the opening, consideration, and determination of the written offers filed in response to the notice, the commission may dispose of all or part of the remaining available property or interests for any approved use, either at public sale or by private negotiation carried on by the commission, its regular employees, or real estate experts employed for that purpose. For a period of thirty (30) days after the opening of the written offers and determination on them, no sale, exchange, or lease may be made at a price or rental less than that shown on the offering sheet, except in the case of sales or rentals of:

(1) ten (10) or more parcels to a purchaser or lessee who agrees to improve the parcels immediately;

(2) parcels of property to individuals or families whose income is at or below the county's median income for individual and family income, respectively, for the purpose of constructing single family or two (2) family housing; or

(3) parcels of property to a contractor or developer for the purpose of constructing single family or two (2) family housing for individuals or families whose income is at or below the county's median income for individual and family income, respectively;

but after that period the commission may adjust the offering prices

in the manner it considers necessary to further the redevelopment plan.

(i) A conveyance under this section may not be made until the agreed consideration has been paid, unless the commission adopts a resolution:

(1) stating that consideration does not have to be paid before the conveyance is made; and

(2) setting forth an arrangement for future payment of consideration or provision of an infrastructure credit against the consideration, or both.

If full consideration is not paid before the conveyance is made, the commission may use a land sale contract or mortgage to secure payment of the consideration or may accept as a credit against the agreed consideration a contractual obligation to perform public infrastructure work related to the property being conveyed. All deeds, land sale contracts, leases, or other conveyances, and all contracts and agreements, including contracts of purchase, sale, or exchange and contracts for advancements, loans, grants, contributions, or other aid, shall be executed in the name of the "City [or Town] of _____, for the use and benefit of its Redevelopment District", and shall be executed by the president or vice president of the commission.

As added by P.L.102-1999, SEC.11.

IC 36-7-15.1-45

Issuance and sale of bonds by commission

Sec. 45. (a) In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 50 of this chapter, the taxes allocated under section 53 of this chapter, or other revenues of the redevelopment district, a commission may, by resolution, issue the bonds of its redevelopment district in the name of the excluded city. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

(1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;

(2) all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;

(3) capitalized interest permitted in this chapter and a debt service reserve for the bonds, to the extent that the redevelopment commission determines that a reserve is reasonably required;

(4) the total cost of all clearing and construction work provided for in the resolution; and

(5) expenses that the commission is required or permitted to pay under IC 8-23-17.

(b) If a commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, a commission may provide for the total cost in one (1) issue of bonds.

(c) The bonds must be dated as set forth in the bond resolution and negotiable subject to the requirements concerning registration of the bonds. The resolution authorizing the bonds must state:

(1) the denominations of the bonds;

(2) the place or places at which the bonds are payable; and

(3) the term of the bonds, which may not exceed:

(A) fifty (50) years, for bonds issued before July 1, 2008; or

(B) twenty-five (25) years, for bonds issued after June 30, 2008.

The resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the commission.

(d) The commission shall certify a copy of the resolution authorizing the bonds to the fiscal officer of the excluded city, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds shall be executed by the excluded city executive and attested by the excluded city fiscal officer. The interest coupons, if any, shall be executed by the facsimile signature of the excluded city fiscal officer.

(f) The bonds are exempt from taxation as provided by IC 6-8-5.

(g) The excluded city fiscal officer shall sell the bonds according to law. Bonds payable solely or in part from tax proceeds allocated under section 53(b)(3) of this chapter or other revenues of the district may be sold at private negotiated sale and at a price or prices not less than ninety-seven percent (97%) of the par value.

(h) The bonds are not a corporate obligation of the excluded city but are an indebtedness of the redevelopment district. The bonds and interest are payable:

(1) from a special tax levied upon all of the property in the redevelopment district, as provided by section 50 of this chapter;

(2) from the tax proceeds allocated under section 53(b)(3) of this chapter;

(3) from other revenues available to the commission; or

(4) from a combination of the methods described in subdivisions (1) through (3);

and from any revenues of the designated project. If the bonds are payable solely from the tax proceeds allocated under section 53(b)(3) of this chapter, other revenues of the redevelopment commission, or any combination of these sources, they may be issued in any amount without limitation.

(i) Proceeds from the sale of the bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issue.

(j) The laws relating to the filing of petitions requesting the

issuance of bonds and the right of taxpayers and voters to remonstrate against, or vote on, the issuance of bonds applicable to bonds issued under this chapter do not apply to bonds payable solely or in part from tax proceeds allocated under section 53(b)(3) of this chapter, other revenues of the commission, or any combination of these sources.

(k) If bonds are issued under this chapter that are payable solely or in part from revenues to a commission from a project or projects, a commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission. The commission may establish fees and charges for the use of any project and covenant with the owners of bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the commission that are payable solely from revenues of the commission must contain a statement to that effect in the form of bond.

As added by P.L.102-1999, SEC.12. Amended by P.L.185-2005, SEC.45; P.L.219-2007, SEC.132; P.L.146-2008, SEC.762; P.L.203-2011, SEC.16.

IC 36-7-15.1-46

Lease of property by commission

Sec. 46. (a) A commission may enter into a lease of any property that may be financed with the proceeds of bonds issued under section 45 of this chapter with a lessor for a term not to exceed:

(1) fifty (50) years, for a lease entered into before July 1, 2008; or

(2) twenty-five (25) years, for a lease entered into after June 30, 2008.

The lease may provide for payments to be made by the commission from special benefits taxes levied under section 50 of this chapter, taxes allocated under section 53 of this chapter, any other revenue available to the commission, or any combination of these sources.

(b) A lease may provide that payments by the commission to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the commission only after a public hearing by the commission at which all interested parties are given the opportunity to be heard. Notice of the hearing must be given by publication in accordance with IC 5-3-1. After the public hearing, the commission may adopt a resolution authorizing the

execution of the lease on behalf of the unit if it finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the commission must be approved by an ordinance of the fiscal body of the excluded city.

(d) Upon execution of a lease providing for payments by the commission in whole or in part from the levy of special benefits taxes under section 50 of this chapter and upon approval of the lease by the fiscal body, the commission shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be. Upon the filing of the petition, the county auditor shall immediately certify a copy of the petition, together with such other data as may be necessary in order to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for the hearing in the redevelopment district, which must not be less than five (5) or more than thirty (30) days after the time for the hearing is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the fiscal body, to the commission, and to the first fifty (50) petitioners on the petition by a letter signed by the commissioner or deputy commissioner of the department and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease and as to whether the payments under it are fair and reasonable, is final.

(e) A commission entering into a lease payable from allocated taxes under section 53 of this chapter or revenues or other available funds of the commission may:

(1) pledge the revenue to make payments under the lease as provided in IC 5-1-14-4; and

(2) establish a special fund to make the payments.

Lease rentals may be limited to money in the special fund so that the obligations of the commission to make the lease rental payments are not considered a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, no approvals of any governmental body or agency are required before the commission enters into a lease under this section.

(g) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease. However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or to enjoin performance must be brought within thirty (30) days after the decision of the department of local government finance.

(h) If a commission exercises an option to buy a leased facility from a lessor, the commission may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the commission through auction, appraisal, or arms length negotiation. If the facility is sold at auction, after appraisal, or through negotiation, the commission shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days after the hearing.

As added by P.L.102-1999, SEC.13. Amended by P.L.90-2002, SEC.483; P.L.146-2008, SEC.763.

IC 36-7-15.1-47

Persons permitted to lease facilities

Sec. 47. (a) Any of the following persons may lease facilities referred to in section 46 of this chapter to a commission:

(1) A nonprofit corporation organized under Indiana law or admitted to do business in Indiana.

(2) An authority established under IC 36-10-9.1.

(b) Notwithstanding any other law, a redevelopment facility leased by the commission under this chapter from a lessor borrowing bond proceeds from a unit under IC 36-7-12 is an economic development facility for purposes of IC 36-7-11.9-3 and IC 36-7-12.

(c) Notwithstanding IC 36-7-12-25 and IC 36-7-12-26, payments by the commission to a lessor described in subsection (b) may be made from sources set forth in section 46 of this chapter so long as the payments and the lease are structured to prevent the lease obligation from constituting debt of the unit or the district for purposes of the Constitution of the State of Indiana.

As added by P.L.102-1999, SEC.14.

IC 36-7-15.1-48

Pledge of revenue received or to be received; nonimpairment by general assembly

Sec. 48. (a) Notwithstanding any other law, the legislative body of the excluded city may pledge revenues received or to be received by the excluded city from:

(1) the excluded city's distributive share of the county option income tax under IC 6-3.5-6;

(2) any other source legally available to the excluded city for

the purposes of this chapter; or

(3) a combination of revenues under subdivisions (1) through (2);

in any amount to pay amounts payable under section 45 or 46 of this chapter.

(b) The legislative body of the excluded city may covenant to adopt an ordinance to increase its tax rate under the county option income tax or any other revenues at the time it is necessary to raise funds to pay amounts payable under section 45 or 46 of this chapter.

(c) The commission may pledge revenues received or to be received from any source legally available to it for the purposes of this chapter in any amount to pay amounts payable under section 45 or 46 of this chapter.

(d) The pledge or the covenant under this section may be for the life of the bonds issued under section 45 of this chapter, the term of a lease entered into under section 46 of this chapter, or a shorter period as determined by the legislative body of the excluded city. Money pledged by the legislative body of the excluded city under this section shall be considered revenues or other money available to the commission under sections 45 through 46 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant so long as any bonds issued under section 45 of this chapter are outstanding or as long as any lease entered into under section 46 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

As added by P.L.102-1999, SEC.15. Amended by P.L.14-2000, SEC.82.

IC 36-7-15.1-49

Redevelopment district fund

Sec. 49. (a) All proceeds of bonds issued under section 45 of this chapter shall be kept as a separate and specific fund to pay the expenses incurred in connection with the acquisition and redevelopment of property. The fund shall be known as the redevelopment district fund. Any surplus of funds remaining after all expenses are paid shall be paid into and become a part of the redevelopment district bond fund established under section 50 of this chapter.

(b) All gifts, donations, proceeds of sales, or other payments that are given or paid to an excluded city or its commission for redevelopment purposes shall be promptly deposited to the credit of the redevelopment district fund. The commission may use these gifts and donations for the purposes of this chapter.

(c) Before the fifteenth day of each calendar month, the excluded city fiscal officer shall notify the commission and the officers of the excluded city who have duties in respect to the funds and accounts of the excluded city of the amount standing to the credit of the redevelopment district fund at the close of business on the last day of the preceding month.

As added by P.L.102-1999, SEC.16.

IC 36-7-15.1-50

Tax on redevelopment district property; redevelopment district bond fund

Sec. 50. (a) This section applies only to:

(1) bonds that are issued under section 45 of this chapter; or

(2) leases entered into under section 46 of this chapter;

that are payable from a special tax levied upon all of the property in the redevelopment district. This section does not apply to bonds or leases that are payable solely from tax proceeds allocated under section 53(b)(3) of this chapter, other revenues of the commission, or any combination of these sources.

(b) The excluded city legislative body shall levy each year a tax on all of the property of the redevelopment district in such a manner as to meet and pay:

(1) the principal of the bonds as they mature, together with all accruing interest on the bonds; or

(2) lease rental payments under section 46 of this chapter.

The tax levied shall be certified to the fiscal officers of the excluded city and the county before October 2 in each year. The tax shall be estimated and entered on the tax duplicate by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other state and county taxes are estimated, entered, collected, and enforced.

(c) As the tax is collected, it shall be accumulated in a separate fund to be known as the redevelopment district bond fund and shall be applied to the payment of the bonds as they mature and the interest on the bonds as it accrues, or to make lease payments, and to no other purpose. All accumulations of the fund before use for the payment of bonds and interest or to make lease payments shall be deposited with the depository or depositories for other public funds of the city in accordance with the statutes concerning the deposit of public funds, unless they are invested under IC 5-13.

(d) The tax levies provided for in this section are reviewable by other bodies vested by law with the authority to ascertain that the levies are sufficient to raise the amount that, with other amounts available, is sufficient to meet the payments under the lease payable from the levy of taxes.

As added by P.L.102-1999, SEC.17. Amended by P.L.203-2011, SEC.17.

IC 36-7-15.1-51

Application for and acceptance of loans; issuance and sale of bonds; approval of fiscal body and legislative body

Sec. 51. (a) Subject to the approval of the legislative body of the consolidated city, and in order to:

(1) undertake survey and planning activities under this chapter;

(2) undertake and carry out any redevelopment project or economic development plan;

(3) pay principal and interest on any advances;

(4) pay or retire any bonds and interest on them; or

(5) refund loans previously made under this section;

the commission may apply for and accept advances, short term and long term loans, grants, contributions, loan guarantees, and any other form of financial assistance from the federal government or from any of its agencies. The commission may apply for and accept loans under this section from sources other than the federal government or federal agencies, but only if the loans are unconditionally guaranteed by the federal government or federal agencies. The commission may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the commission considers reasonable and appropriate, if those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or agreement in regard to the handling, deposit, and application of project funds as all other provisions are valid and binding on the excluded city or its executive departments and officers, as well as the commission, notwithstanding any other provision of this chapter.

(b) Subject to the approval of the fiscal body of the consolidated city, the commission may issue and sell bonds, notes, or warrants:

(1) to the federal government to evidence short term or long term loans made under this section; or

(2) to persons or entities other than the federal government to evidence short or long term loans made under this section that are unconditionally guaranteed by the federal government or federal agencies;

without notice of sale being given or a public offering being made.

(c) Notwithstanding any other law, bonds, notes, or warrants issued by the commission under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured (subject to other provisions of this section) in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at a time or times (which may be upon demand), and at a place or places;

(9) be subject to terms of redemption (with or without premium);

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the commission considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the excluded city or its redevelopment district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes but are payable only from and secured

only by income, funds, and properties of the project becoming available to the commission under this chapter or by grant funds from the federal government, as the commission specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation as provided by IC 6-8-5.

(f) Bonds, notes, or warrants issued under this section shall be executed by the city executive and attested by the fiscal officer in the name of the "City (or Town) of _____, for and on behalf of its Redevelopment District".

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the commission shall certify a copy of that resolution to the officers of the excluded city who have duties with respect to bonds, notes, or warrants of the excluded city. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the excluded city who have duties with respect to the sale of bonds, notes, or warrants of the excluded city. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) If, at any time during the life of a loan contract or agreement under this section, the commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the commission without regard to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

As added by P.L.102-1999, SEC.18. Amended by P.L.146-2008, SEC.764.

IC 36-7-15.1-52

Tax exempt real property and receipts

Sec. 52. (a) Real property acquired by the redevelopment district is exempt from taxation while owned by the district.

(b) All receipts of the redevelopment district, including receipts from the sale of real property, personal property, and materials disposed of, are exempt from all taxes.

(c) As used in this subsection, "year one" means any calendar year and "year two" means the calendar year following year one. When real property is acquired by the redevelopment district during the period from assessment on March 1 of year one to the last day of February of year two, the taxes due in year two shall be prorated between the seller and the city. When the proration is made, the auditor shall remove the city's prorated share from the tax duplicate by auditor's correction.

As added by P.L.102-1999, SEC.19. Amended by P.L.192-2002(ss), SEC.183.

IC 36-7-15.1-53 Version a

Resolution or amendment establishing allocation provisions; assessed value of taxable property; funds; rules

Note: This version of section effective until 1-1-2013. See also following version of this section, effective 1-1-2013.

Sec. 53. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section 40 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Except as provided in section 55 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A resolution adopted under section 40 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision must be approved by resolution of the legislative body of the excluded city and must specify an expiration date for the allocation

provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the first obligation was incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the

special tax levied under section 50 of this chapter.

(D) Pay the principal of and interest on bonds issued by the excluded city to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 46 of this chapter.

(G) Reimburse the excluded city for expenditures for local public improvements (which include buildings, park facilities, and other items set forth in section 45 of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(4) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3) plus the amount necessary for other purposes described in subdivision (3) and subsection (g).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are

authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (3).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located, is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those

described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in an enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(3). However, where reference is made in subsection (b)(3) to the allocation area, the reference refers, for purposes of payments from the special zone fund, only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(3) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

As added by P.L.102-1999, SEC.20. Amended by P.L.90-2002, SEC.484; P.L.4-2005, SEC.140; P.L.185-2005, SEC.46; P.L.216-2005, SEC.8; P.L.154-2006, SEC.78; P.L.146-2008, SEC.765; P.L.182-2009(ss), SEC.407; P.L.203-2011, SEC.18.

IC 36-7-15.1-53 Version b

Resolution or amendment establishing allocation provisions; assessed value of taxable property; funds; rules

Note: This version of section effective 1-1-2013. See also preceding version of this section, effective until 1-1-2013.

Sec. 53. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section 40 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Except as provided in section 55 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A resolution adopted under section 40 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory

resolution or an amendment that establishes an allocation provision must be approved by resolution of the legislative body of the excluded city and must specify an expiration date for the allocation provision. For an allocation area established before July 1, 2008, the expiration date may not be more than thirty (30) years after the date on which the allocation provision is established. For an allocation area established after June 30, 2008, the expiration date may not be more than twenty-five (25) years after the date on which the first obligation was incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment revenues. However, with respect to bonds or other obligations that were issued before July 1, 2008, if any of the bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax

proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 50 of this chapter.

(D) Pay the principal of and interest on bonds issued by the excluded city to pay for local public improvements that are physically located in or physically connected to that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 46 of this chapter.

(G) Reimburse the excluded city for expenditures for local public improvements (which include buildings, park facilities, and other items set forth in section 45 of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(4) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3) plus the amount necessary for other purposes described in subdivision (3) and subsection (g).

(B) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (3).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located, is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. Such

a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in an enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(3). However, where reference is made in subsection (b)(3) to the allocation area, the reference refers, for purposes of payments from the special zone fund, only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment of real property in an area under IC 6-1.1-4-4 or reassessment under a county's reassessment plan prepared under IC 6-1.1-4-4.2, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the reassessment of the real property in the area on the property tax proceeds allocated to the redevelopment district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the

redevelopment district under subsection (b)(3) than would otherwise have been received if the general reassessment, reassessment under the county's reassessment plan, or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

As added by P.L.102-1999, SEC.20. Amended by P.L.90-2002, SEC.484; P.L.4-2005, SEC.140; P.L.185-2005, SEC.46; P.L.216-2005, SEC.8; P.L.154-2006, SEC.78; P.L.146-2008, SEC.765; P.L.182-2009(ss), SEC.407; P.L.203-2011, SEC.18; P.L.112-2012, SEC.58.

IC 36-7-15.1-54
Repealed

(*Repealed by P.L.146-2008, SEC.812.)*

IC 36-7-15.1-55
Modification of definition of "property taxes"; depreciable personal property

Sec. 55. (a) As used in this section, "depreciable personal property" refers to all of the designated taxpayer's depreciable personal property that is located in the allocation area.

(b) As used in this section, "designated taxpayer" means a taxpayer designated by the commission in a declaratory resolution adopted or amended under section 40(a) or 40(b) of this chapter, and with respect to which the commission finds that:

(1) taxes to be derived from the taxpayer's depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of that personal property, are needed to pay debt service for bonds issued under section 45 of this chapter to make payments on leases payable under section 46 of this chapter in order to provide local public improvements for a particular allocation area;

(2) the taxpayer's property in the allocation area will consist primarily of industrial, manufacturing, warehousing, research

and development, processing, distribution, or transportation related projects or regulated amusement devices (as defined in IC 22-12-1-19.1) and related improvements; and

(3) the taxpayer's property in the allocation area will not consist primarily of retail, commercial, or residential projects, other than an amusement park or tourism industry project.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 53(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property of designated taxpayers in accordance with the procedures and limitations set forth in this section and section 53 of this chapter. If such a modification is included in the resolution, for purposes of section 53 of this chapter, the term "base assessed value" with respect to the depreciable personal property of designated taxpayers means the net assessed value of the depreciable personal property as finally determined for the assessment date immediately preceding the adoption date of the modification as adjusted under section 53(h) of this chapter.

As added by P.L.102-1999, SEC.22. Amended by P.L.172-2011, SEC.155.

IC 36-7-15.1-56
Repealed

(*Repealed by P.L.146-2008, SEC.813.)*

IC 36-7-15.1-57
Designation of economic development area

Sec. 57. (a) The commission may, by following the procedures set forth in sections 8, 9, and 10 of this chapter, approve a plan for and determine that a geographic area in the redevelopment district is an economic development area. Designation of an economic development area is subject to judicial review in the manner prescribed in section 11 of this chapter.

(b) The commission may determine that a geographic area is an economic development area if it finds that:

(1) the plan for the economic development area:

(A) promotes significant opportunities for the gainful employment of its citizens;

(B) attracts a major new business enterprise to the unit;

(C) retains or expands a significant business enterprise existing in the boundaries of the unit; or

(D) meets other purposes of this section and sections 28 and 58 of this chapter;

(2) the plan for the economic development area cannot be achieved by regulatory processes or by the ordinary operation of private enterprise without resort to the powers allowed under this section and sections 28 and 58 of this chapter because of:

(A) lack of local public improvement;

(B) existence of improvements or conditions that lower the value of the land below that of nearby land;

(C) multiple ownership of land; or
(D) other similar conditions;
(3) the public health and welfare will be benefited by accomplishment of the plan for the economic development area;
(4) the accomplishment of the plan for the economic development area will be of public utility and benefit as measured by:
(A) attraction or retention of permanent jobs;
(B) increase in the property tax base;
(C) improved diversity of the economic base; or
(D) other similar public benefits; and
(5) the plan for the economic development area conforms to the comprehensive plan of development for the county.

(c) The determination that a geographic area is an economic development area must be approved by the excluded city legislative body. The approval may be given either before or after judicial review is requested. The requirement that the excluded city legislative body approve economic development areas does not prevent the commission from amending the plan for the economic development area.

As added by P.L.102-1999, SEC.24. Amended by P.L.146-2008, SEC.766; P.L.172-2011, SEC.156.

IC 36-7-15.1-58
Commission powers in economic development area

Sec. 58. (a) All of the rights, powers, privileges, and immunities that may be exercised by a commission in a redevelopment project area may be exercised by a commission in an economic development area, subject to the following:

(1) The content and manner of exercise of these rights, powers, privileges, and immunities shall be determined by the purposes and nature of an economic development area.
(2) Real property (or interests in real property) relative to which action is taken under this section or section 28 or 57 of this chapter in an economic development area is not required to meet the conditions described in IC 36-7-1-3.
(3) Bonds may be issued in accordance with section 45 of this chapter to defray expenses of carrying out activities under this chapter in economic development areas if no other revenue sources are available for this purpose.
(4) The tax exemptions set forth in section 52 of this chapter are applicable in economic development areas.
(5) An economic development area may be an allocation area for the purposes of distribution and allocation of property taxes. However, a declaratory resolution or an amendment that establishes an allocation area must be approved by resolution of the legislative body of the excluded city.
(6) The excluded city legislative body may not use its power of eminent domain under section 39 of this chapter to carry out activities under this chapter in economic development areas.

(b) The content and manner of discharge of duties set forth in section 39(a) of this chapter shall be determined by the purposes and nature of an economic development area.

As added by P.L.102-1999, SEC.25. Amended by P.L.185-2005, SEC.47; P.L.146-2008, SEC.767.

IC 36-7-15.2

Chapter 15.2. Economic Development Project Districts in Marion County

IC 36-7-15.2-1

Application of chapter

Sec. 1. This chapter applies to each unit having a redevelopment commission under IC 36-7-15.1.

As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-2

Stagnant or deteriorating economic conditions

Sec. 2. (a) Present economic conditions in certain areas of certain units are stagnant or deteriorating.

(b) Present economic conditions in such areas are beyond remedy and control by regulatory processes because of the substantial public financial commitments necessary to encourage significant increases in economic activities in such areas.

(c) Encouragement of economic development in these areas will:

(1) attract new businesses and encourage existing businesses to remain or expand;

(2) increase temporary and permanent employment opportunities and private sector investment;

(3) protect and increase state and local tax bases; and

(4) encourage overall economic growth in Indiana.

(d) Redevelopment and stimulation of economic development benefit the health and welfare of the people of Indiana, are public uses and purposes for which public money may be spent, and are of public utility and benefit.

(e) Economic development in such areas can be accomplished only by a coordinated effort of local and state governments.

(f) Redevelopment and economic development under this chapter or IC 36-7-15.1 constitute a local public improvement that provides special benefits to residents and taxpayers of the special taxing district established under IC 36-7-15.1.

(g) This chapter shall be liberally construed to carry out its purposes and to provide units with maximum flexibility to accomplish those purposes.

As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-3

"Commission" defined

Sec. 3. As used in this chapter, "commission" has the meaning set forth in IC 36-7-15.1-3.

As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-4

"District" defined

Sec. 4. As used in this chapter, "district" refers to an economic development project district established under this chapter.

As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-5
"Economic development project" defined

Sec. 5. As used in this chapter, "economic development project" mean a project that:

(1) accomplishes the purposes specified in section 10 of this chapter; and

(2) involves an expenditure for a local public improvement.

As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-6
"Local public improvement" defined

Sec. 6. As used in this chapter, "local public improvement" means any redevelopment project or purpose of a commission or a unit under this chapter or IC 36-7-15.1.

As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-7
"Remonstrance" defined

Sec. 7. As used in this chapter, "remonstrance" refers to a written remonstrance delivered to a commission in accordance with section 12 of this chapter.

As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-8
Powers and duties

Sec. 8. In addition to the powers and duties set forth in any other statute, a commission has the powers and duties set forth in this chapter.

As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-9
Assemblage of data; inclusions

Sec. 9. If a commission believes that the redevelopment and economic development of an area located within its jurisdiction may require the establishment of a district under this chapter before January 1, 1989, the commission shall cause to be assembled data sufficient to make the determinations required under section 10 of this chapter, including the following:

(1) Maps and plats showing the boundaries of the proposed district.

(2) A complete list of street names and the range of street numbers of each street located within the proposed district.

(3) A plan for the redevelopment and economic development of the proposed district.

As added by P.L.84-1987, SEC.13. Amended by P.L.2-1989, SEC.39.

IC 36-7-15.2-10
Resolution; consideration of adoption; findings

Sec. 10. (a) After compilation of the data required by section 9 of this chapter, the commission shall consider adopting a resolution declaring the area described under section 9 of this chapter a district under this chapter. The commission may adopt the resolution only after making the following findings:

(1) That the district is entirely within a redevelopment district and has been previously designated as a redevelopment project area under IC 36-7-15.1 or that the district is being so designated concurrently with the adoption of the resolution.

(2) That the completion of the redevelopment and economic development of the district will do all of the following:

(A) Attract new business enterprises to the district or retain or expand existing business enterprises in the district.

(B) Benefit the public health and welfare and be of public utility and benefit.

(C) Protect and increase state and local tax bases or revenues.

(D) Result in a substantial increase in temporary and permanent employment opportunities and private sector investment within the district.

(b) The commission may not adopt the resolution described in subsection (a) after January 1, 1989.

As added by P.L.84-1987, SEC.13. Amended by P.L.5-1988, SEC.218; P.L.2-1989, SEC.40; P.L.185-2005, SEC.48.

IC 36-7-15.2-11

Resolution; adoption; publication of notice; hearing

Sec. 11. Upon adoption of a resolution designating a district under section 10 of this chapter, the commission shall publish (in accordance with IC 5-3-1) notice of the adoption and purport of the resolution and of the hearing to be held. The notice must provide a general description of the boundaries of the district and state that information concerning the district can be inspected at the commission's office. The notice must also name a date when the commission will hold a hearing to receive and hear remonstrances and other testimony from persons interested in or affected by the establishment of the district. All persons affected in any manner by the hearing, including all persons or entities owning property or doing business in the district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and resolutions of the commission by the notice given under this section.

As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-12

Hearing; consideration of written remonstrances

Sec. 12. At the hearing, which may be adjourned from time to time, the commission shall hear all persons interested in the proceedings and shall consider all written remonstrances that have been filed with the commission.

As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-13
Final action by commission; appeal

Sec. 13. After considering the evidence presented at the hearing, the commission shall take final action confirming, modifying and confirming, or rescinding the resolution. The action taken by the commission is final, except that an appeal may be taken under section 14 of this chapter.
As added by P.L.84-1987, SEC.13.

IC 36-7-15.2-14
Appeal by aggrieved person; bond; procedure

Sec. 14. (a) A person who filed a written remonstrance with the commission under section 11 of this chapter and is aggrieved by the final action taken may, within ten (10) days after that final action, file an appeal in the office of the clerk of the circuit or superior court with a copy of the resolution of the commission and the person's remonstrance against that resolution.

(b) If an appeal is filed, the commission may petition that the appeal be dismissed unless the remonstrator posts a bond with a surety approved by the court payable to the commission for the payment of all damages and costs that may accrue by reason of the filing of the lawsuit if the commission prevails. A hearing on a petition to dismiss an appeal shall be conducted in the same manner as a hearing on a temporary injunction under IC 34-26. If at the hearing the court determines that the remonstrator cannot establish facts that would entitle the remonstrator to a temporary injunction, the court shall set the amount of the bond to be filed by the remonstrator in an amount found by the judge to cover all damages and costs that may accrue to the commission because of the appeal if the commission prevails. If no bond is filed by the remonstrator with sureties approved by the court within ten (10) days after the court's order is entered, the suit shall be dismissed, and no court has further jurisdiction of the appeal or any other lawsuit involving any issue that was or could have been raised on the appeal.

(c) The burden of proof in the appeal is on the remonstrator, and a change of venue from the county may not be granted.

(d) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. Notwithstanding any other law, the court shall decide the appeal based on the record and evidence before the commission, not by trial de novo, and may sustain the remonstrance only if it finds that the actions of the commission in adopting the resolution were arbitrary and capricious.

(e) The court may confirm the final action of the commission or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions. An

appeal to the court of appeals or supreme court has priority over all other civil appeals.

(f) Either the remonstrator or the commission may appeal the court order to the Indiana supreme court within the ten (10) day period by notice of appeal on a statement of errors in the same manner as is provided in a petition for mandate or prohibition. The supreme court may stay the lower court order pending its own decision, may set a bond to be filed by the remonstrator, may modify the order of the lower court, or may enter its order as the final order in a case.

As added by P.L.84-1987, SEC.13. Amended by P.L.1-1998, SEC.208.

IC 36-7-15.2-15

Approval of commission's determination to create district

Sec. 15. The determination of the commission to create a district under this chapter must be approved by ordinance of the legislative body of the unit before the commission transmits its resolution to the Indiana finance authority and the department of state revenue under section 16 of this chapter.

As added by P.L.84-1987, SEC.13. Amended by P.L.11-1990, SEC.133; P.L.235-2005, SEC.210.

IC 36-7-15.2-16

Transmission to state department and authority; contents

Sec. 16. Within thirty (30) days after the approval of the creation of the district by the unit under section 15 of this chapter, the commission shall transmit to the department of state revenue and the Indiana finance authority the following:

(1) A certified copy of the resolution designating the district.

(2) A complete list of street names and the range of street numbers of each street located within the district.

(3) Information concerning the proposed redevelopment and economic development of the district, which information may be modified from time to time after the initial filing.

(4) A certificate by the presiding officer of the commission stating that the commission will pursue the implementation of the plan for the redevelopment and economic development of the district in an expeditious manner.

As added by P.L.84-1987, SEC.13. Amended by P.L.11-1990, SEC.134; P.L.235-2005, SEC.211.

IC 36-7-15.3

Chapter 15.3. Redevelopment Authority in Marion County

IC 36-7-15.3-1

Application of chapter

Sec. 1. This chapter applies to each unit having an authority.

As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-2

"Authority" defined

Sec. 2. As used in this chapter, "authority" refers to the county convention and recreational facilities authority established by IC 36-10-9.1.

As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-3

"Board" defined

Sec. 3. As used in this chapter, "board" refers to the board of directors of the authority.

As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-4

"Bonds" defined

Sec. 4. As used in this chapter, "bonds" means bonds, notes, or other evidence of indebtedness issued by the authority.

As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-5

"Commission" defined

Sec. 5. As used in this chapter, "commission" refers to a redevelopment commission established under IC 36-7-15.1 or a military base reuse authority established under IC 36-7-30 and located in a county with a consolidated city.

As added by P.L.84-1987, SEC.14. Amended by P.L.2-1989, SEC.41; P.L.26-1995, SEC.9.

IC 36-7-15.3-6

"Local public improvement" defined

Sec. 6. As used in this chapter, "local public improvement" means any redevelopment project or purpose of a commission or a unit under IC 36-7-15.1 or IC 36-7-30.

As added by P.L.84-1987, SEC.14. Amended by P.L.2-1989, SEC.42; P.L.26-1995, SEC.10.

IC 36-7-15.3-7

Additional purposes

Sec. 7. In addition to its purposes specified in IC 36-10-9.1-10, the authority is also organized for the following purposes:

(1) Financing, constructing, and leasing local public improvements to the commission.

(2) Financing and constructing additional improvements to local public improvements owned by the authority and leasing them to the commission.
(3) Acquiring all or a portion of one (1) or more local public improvements from the commission by purchase or lease and leasing these local public improvements back to the commission, with any additional improvements that may be made to them.
(4) Acquiring all or a portion of one (1) or more local public improvements from the commission by purchase or lease to fund or refund indebtedness incurred on account of those local public improvements to enable the commission to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the commission considers to be unduly burdensome.

As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-8
Additional powers

Sec. 8. (a) In addition to its powers under IC 36-10-9.1-11, the authority may also:

(1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip local public improvements;
(2) lease those local public improvements to the commission;
(3) sue, be sued, plead, and be impleaded, but all actions against the authority must be brought in the circuit or superior court of the county in which the authority is located;
(4) condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with local public improvements;
(5) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;
(6) enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a local public improvement;
(7) design, order, contract for, and contract, reconstruct, and renovate any local public improvements or improvements thereto;
(8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees necessary for construction of local public improvements or improvements to them;
(9) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter; and
(10) take any other action necessary to implement its purposes as set forth in section 7 of this chapter.

(b) Whenever the board determines that the purposes for which the authority was formed have been substantially fulfilled and that all

bonds issued and all other obligations incurred by the authority have been fully paid or satisfied or provision for the payment of the bonds and obligations has been made in accordance with the terms of the resolution or trust indenture securing them, the board may declare the authority dissolved. On the effective date of the resolution of dissolution, the title to all funds and other property owned by the authority at the time of the dissolution vests in the commission on behalf of the unit creating the commission. However, if the commission is not in existence, the title vests in the unit.
As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-9
Refunding of bonds

Sec. 9. (a) Bonds issued under IC 36-7-15.1 may be refunded as provided in this section.

(b) The commission may:

(1) lease all or a portion of a local public improvement or improvements to the authority, which may be at a nominal lease rental with a lease back to the commission, conditioned upon the authority assuming bonds issued under IC 36-7-15.1 and issuing its bonds to refund those bonds; and

(2) sell all or a portion of a local public improvement or improvements to the authority for a price sufficient to provide for the refunding of those bonds and lease back the local public improvement or improvements from the authority.

As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-10
Requirements for lease of local improvements to commission

Sec. 10. (a) Before a lease may be entered into, the commission must find that the lease rental provided for is fair and reasonable.

(b) A lease of local public improvements from the authority to the commission:

(1) must comply with IC 36-7-15.1-17.1, IC 36-7-15.1-46, or IC 36-7-30-20;

(2) may not require payment of lease rental for a newly constructed local public improvement or for improvements to an existing local public improvement except to the extent that the local public improvement or improvements thereto have been completed and are ready for occupancy;

(3) may contain provisions:

(A) allowing the commission to continue to operate an existing local public improvement until completion of the improvements, reconstruction, or renovation; and

(B) requiring payment of lease rentals for an existing local public improvement being used, reconstructed, or renovated;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the commission to purchase the local public improvement upon the terms stated in the lease

during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the local public improvement, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a local public improvement;

(7) may provide that the commission shall agree to:

(A) pay all taxes and assessments thereon;

(B) maintain insurance thereon for the benefit of the authority; and

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(8) may provide that the lease rental payments by the commission shall be made from any one (1) or more of the sources set forth in IC 36-7-14-25.2, IC 36-7-15.1-17.1, IC 36-7-15.1-46, or IC 36-7-30-20.

As added by P.L.84-1987, SEC.14. Amended by P.L.26-1995, SEC.11; P.L.102-1999, SEC.26.

IC 36-7-15.3-11

Authorization for leases between the authority and commission; exception

Sec. 11. This chapter and IC 36-7-15.1-17.1, IC 36-7-15.1-46, or IC 36-7-30-20 contain full and complete authority for leases between the authority and the commission. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or the commission or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this chapter and IC 36-7-15.1-17.1 or IC 36-7-30-20.

As added by P.L.84-1987, SEC.14. Amended by P.L.26-1995, SEC.12; P.L.102-1999, SEC.27.

IC 36-7-15.3-12

Local public improvements; plans and specifications

Sec. 12. If the lease provides for a local public improvement or improvements thereto to be constructed by the authority, the plans and specifications shall be submitted to and approved by the commission.

As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-13

Common wall or other agreements

Sec. 13. The authority and the commission may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county.

As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-14

Local public improvement; sale or nominal rental to authority

Sec. 14. (a) The commission may lease for a nominal lease rental, or sell to the authority, one (1) or more local public improvements or portions thereof or land upon which a local public improvement is located or is to be constructed.

(b) Any lease of all or a portion of a local public improvement by the commission to the authority must be for a term equal to the term of the lease of that local public improvement back to the redevelopment commission.

(c) The commission may sell property to the authority for such amount as it determines to be in the best interest of the commission, which amount may be paid from the proceeds of bonds of the authority.

As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-15

Issuance of bonds; purpose; conditions

Sec. 15. (a) The authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring property;

(2) constructing, improving, reconstructing, or renovating one (1) or more local public improvements; or

(3) funding or refunding bonds issued under this chapter or IC 36-7-15.1.

(b) The bonds are payable solely from the lease rentals from the lease of the local public improvement for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within:

(1) fifty (50) years, for bonds issued before July 1, 2008; or

(2) twenty-five (25) years, for bonds issued after June 30, 2008.

(f) The board shall sell the bonds at public or private sale upon such terms as determined by the board.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of the acquisition or construction, or both, of local public improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the facility and all buildings, facilities, structures, and improvements related to it;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the local public improvements suitable for use and operations;

(4) architectural, engineering, consultant, and attorney fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;
(7) interest during construction and for a period thereafter determined by the board, but in no event to exceed five (5) years;
(8) financial advisory fees;
(9) insurance during construction;
(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, and interest on, the bonds being refunded or refinanced.

As added by P.L.84-1987, SEC.14. Amended by P.L.146-2008, SEC.768.

IC 36-7-15.3-16
Issuance of bonds; full and complete authority; status

Sec. 16. (a) This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceeding, publication, notice, consent, approval, order, or act by the board of any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed by this chapter.

(b) Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

As added by P.L.84-1987, SEC.14. Amended by P.L.42-1993, SEC.98.

IC 36-7-15.3-17
Trust indenture; provisions

Sec. 17. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:
(1) pledge or assign lease rentals, receipts, and income from leased local public improvements, but may not mortgage land or local public improvements;
(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and board;
(3) set forth the rights and remedies of bondholders and trustee; and
(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the authority under this

section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.
As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-18
Option to purchase leased property; bonds
Sec. 18. If the commission exercises its option to purchase leased property, it may issue its bonds as authorized by statute.
As added by P.L.84-1987, SEC.14.

IC 36-7-15.3-19
Exemption from taxation; exception
Sec. 19. All:
(1) property owned by the authority;
(2) revenues of the authority; and
(3) bonds issued by the authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;
are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.
As added by P.L.84-1987, SEC.14. Amended by P.L.21-1990, SEC.54; P.L.254-1997(ss), SEC.31.

IC 36-7-15.3-20
Validity of bonds; contest; limitations
Sec. 20. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:
(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or
(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;
whichever occurs first.
As added by P.L.84-1987, SEC.14.

IC 36-7-15.5

Chapter 15.5. Improvement and Maintenance District for Indiana Central Canal in Indianapolis

IC 36-7-15.5-1

Application of chapter

Sec. 1. This chapter applies to the city of Indianapolis.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to the metropolitan development commission acting as the redevelopment commission of the city, subject to IC 36-3-4-23.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-3

"Department" defined

Sec. 3. As used in this chapter, "department" refers to the department of metropolitan development of the city, subject to IC 36-3-4-23.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-4

"Improvement and maintenance project" defined

Sec. 4. As used in this chapter, "improvement and maintenance project" refers to activities that are authorized by section 5 of this chapter to be carried out within or in support of an improvement and maintenance district.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.43.

IC 36-7-15.5-5

Common theme or purpose of project; activities

Sec. 5. (a) An improvement and maintenance project must have a common theme or purpose that is generally described in the resolution that establishes the improvement and maintenance district.

(b) The project may include, within the improvement and maintenance district, one (1) or more of the following activities:

(1) Construction, remodeling, extension, repair, equipping, operation, and maintenance of the following:

(A) Canal facilities.

(B) Structures and facilities described in IC 36-9-1-2.

(C) Park and recreational facilities described in IC 36-10-1-2.

(D) Storm sewers, bridges, and drains.

(E) Pedestrian skyways.

(2) Acquisition of real property necessary to accomplish the activities described in subdivision (1).

(3) Provision of services necessary to operate the structures and facilities described in subdivision (1).

(4) Purchase or lease of equipment used for police protection, fire protection, or public transportation, and provision of those same services.

(5) Administration or management of the activities listed in subdivisions (1) through (4).

(c) The project may include, outside the improvement and maintenance district, the construction, remodeling, repair, equipping, operation, and maintenance of a below ground drainage pipe that will allow water from the Indiana Central Canal to enter White River. The pipe must be located within an area that is bounded by West Street on the east, Washington Street, Blackford Street, and Maryland Street on the south, White River and Blake Street on the west, and the southern boundary of Military Park (projected west from West Street to Blake Street) on the north.

(d) An improvement and maintenance project may include capital improvement activities, maintenance activities, or both.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.44.

IC 36-7-15.5-6

Requests for resolutions establishing districts

Sec. 6. (a) The commission shall consider adopting a resolution establishing an improvement and maintenance district if a request for the resolution is made by:

(1) a petition signed by twenty (20) owners of real property located within the proposed district;

(2) a petition signed by a majority of the owners of real property located within the proposed district; or

(3) the legislative body of the city.

(b) The commission may consider adopting the resolution on its own initiative.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-7

Resolution establishing district; contents

Sec. 7. A resolution establishing an improvement and maintenance district must contain the following information:

(1) A description of the geographic area to be considered for inclusion in the district. The geographic area consists of the part of the Indiana Central Canal and nearby property that is located between Washington Street on the south, Interstate Highway 65 on the north, Senate Avenue on the east, and West Street and Dr. Martin Luther King Jr. Memorial Drive West Drive on the west.

(2) The general nature of the improvement and maintenance project that would occur within or in support of the district and the estimated annual cost of the project for the first five (5) years.

(3) Any limitation on the amount of the assessment that would be levied in order to defray part or all of the costs of the improvement and maintenance project. This limitation is not

required to be a fixed amount, but may vary according to a schedule or in relation to a specified index that reflects the increase or decrease in costs of materials, goods, and services.

(4) The estimated annual assessment levy needed to defray the cost of part or all of the improvement and maintenance project for the first five (5) years.

(5) The formula that would be used to accomplish the assessment of special benefits and damages. This formula:

(A) must provide that a parcel within the improvement and maintenance district that is not yet benefited by the improvement and maintenance district because of the stage of the development of the project will not be assigned a percentage of the total benefit;

(B) must provide that real property used for public ways, public sidewalks, religious purposes (before March 1, 1988), and public parks, and the canal itself shall be excluded from assessment;

(C) must provide that real property which is being used exclusively for single-family or two-family residence, and has been continuously used exclusively for that residential purpose from March 1, 1988, shall be excluded from assessment; and

(D) may include the following components:

(i) Square footage of the parcel.

(ii) Square footage of any improvement on the parcel.

(iii) Length of the parcel adjoining the improvement and maintenance project.

(iv) Land use of the parcel.

(v) Until 1991, the fact that the current use of the parcel is not significantly benefited by the improvement and maintenance project.

(vi) Proximity of the parcel to the improvement and maintenance project.

(vii) Accessibility of the parcel to the improvement and maintenance project.

(viii) True cash value of the parcel.

(ix) True cash value of any improvement on the parcel.

(x) Age of the improvement on the parcel.

(xi) Other similar factors.

(6) The fact that if the district is established, owners of real property in the district will be subject to an assessment of special benefits and damages to defray part or all of the costs of the improvement and maintenance project.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.45.

IC 36-7-15.5-8

Public hearings; published and mailed notice

Sec. 8. (a) Before deciding whether to adopt a resolution establishing an improvement and maintenance district, the commission shall hold a public hearing. Notice of the public hearing

shall be given by publication in accordance with IC 5-3-1 and by certified mail at least twenty (20) days before the public hearing to all property owners in the proposed district.

(b) Notices that are mailed to the owners must be addressed as the names and addresses appear on the tax duplicates in the records of the county auditor.

(c) The published and mailed notice must contain the following information:

(1) A description of the geographic area to be considered for inclusion in the district.

(2) The general nature of the improvement and maintenance project that would occur within or in support of the district and the estimated annual cost of the project for the first five (5) years.

(3) Any limitation on the amount of the assessment that would be levied in order to defray part or all of the costs of the improvement and maintenance project.

(4) The estimated annual assessment levy needed to defray the costs of part or all of the improvement and maintenance project for the first five (5) years.

(5) The formula proposed to be used for the assessment of special benefits and damages.

(6) The time and place of the hearing during which establishment of the district will be considered and at which owners of real property, or their representatives, may be heard upon the question of the establishment of the district.

(7) The fact that if the district is established, owners of real property in the district will be subject to an assessment of special benefits and damages to defray part or all of the costs of the improvement and maintenance project.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.46.

IC 36-7-15.5-9

Public hearing; determination of questions; adoption, amendment, or rejection of resolution; district boundaries; additional hearing; notice

Sec. 9. (a) At the public hearing under section 8 of this chapter, the commission shall hear all owners in the proposed district (who appear and request to be heard) upon the questions of:

(1) the sufficiency of the notice;

(2) whether the proposed improvement and maintenance project is of public utility and benefit;

(3) whether all of the probable benefits of the proposed improvement and maintenance project will be equal to or exceed the estimated cost of the project or any limitation on the amount of the levy, whichever is less;

(4) whether the formula to be used for the assessment of special benefits and damages is appropriate; and

(5) whether the district contains all, or more or less than all, of the property specially benefited or damaged by the proposed

project.

(b) After the public hearing (which may be adjourned from time to time without further notice), the commission shall make a determination on the following questions:

(1) Whether the required notice was given.

(2) Whether the proposed improvement and maintenance project is of public utility and benefit.

(3) Whether all of the probable benefits of the proposed project will equal or exceed the estimated cost of the project or any limitation on the amount of the assessment levy, whichever is less.

(4) Whether the formula to be used for the assessment of special benefits and damages is appropriate.

(5) Whether the proposed improvement and maintenance district contains all, or more, or less than all, of the real property specially benefited or damaged by the proposed project.

(c) If the commission resolves affirmatively on questions (1) through (4) in subsection (b) and determines that the proposed district contains all of the real property specially benefited or damaged, and does not contain real property not specially benefited or damaged, then it shall adopt the resolution establishing the district with the boundaries described in the resolution.

(d) If the commission resolves negatively on question (1), (2), (3), or (4) in subsection (b), it may amend the resolution, issue additional notice, and hold further proceedings as it considers proper, or the commission may reject the resolution.

(e) If the commission resolves affirmatively on questions (1) through (4) in subsection (b) and determines that real property not specially benefited or damaged has been included within the proposed boundaries, then it shall redefine the boundaries of the proposed district and include only the real property that is specially benefited or damaged, and shall establish the district with the boundaries as redefined.

(f) If the commission resolves affirmatively on questions (1) through (4) in subsection (b) and determines that either:

(1) all of the real property specially benefited or damaged has not been included within the proposed boundaries; or

(2) all of the real property specially benefited or damaged has not been included within the proposed boundaries, and some real property has been included which is not specially benefited or damaged;

then it shall fix a date for an additional hearing. Notice of the additional hearing shall be given by publication in accordance with IC 5-3-1 and by certified mail at least twenty (20) days before the hearing to the owners in an area proposed to be added to the district that was not included in the initial petition. The notice must describe the proposed revised boundaries. At the additional hearing, all owners of real property or their representatives within the proposed district boundaries, as revised, may be heard, after which the

commission shall adopt its resolution on establishment of the improvement and maintenance district.

(g) Adoption of a resolution under this section constitutes notice to all owners who have appeared, or who have been notified of the proceedings, as provided in this section, that their property will be subject to an assessment of special benefits and damages as provided in this chapter.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-10

Approval of resolution by legislative body of city; finality of resolution

Sec. 10. (a) A resolution of the commission that establishes an improvement and maintenance district must be approved by the legislative body of the city.

(b) After this approval, the resolution is final and conclusive, and no attack may be made challenging the resolution or the establishment of the improvement and maintenance district, the sufficiency of notice, the existence of the improvement and maintenance district, the public utility and benefit of the proposed improvement and maintenance project, that the benefits equal or exceed the estimated cost or limitation on the assessment levy, the appropriateness of the formula to be used for assessing special benefits and damages, the boundaries of the district, or any other matters before the commission, unless an appeal is taken as provided in section 12 of this chapter.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-11

Recording copy of resolution

Sec. 11. A copy of the resolution establishing an improvement and maintenance district, certified by the clerk of the legislative body, shall be recorded in the miscellaneous records in the office of the recorder of the county in which the city is located.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-12

Appeals

Sec. 12. Any party aggrieved by a resolution adopted under this chapter may appeal. This appeal must be taken as provided in IC 34-13-6.

As added by P.L.194-1988, SEC.1. Amended by P.L.1-1998, SEC.209.

IC 36-7-15.5-13

Amendment of resolution

Sec. 13. Changes in a resolution governing an improvement and maintenance district may be made by the commission, with the approval of the legislative body. The commission shall follow the procedure for establishment of a district prescribed by this chapter

when amending the resolution. However, the content of notices must be appropriate to the nature of the amendment. In considering the amendment, the commission shall use the standards set forth in section 9(b) of this chapter. However, if the improvement and maintenance project is not significantly changed, and if the area of the improvement and maintenance project is not proposed to be changed, it is not necessary to make the determination set forth in section 9(b)(5) of this chapter.
As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-14
Annual assessment of benefits and damages; schedule; limitation on assessments

Sec. 14. (a) The commission may make an annual assessment of benefits and damages within an improvement and maintenance district for the purpose of defraying part or all of the cost of an improvement and maintenance project. The assessment of benefits and damages must comply with the formula contained in the resolution establishing the district.

(b) The commission shall annually prepare a schedule that describes each parcel of real property in an improvement and maintenance district that it determines to be benefited by the improvement and maintenance project, and states the percentage of the total benefit that is received by each parcel of real property.

(c) The commission may retain or employ qualified personnel for necessary technical or consulting assistance.

(d) After determining under subsection (b) the percentage of benefit that is received by each parcel of real property, the commission shall consider the fiscal needs of the improvement and maintenance district that need to be defrayed by the assessment of special benefits, and shall apply the percentage for each parcel as determined under subsection (b) to the total amount that is to be defrayed by special assessment, and determine the assessment for each parcel.

(e) The total of the assessments established under subsection (d) may not exceed either:

(1) the sum of the amount set out in or proposed for the budget of the improvement and maintenance district; or

(2) the amount of any limitation on the assessment that would be levied as set forth in the resolution that established the improvement and maintenance district.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-15
Districts on which development initiated between November 1, 1985, and June 30, 1988; payment of assessments

Sec. 15. (a) This section applies to a parcel in an improvement and maintenance district on which development is initiated between November 1, 1985, and June 30, 1988, in accordance with a project agreement executed before June 30, 1988, under IC 36-7-15.1 that

provides a maximum limitation on the amount of the special benefit assessment that the owner will be obligated to pay.

(b) For those parcels, the department may pay each year to the fund the amount by which the assessment amount on the parcel exceeds the maximum assessment amount specified in the project agreement.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-16

Property owned by state or municipal corporation; payment of assessments; charges; services as payment

Sec. 16. (a) If property located within an improvement and maintenance district is owned and used by the state or any municipal corporation, the commission shall determine the amount that would be levied as an assessment for the property under section 14 of this chapter and provide this information to the governor or the executive of the municipal corporation. The state or the municipal corporation may choose to pay an amount equal to the assessment. The state or the municipal corporation shall indicate no later than forty-five (45) days after receiving this information in writing from the commission whether or not it will pay this amount. If it indicates in writing that it will pay this amount, it shall pay the amount. If it does not obligate itself to pay the amount, the department is responsible for payment of this amount. However, the department may charge the state or the municipal corporation:

(1) for expenses incurred in carrying out the improvement and maintenance project on or relative to land owned and used by the state or the municipal corporation; and

(2) a reasonable sum for allowing the introduction into the canal of any geothermal discharge water from properties owned and used by the state or the municipal corporation.

(b) If the department and the state or the municipal corporation do not agree on the amount that should be charged under subsection (a)(1) and (a)(2), the amount shall be determined by a three (3) person committee consisting of a representative of the governor or the executive of the municipal corporation (whichever is involved in the disagreement), a representative of the department, and a third person mutually agreed upon by those two (2) representatives.

(c) If the commission and the state or the municipal corporation agree, the state or the municipal corporation may provide specified services in part or all of the improvement and maintenance district as a substitute for paying part or all of the amount identified under subsection (a).

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-17

Notice of proposed assessment; mailing to parcel owner; hearing on remonstrance; finality of decision; appeal

Sec. 17. (a) Promptly after determining the proposed assessment for each parcel, the commission shall mail notice (first class postage

prepaid) to each owner of property to be assessed. This notice must:

(1) set forth the amount of the proposed assessment;

(2) state that the proposed assessment on each parcel of real property in the improvement and maintenance district is on file and can be seen in the commission's office;

(3) state the time and place where written remonstrances against the assessment may be filed;

(4) set forth the time and place where the commission will hear any owner of assessed real property who has filed a remonstrance before the hearing date; and

(5) state that the commission, after hearing evidence, may increase or decrease, or leave unchanged, the assessment on any parcel.

(b) The notices must be deposited in the mail twenty (20) days before the hearing date. The notices to the owners must be addressed as the names and addresses appear on the tax duplicates and the records of the county auditor.

(c) At the time fixed in the notice, the commission shall hear any owner of assessed real property who has filed a written remonstrance before the date of the hearing. The hearing may be continued from time to time as long as is necessary to hear the owners. The commission may utilize a hearing officer (who may be an employee of the city) to hear evidence regarding any parcel of real property about which a written remonstrance has been filed and to make a written recommendation of decision to the commission.

(d) The commission shall render its decision by increasing, or decreasing, or by confirming each assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the commission. However, if the total of the assessments exceeds the amount needed, the commission shall make a prorated reduction in each assessment.

(e) The signing of the assessment schedule by a majority of the members of the commission, and the delivery of the schedule to the fiscal officer of the city, constitutes a final and conclusive determination of the benefits or damages, if any, that are assessed. However, any owner who had previously filed a written remonstrance (as provided in this chapter) with the commission, or any owner whose assessment was increased above the amount determined by the formula (whether the owner filed a written remonstrance or not) may appeal. This appeal must be taken as provided in IC 34-13-6, and proceed to trial, hearing, and final judgment as provided in IC 34-13-6 for all parties.

As added by P.L.194-1988, SEC.1. Amended by P.L.1-1998, SEC.210.

IC 36-7-15.5-18

Assessment as lien; priority

Sec. 18. Each assessment is a lien on the real property that is assessed, second only to taxes levied on that property.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-19
Transmission of schedule of assessments; entry on tax duplicates; collection

Sec. 19. The commission shall annually transmit to the county auditor the schedule of assessments of benefits. The county auditor shall enter the assessments of benefits on the tax duplicates. The county treasurer shall collect and enforce the amount of the assessed benefit in the same manner that property taxes are entered, collected, and enforced.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-20
Notice of collected assessments; credit of amounts

Sec. 20. The county treasurer shall, between the first and tenth days of each month, notify the commission regarding the amount of the assessment collected during the preceding month. On the date of this notification, the county treasurer shall credit the amounts collected to the improvement and maintenance district fund, as established by this chapter.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-21
Improvement and maintenance district fund; establishment; deposits and expenditures

Sec. 21. (a) After an improvement and maintenance district is established under this chapter, the legislative body may establish an improvement and maintenance district fund (referred to in this chapter as the "fund").

(b) The following shall be deposited in the fund:

(1) Money resulting from the assessment levy imposed in accordance with this chapter.

(2) Any appropriation made by the legislative body.

(3) Financial contributions from the state or any municipal corporation received under section 16 of this chapter.

(4) Financial contributions from any source.

(c) Expenditures from the fund may be made only by appropriation of the legislative body.

(d) Money in the fund may not be expended for any activity other than those set forth in the resolution establishing the improvement and maintenance district.

(e) Money in the fund shall be deposited with the depository for other public funds of the city in accordance with the statutes concerning the deposit of public funds, unless they are invested under IC 5-13. All interest collected belongs to the fund.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-22
Powers and duties of commission

Sec. 22. (a) The commission is responsible for taking certain official actions that are necessary to carry out an improvement and

maintenance project as set forth in the resolution establishing the district or as provided in this chapter.

(b) The commission may, with respect to the improvement and maintenance project or the improvement and maintenance district, do the following:

(1) Sue and be sued.

(2) Adopt administrative procedures and bylaws.

(3) Approve the acquisition of property (real, personal, or mixed) by deed, purchase, lease, condemnation, or otherwise and dispose of it for improvement and maintenance project purposes.

(4) Approve receipt of gifts, donations, bequests, and public trusts, agree to conditions and terms accompanying them, and bind the district to carry them out.

(5) Negotiate and execute contracts required to accomplish the purposes of this chapter.

(6) Approve disbursements from the fund.

(c) The commission may, by resolution, delegate to a city official the authority to approve, where the amount involved is less than five thousand dollars ($5,000), acquisition or disposition of property, disbursements, and contracts.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.47.

IC 36-7-15.5-23

Duties of department; power of director

Sec. 23. (a) The department shall take all actions necessary to carry out the improvement and maintenance project set forth in the resolution establishing the district.

(b) The director of the department may, with respect to the improvement and maintenance project or the improvement and maintenance district, do the following:

(1) Prepare and submit a budget as required by IC 36-3-6-4(b).

(2) Establish operational procedures.

(3) Approve the hiring and dismissal of personnel, subject to limitations prescribed by law and rules adopted by the mayor.

(4) Delegate to personnel of the department authority to act on the director's behalf.

(5) Assign tasks to employees of the department and supervise the carrying out of those responsibilities.

(6) Approve and execute legal instruments, subject to limitations prescribed by law.

(7) Approve or disapprove disbursement of funds, subject to limitations prescribed by law.

(8) Accept assistance from state or federal agencies for the purposes of this chapter.

(9) Negotiate agreements with an agency of the state, or any of its political subdivisions, or any private company for the rendition of any services, the rental or use of any equipment or facilities, or the joint purchase and use of any equipment or facilities considered proper by the contracting parties for use in

the operation, maintenance, or construction of the improvement and maintenance project.

(10) Purchase supplies, materials, and equipment in accordance with law and procedures of the city.

(11) Sell any surplus or unneeded property in accordance with law and procedures of the city.

(12) Exercise other powers necessary to carry out the purposes of the district.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.48.

IC 36-7-15.5-24
Advisory board

Sec. 24. (a) The commission may establish and select the members of an advisory board to assist the commission in governing the improvement and maintenance district. The commission shall determine:

(1) the size and composition of the board; and

(2) the powers and duties of the board.

(b) More than one-half (1/2) of the members of the board must be property owners in the improvement and maintenance district.

As added by P.L.194-1988, SEC.1.

IC 36-7-16
Chapter 16. Home Rehabilitation Loans

IC 36-7-16-1
Application of chapter
Sec. 1. This chapter applies to all units except townships.
As added by Acts 1981, P.L.309, SEC.35.

IC 36-7-16-2
Definitions
Sec. 2. As used in this chapter:
"Agency" refers to the department of metropolitan development in a county having a consolidated city, the works board in second class cities, and the department of redevelopment in other units.
"Home" means a residential building containing no more than four (4) family dwelling units.
As added by Acts 1981, P.L.309, SEC.35.

IC 36-7-16-3
Appropriations; federal monies and monies received on resale of property; grants to homeowners
Sec. 3. (a) A unit having an agency may appropriate money to the agency for the purpose of making rehabilitation loans and administering this chapter.
(b) The unit, through its agency, may use federal monies that it receives for these purposes and monies that it receives as a result of the sale or lease of property to which it has held title as a result of failure to comply with the terms of a loan or grant made under this chapter.
(c) A unit, through its agency, may make home rehabilitation grants to bona fide homeowners, if the monies used for these grants are received only from federal grants and are appropriated under the terms and regulations of the granting federal entity. Federal grants that may be used under this subsection include monies appropriated to units under the 1974 Community Development Act, as amended (42 U.S.C. sections 5301-5318).
As added by Acts 1981, P.L.309, SEC.35.

IC 36-7-16-4
"Concentrated code delinquency area" defined; loans; authorization; prerequisites
Sec. 4. (a) As used in this section, "concentrated code delinquency area" means an area of at least one-half (1/2) square block in which:
(1) at least two-thirds (2/3) of the lots are occupied by improvements;
(2) at least two-thirds (2/3) of the improvements are homes; and
(3) an investigation by the agency shows that at least one-half (1/2) of the homes are not in compliance with applicable building code standards.
The agency may conduct an investigation on its own initiative, and

shall conduct an investigation on receipt of a petition signed by the occupants of at least one-half (1/2) of the family dwelling units within the proposed area. In conducting the investigation, the agency may use its own staff or hire independent appraisers and inspectors.

(b) Rehabilitation loans may be made to enable the borrower to make repairs that will bring his home into compliance with applicable building code standards, if all of the following conditions are present:

(1) The borrower holds marketable title to the property, subject only to mortgage indebtedness or contract for the purchase of the property, the lien of taxes that are not yet due and payable, and any assessment for public improvements that is not yet due and payable.

(2) The property is located within the area of a community development target area designated by an application to the Department of Housing and Urban Development under the 1974 Community Development Act, as amended (42 U.S.C. sections 5301-5318), an urban renewal project, a concentrated code delinquency neighborhood, or an area needing redevelopment.

(3) The agency has determined that the borrower is an acceptable credit risk. In making this determination, the agency shall be guided by the fact that a principal purpose of this chapter is to make rehabilitation available to those who would be unable to obtain such loans through normal commercial channels.

(4) The borrower has in full force and effect a policy of insurance protecting the property in an amount and with an insurer satisfactory to the agency.

(c) Subject to subsection (d), the agency shall use the procedures prescribed by IC 36-7-14-15 through IC 36-7-14-18 to make a finding that an area is an area needing redevelopment.

(d) The agency in a consolidated city shall use the procedures prescribed by law to make a finding that an area is an area needing redevelopment.

As added by Acts 1981, P.L.309, SEC.35. Amended by Acts 1981, P.L.310, SEC.92; P.L.185-2005, SEC.49.

IC 36-7-16-5

Purchasers under land sales contracts; eligibility for loans

Sec. 5. (a) A purchaser under a land sales contract is eligible for a loan to cover the costs of repairs that will bring his home into compliance with applicable building code standards, if all of the following conditions are present:

(1) The contract is a written, legally binding instrument involving a residential property containing, after rehabilitation, not more than four (4) dwelling units.

(2) The seller of the property holds fee title to the property, and, while the contract is in good standing, is unable to use the property for collateral or to convey it to any other party, unless the use for collateral or conveyance of fee is subject to the land

sales contract. The agency shall record this agreement, or the contract, promptly after loan settlement.

(3) Under the contract, the seller and any subsequent holder of the fee to the property is obligated, without qualification, to deliver to the purchaser fee simple title and a deed to the property upon full payment of the contract price, or some lesser amount.

(4) Under the contract, the purchaser has:

(A) full use, possession, and quiet enjoyment of the property;

(B) equitable title to the property; and

(C) full rights of redemption for a period of not less than ninety (90) days.

(5) The purchaser has had possession and use of the property under the contract for at least twelve (12) months before the date of application for a loan. If the loan is to include an amount to refinance the balance due under a land sales contract, this requirement does not apply.

(b) The agency may purchase the property from the contract seller at any time by the exercise of any right of accelerated payment that is provided for under the contract, by negotiation with the contract seller, or by the exercise of the power of eminent domain.

As added by Acts 1981, P.L.309, SEC.35.

IC 36-7-16-6

Property acquired by default; disposition

Sec. 6. If the agency acquires title to property as the result of a failure to comply with the terms of a loan made under this chapter, the agency may make the same use or disposition of the property that it may make of any other property to which it acquires title.

As added by Acts 1981, P.L.309, SEC.35.

IC 36-7-16-7

Loans; no application fee; closing costs and charges

Sec. 7. The agency may not charge an application fee in connection with the loans authorized by this chapter. However, if an application is approved, the agency shall include in the principal amount of the loan an amount sufficient to cover closing costs and the cost of:

(1) bringing the title to date;

(2) obtaining title insurance or a title opinion from counsel;

(3) appraisal; and

(4) any necessary permits.

As added by Acts 1981, P.L.309, SEC.35.

IC 36-7-16-8

Loan rates; administration of chapter

Sec. 8. (a) Loans made under this chapter shall be made at rates to be determined by the agency. The proceeds of loans shall be used to defray the expense of administering this chapter.

(b) The agency may employ the persons and establish the

administrative guidelines required to carry out the purposes of this chapter.

As added by Acts 1981, P.L.309, SEC.35.

IC 36-7-17

Chapter 17. Urban Homesteading

IC 36-7-17-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by Acts 1981, P.L.309, SEC.36.

IC 36-7-17-2

Designation of agency to administer program

Sec. 2. The fiscal body of a unit may by ordinance designate an agency or quasi-public corporation, or establish a new agency, to administer an urban homesteading program under which family dwellings for one (1) through four (4) families may be conveyed to individuals or families, who must occupy and rehabilitate the dwellings, and community organizations that must rehabilitate the dwellings and offer them for sale.

As added by Acts 1981, P.L.309, SEC.36. Amended by P.L.177-2003, SEC.11.

IC 36-7-17-3

Acquisition of property

Sec. 3. (a) The agency designated or established in section 2 of this chapter may acquire real property in the name of the unit, for use as provided in this chapter.

(b) Under IC 6-1.1-24-4.5, the county auditor shall provide a list of real property on which one (1) or more installments of taxes are delinquent.

(c) Under IC 6-1.1-25-1 and IC 6-1.1-25-4, the agency may acquire the deed for real property purchased at tax sale for the purposes of this chapter one hundred twenty (120) days after the date of sale, after compliance with the notice provisions of IC 6-1.1-25-4.5.

(d) Under IC 6-1.1-25-7.5, the agency may acquire the deed for real property for which the holder of the certificate of sale has failed to request that the county auditor execute and deliver a deed within one hundred twenty (120) days after issuance of the certificate.

(e) In addition to real property acquired through tax sale for the purposes of this chapter, the agency may acquire real property by purchase or gift.

As added by Acts 1981, P.L.309, SEC.36. Amended by P.L.87-1987, SEC.11; P.L.1-1994, SEC.178; P.L.31-1994, SEC.22; P.L.2-1995, SEC.135; P.L.169-2006, SEC.76.

IC 36-7-17-4

Notice to residents of unit

Sec. 4. The agency shall, after the acquisition of real property for use as provided in this chapter, take the steps necessary to fully inform the residents of each unit in which the dwellings are located of:

(1) the existence, nature, and location of the dwellings;
(2) the qualifications required for participation in the program under this chapter; and
(3) the terms and conditions on which the dwellings may be conveyed to qualified persons.

As added by Acts 1981, P.L.309, SEC.36.

IC 36-7-17-5
Applications; eligibility; drawings to determine receipt of dwellings

Sec. 5. (a) A person or community organization may apply for the program by completing a bid application.

(b) The following applicants are qualified and shall be approved to receive real property offered under this chapter:

(1) A person who:
(A) is at least eighteen (18) years of age;
(B) possesses the financial resources to support a loan, the necessary skills to rehabilitate the property, or a combination of both; and
(C) has, including immediate family, not previously participated in the program.
(2) A community organization as described in IC 36-7-9-2.

(c) Approved applicants are entitled to receive a list of all properties owned by the unit that are available under this chapter.

(d) Approved applicants may apply for each dwelling in which they are interested. A drawing shall be held to determine those applicants receiving the dwellings. Persons applying under this chapter shall receive priority over community organizations if both indicate an interest in the same dwelling. Each approved person and his or her immediate family may receive only one (1) dwelling in the drawing. Each approved community organization may receive as many dwellings as the agency considers proper.

As added by Acts 1981, P.L.309, SEC.36. Amended by P.L.177-2003, SEC.12.

IC 36-7-17-6
Conveyances; duties of recipients

Sec. 6. The conveyance of a dwelling to an applicant under this chapter shall be made in return for a fee of one dollar ($1) or more and the execution by the applicant of an agreement with the following minimum conditions:

(1) The applicant must:
(A) if a person, reside in the dwelling as the person's principal place of residence for a period of not less than three (3) years; or
(B) if a community organization, agree to list the dwelling for sale within twelve (12) months after possession.
(2) The applicant must bring the residence up to a minimum code standard, including building, plumbing, electrical, and fire code standards, within twelve (12) months after possession, or before possession if required under subdivision (4).

(3) The applicant must carry fire and liability insurance on the dwelling at all times.

(4) The applicant must comply with any additional terms, conditions, and requirements that the agency may impose to assure that the purposes of this chapter are carried out. This may include the requirement that the dwelling be rehabilitated to minimum building code standards before possession.

As added by Acts 1981, P.L.309, SEC.36. Amended by P.L.177-2003, SEC.13.

IC 36-7-17-7

Conveyances; methods authorized

Sec. 7. (a) The agency shall convey the real property acquired for the purposes of this chapter to those persons or community organizations qualified under section 6 of this chapter by using the methods prescribed by subsection (b), (c), or (d).

(b) The real property may be conveyed by a conditional sales contract, with title to remain in the agency for a period of at least one (1) year.

(c) The title to real property may be conveyed to a person purchasing the property as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language "The property is conveyed on the conditions that the purchaser:

(1) will reside in the dwelling as his principal place of residence for a period of not less than three (3) years;

(2) will bring the residence up to minimum code standards in twelve (12) months;

(3) will carry adequate fire and liability insurance on the dwelling at all times; and

(4) will comply with such additional terms, conditions, and requirements as the agency requires before _____ (date of the deed) under IC 36-7-17.".

(d) The title to real property may be conveyed to a community organization purchasing the property as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language: "The property is conveyed on the conditions that the purchaser:

(1) will list the property for sale within twelve (12) months of taking possession;

(2) will bring the residence up to minimum code standards within twelve (12) months;

(3) will carry adequate fire and liability insurance on the dwelling at all times; and

(4) will comply with any additional terms, conditions, and requirements as the agency requires before _____ (date of the deed) under IC 36-7-17.".

As added by Acts 1981, P.L.309, SEC.36. Amended by P.L.19-1986, SEC.61; P.L.177-2003, SEC.14.

IC 36-7-17-8

Conveyances; effect of purchaser's failure to fulfill agreement; subordination of agency's interest to financial institutions or persons lending money

Sec. 8. Before the vesting of a fee simple title in the purchaser, any material failure by the purchaser to carry out the agreement entered into under section 6 of this chapter nullifies the agreement and all right, title, and interest in the property immediately reverts to the agency, except that the agency may grant the purchaser a specified period, not to exceed two (2) years, to come into compliance with the terms of the agreement. The agency may subordinate its interest under the terms of the agreement to financial institutions or persons lending money to the purchaser for the purpose of allowing the purchaser to fulfill the terms of the conveyance.

As added by Acts 1981, P.L.309, SEC.36.

IC 36-7-17-9

Conveyances; fee simple title

Sec. 9. (a) When, after purchase, a person has resided in the dwelling for the required three (3) year period, brought the property into compliance with the required code standards, and otherwise complied with the terms of the person's agreement, the agency shall convey to the person a fee simple title to the property.

(b) When, after purchase, a community organization has brought the property into compliance with the required code standards, documented its intent to list the property for sale, and otherwise complied with the terms of its agreement, the agency shall convey to it a fee simple title to the property.

As added by Acts 1981, P.L.309, SEC.36. Amended by P.L.177-2003, SEC.15.

IC 36-7-17-10

Rules and regulations

Sec. 10. The director of the agency shall prescribe the rules and regulations necessary to carry out this chapter, including rules and regulations establishing standards and methods for inspection of buildings, bidding for properties by applicants, and measurement of rehabilitation progress.

As added by Acts 1981, P.L.309, SEC.36.

IC 36-7-17-11

Retention of deed by unit; property deemed municipal property; tax exemption

Sec. 11. Property acquired or held under this chapter with retention of the deed by the unit is considered property of the unit held for municipal purposes and is exempt from property taxation. This property tax exemption becomes effective on the date of conveyance to the unit. A petition to cancel taxes or a certified application for exemption is not required for property acquired or held under this chapter.

As added by Acts 1981, P.L.309, SEC.36.

IC 36-7-17-12
Property not applied for in successive drawings; sale; disposition of proceeds

Sec. 12. (a) A property for which no one applies in two (2) successive drawings held under this chapter may be sold at public auction to the highest bidder.

(b) The proceeds of the sale of real property acquired under IC 6-1.1-25-7.5 shall be applied to the cost of the sale, including advertising and appraisal.

(c) If any proceeds remain after payment of the costs under subsection (b), the proceeds shall be applied to the payment of taxes removed from the tax duplicate under IC 6-1.1-25-7.5(e).

(d) If any proceeds remain after payment of the taxes under subsection (c), the proceeds shall be deposited in the county general fund.

As added by Acts 1981, P.L.309, SEC.36. Amended by P.L.87-1987, SEC.12; P.L.169-2006, SEC.77.

IC 36-7-18

Chapter 18. Housing Authorities

IC 36-7-18-1

Application of chapter; impairment of contract; fulfillment of obligations

Sec. 1. (a) This chapter applies to all units except townships.

(b) Only the sections of this chapter that are listed in section 1.5 of this chapter apply to a consolidated city that by ordinance establishes or designates a department, division, or agency of the city to perform the public housing function.

(c) An ordinance establishing or designating a department, division, or agency of a consolidated city to perform the public housing function may not impair the obligations of the housing authority existing under any contract in effect at the time that ordinance is effective. The consolidated city shall fulfill any obligations of the housing authority that are transferred to the consolidated city.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.339-1985, SEC.1; P.L.59-1986, SEC.17; P.L.344-1987, SEC.2.

IC 36-7-18-1.5

Powers of agency performing public housing function

Sec. 1.5. If a consolidated city adopts an ordinance under section 1 of this chapter, the legislative body or the department, division, or agency performing the public housing function:

(1) has all powers granted to it by the consolidated city under this section and IC 36-1;

(2) has all powers granted to a housing authority by and is subject to sections 2, 3, 10(b), 10(c), 10(d), 15, 16(a), 17, 18, 19, 20, 21, 22, 23, 24, 25, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, and 42 of this chapter and may exercise all those powers as commissioners of a housing authority exercise those powers under those sections; and

(3) designate officials or employees to exercise all its powers and execute all necessary documents, instruments, or obligations. However, notes or bonds issued by the consolidated city under this chapter shall be executed and attested as other notes or bonds of the consolidated city are executed and attested.

As added by P.L.344-1987, SEC.3.

IC 36-7-18-2

Declaration of public purpose

Sec. 2. The clearance, replanning, and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property may be acquired.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-3
"Persons of low income" defined

Sec. 3. For purposes of this chapter, persons or families who, without financial assistance, lack the amount of income that a housing authority finds is necessary to enable them to live in decent, safe, and sanitary dwellings without overcrowding are considered persons of low income.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-4
Housing authorities; establishment; procedure

Sec. 4. (a) A unit may establish a housing authority if the fiscal body of the unit, by resolution, declares that there is a need for an authority in the unit.

(b) The determination as to whether or not there is a need for an authority may be made by the fiscal body:

(1) on its own motion;

(2) on the filing of a petition signed by twenty-five (25) residents of the unit and stating that there is a need for an authority in the unit; or

(3) on receipt of an order from the division of family resources.

(c) A resolution may be passed under this section only after a public hearing. Notice of the time, place, and purpose of the hearing must be given by the fiscal body by publication in accordance with IC 5-3-1.

(d) The fiscal body of a unit may adopt a resolution declaring that there is need for a housing authority in the unit if it finds that:

(1) unsanitary or unsafe dwelling accommodations are inhabited in the unit; or

(2) there is a shortage of safe or sanitary dwelling accommodations available in the unit for persons of low income at rentals they can afford.

In determining whether dwelling accommodations are unsafe or unsanitary, the fiscal body may consider the degree of overcrowding, the percentage of land coverage, the light, air, space, and access available to inhabitants, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions in the buildings endanger life or property by fire or other causes.

(e) In any proceeding involving any contract of a housing authority, the authority shall be conclusively presumed to have become established and authorized to transact business and exercise its powers under this chapter on proof of the adoption of a resolution by the fiscal body declaring the need for the authority. The resolution is sufficient if it declares that there is a need for an authority and finds that either or both of the conditions listed in subsection (d) exist in the unit. A copy of the resolution certified by the clerk of the fiscal body is admissible in evidence in any proceeding.

As added by Acts 1981, P.L.309, SEC.37. Amended by Acts 1981, P.L.45, SEC.32; P.L.41-1987, SEC.21; P.L.2-1992, SEC.891; P.L.4-1993, SEC.329; P.L.5-1993, SEC.337; P.L.24-1997, SEC.65;

P.L.145-2006, SEC.375.

IC 36-7-18-5
Commissioners; appointment

Sec. 5. (a) After the fiscal body of a unit adopts a resolution under section 4 of this chapter, persons shall be appointed as commissioners of the housing authority in the following manner:

(1) In a city, the fiscal body shall promptly notify the city executive of the adoption of the resolution. The executive shall then appoint seven (7) persons, one (1) of whom must be a resident of a housing project under the jurisdiction of the housing authority, no more than four (4) of whom may be of the same political party, as commissioners of the housing authority.

(2) In a town or county, the fiscal body shall appoint seven (7) persons, one (1) of whom must be a person directly assisted by the housing authority, no more than four (4) of whom may be of the same political party, as commissioners of the housing authority.

(b) Subsequent appointments to the authority shall be made in the same manner.

(c) A commissioner of a housing authority must be a resident of the area in which the housing authority has jurisdiction as provided in section 41 of this chapter.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.340-1985, SEC.1; P.L.229-2001, SEC.1.

IC 36-7-18-6
Commissioners not officers or employees of unit; exceptions

Sec. 6. (a) Except as provided in subsection (b), a commissioner of a housing authority may not be an officer or employee of the unit for which the authority is created.

(b) A member of a redevelopment commission established by a unit under IC 36-7-14 may be a commissioner of a housing authority of the unit.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.26-1993, SEC.7; P.L.263-1993, SEC.1.

IC 36-7-18-7
Commissioners; terms of office; certificates of appointment

Sec. 7. (a) The executive or fiscal body appointing the first commissioners of a housing authority shall fix their terms as follows:

(1) One (1) year for two (2) of the commissioners.

(2) Two (2) years for two (2) of the commissioners.

(3) Three (3) years for one (1) of the commissioners.

(4) Four (4) years for two (2) of the commissioners.

After that, appointments to the authority are for a term of four (4) years, except that all vacancies shall be filled for the unexpired term. A commissioner serves until his successor is appointed and qualified.

(b) A certificate for the appointment or reappointment of a commissioner of a housing authority must be filed with the clerk of

the fiscal body of the unit. The certificate is conclusive evidence of the proper appointment of the commissioner.
As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.229-2001, SEC.2.

IC 36-7-18-8
Commissioners; compensation; expenses

Sec. 8. A commissioner of a housing authority is entitled to:

(1) a per diem allowance of twenty-five dollars ($25) for attending a meeting of the authority; and

(2) reimbursement for necessary expenses, including traveling expenses, incurred in the discharge of the commissioner's duties.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.308-1989, SEC.1.

IC 36-7-18-9
Commissioners; removal from office

Sec. 9. (a) A commissioner of a housing authority may be removed for inefficiency, neglect of duty, or misconduct in office, by:

(1) the city executive, for a city housing authority;

(2) the town fiscal body, for a town housing authority; or

(3) the county fiscal body, for a county housing authority.

(b) A commissioner may be removed under subsection (a) only if he was given a copy of the charges at least ten (10) days before a hearing on the charges and had an opportunity to be heard in person or by counsel. In a city, the fiscal body shall appoint the hearing officer for the hearing, which may not be the city executive when he is the person bringing the charges. The commissioner against whom the charges are made may require that the hearing be open to the public. After the removal of a commissioner, a record of the proceedings, together with the charges and findings, shall be filed in the office of the clerk of the fiscal body of the unit.
As added by Acts 1981, P.L.309, SEC.37. Amended by Acts 1981, P.L.313, SEC.1; P.L.344-1987, SEC.4.

IC 36-7-18-9.1
Commissioners; residence requirement; removal

Sec. 9.1. A commissioner of a housing authority is automatically removed whenever the commissioner's residence is outside the boundaries of the unit having the housing authority.
As added by P.L.340-1985, SEC.2.

IC 36-7-18-10
Employees; legal services; pension plans

Sec. 10. (a) A housing authority may employ an executive director, technical experts, and other permanent and temporary officers, agents, and employees required by the authority, and may determine their qualifications, duties, and compensation.

(b) If a housing authority needs legal services, it may call upon the attorney for the unit or may employ its own counsel and legal staff.

(c) A housing authority may delegate powers and duties to its agents and employees.

(d) A housing authority may contract for and purchase adequate pension plans on behalf of those employees. The plans may be purchased from any insurance company licensed to sell such plans in the state, or from any other financial institutions that are approved by a federal agency with which the authority has dealings, notwithstanding any statute providing for participation of public employees in the public employees retirement fund or any other publicly governed fund. The expenses of such a contract or purchase shall be paid from funds of the authority as other expenses are paid. *As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.344-1987, SEC.5.*

IC 36-7-18-11
Conflicts of interest

Sec. 11. (a) Except as provided in subsection (b), a commissioner or an employee of a housing authority may not acquire or have any direct or indirect interest in:

(1) a housing project;

(2) any property included or planned to be included in a project; or

(3) a contract or proposed contract for materials or services to be furnished or used in connection with any housing project.

(b) A commissioner or an employee of a housing authority may have an interest described in subsection (a) if that interest is in:

(1) a bank or similar financial institution in which housing authority money is deposited;

(2) a contract for materials or services provided on an emergency basis under IC 5-22-10-4 in which time is of the essence, if:

(A) the materials or services are priced at a cost comparable to the same materials or services provided on a competitive basis; and

(B) a declaration of emergency is recorded in the housing authority's minutes;

(3) a contract for materials or services provided by a minority business enterprise (as defined under IC 4-13-16.5-1) that are not available through other minority business enterprises, if the materials and services are priced at a cost comparable to the same materials or services provided on a competitive basis;

(4) a contract for materials or services that cannot be reasonably obtained from other suppliers; or

(5) a lease under which an employee is a tenant of the housing authority.

(c) If a commissioner or an employee of a housing authority owns or controls a direct or an indirect interest in any property included or planned to be included in a housing project, he shall immediately

disclose that interest in writing to the authority. The disclosure shall be entered upon the minutes of the authority, and the commissioner holding the interest may not vote on the acquisition of the property by the authority. Failure to disclose such an interest constitutes misconduct in office.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.340-1985, SEC.3; P.L.14-1991, SEC.24; P.L.49-1997, SEC.79.

IC 36-7-18-12

Chairman; vice chairman

Sec. 12. (a) The executive or fiscal body appointing the first commissioners of a housing authority shall select one (1) of those commissioners to be the first chairman of the authority. When the office of the chairman becomes vacant, the commissioners shall elect a chairman, who must be a commissioner.

(b) The commissioners of a housing authority shall elect a vice chairman for the authority, who must be a commissioner.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.229-2001, SEC.3.

IC 36-7-18-13

Quorum; approval of actions

Sec. 13. The following rules apply to proceedings of a housing authority:

(1) Four (4) commissioners constitute a quorum.

(2) A majority vote of the commissioners present is required to authorize an action of the authority, unless a greater vote is required by the bylaws of the authority.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.229-2001, SEC.4.

IC 36-7-18-14

Limitations on powers of authorities

Sec. 14. A housing authority is a municipal corporation and has all the powers necessary or convenient for carrying out the purposes of this chapter. However, an authority may not initiate any project under this chapter without:

(1) approval of the fiscal body that established the authority; and

(2) approval, by ordinance, of a municipality, if:

(A) the project is to be initiated by a county housing authority;

(B) the project is within five (5) miles of the corporate boundaries of the municipality; and

(C) the jurisdiction of the county housing authority has been expanded to include the jurisdiction of the municipality under section 41 of this chapter.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-15

Actions; contracts; rules

Sec. 15. A housing authority may:

(1) sue and be sued;

(2) have and alter a seal;

(3) make and execute contracts and other instruments necessary or convenient for the exercise of its powers; and

(4) adopt bylaws and rules, consistent with this chapter, to carry out its powers and purposes.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-16

Housing projects; authorization; limitations

Sec. 16. (a) A housing authority may:

(1) prepare, carry out, acquire, lease, and operate housing projects; and

(2) provide for the construction, reconstruction, improvement, alteration, or repair of all or part of a housing project.

(b) Notwithstanding subsection (a), a housing project may not be built if the average construction cost, exclusive of the cost of land, demolition, and nondwelling facilities, is more than:

(1) two thousand dollars ($2,000) per room;

(2) ten thousand dollars ($10,000) per room, if the accommodations are designed specifically for persons of low income who:

(A) have attained the age at which they may elect to receive old age benefits under Title 2 of the Social Security Act (42 U.S.C. 401-433); or

(B) are under disability (as defined in Section 223 of that Act (42 U.S.C. 423)); or

(3) any greater amount established by the federal government as the basis for computing any of its annual contributions.

(c) Notwithstanding subsection (b), if the housing authority finds that:

(1) compliance with the cost limitations in subsection (b) would require the sacrifice of sound standards of construction, design, and livability in a project; and

(2) there is an acute need for the proposed housing;

it may exceed the cost limitation that would otherwise be applicable under subsection (b) by not more than seven hundred fifty dollars ($750) per room.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.309-1989, SEC.1; P.L.255-1996, SEC.27.

IC 36-7-18-17

Contracts relating to housing projects

Sec. 17. A housing authority may contract with a person or a public or private agency for:

(1) services;

(2) privileges;

(3) works; or

(4) facilities;

related to a housing project or its occupants. Notwithstanding any other law, a contract let under this section may require the contractor and any subcontractors to comply with requirements as to minimum wages and maximum hours of labor, and with any conditions that the federal government attaches to its financial aid of the project.
As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-18
Property management; acquisition, ownership, and disposition of property

Sec. 18. A housing authority may:

(1) lease or rent any land, buildings, structures, or facilities included in a housing project;

(2) fix the rentals or charges for property it rents or leases;

(3) own, hold, and improve real or personal property;

(4) acquire any interest in real or personal property in any manner, including the power of eminent domain;

(5) dispose of any interest in real or personal property in any manner;

(6) provide for the insurance of the property or operations of the authority against risks or hazards; and

(7) obtain from the federal government insurance or guarantees for the payment of any debts secured by mortgages on property included in a housing project, whether or not those debts were incurred by the authority.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.344-1987, SEC.6.

IC 36-7-18-19
Investment of funds; cancellation of indebtedness

Sec. 19. (a) A housing authority may invest any money that is held in reserves or sinking funds, or that is not required for immediate disbursement, in:

(1) property or securities in which savings banks may invest money subject to their control;

(2) the shares of any federal savings association or federal savings bank that is organized under the Home Owners' Loan Act of 1933, (12 U.S.C. 1461, 1462, 1464 through 1466a, and 1468 through 1470), as in effect on December 31, 1990, and has its principal office in Indiana; and

(3) the shares of any savings association that is organized under Indiana statutes and the accounts of which are insured by the Federal Deposit Insurance Corporation as provided in 12 U.S.C. 1811 through 1833e, as in effect on December 31, 1990.

However, the value of shares purchased under subdivision (2) or (3) may not exceed the amount of insurance protection afforded a member or investor of the association.

(b) A housing authority may cancel its bonds, notes, or warrants after purchasing them for not more than their principal amount plus accrued interest.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.8-1991, SEC.36; P.L.79-1998, SEC.108.

IC 36-7-18-20
Investigatory powers; cooperation with political subdivisions and state

Sec. 20. A housing authority may:

(1) investigate living and housing conditions, and methods of improving those conditions;

(2) determine where slum areas exist or where there is a shortage of decent, safe, and sanitary dwelling accommodations for persons of low income;

(3) make studies and recommendations relating to the problems of clearing, replanning, and reconstructing slum areas, and of providing dwelling accommodations for persons of low income;

(4) cooperate with the state or any political subdivision in clearing, replanning, and reconstructing slum areas, and providing dwelling accommodations for persons of low income; and

(5) engage in studies and experimentation on the subject of housing.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.344-1987, SEC.7.

IC 36-7-18-21
Designation of hearing examiners

Sec. 21. A housing authority may designate one (1) or more commissioners or other persons to:

(1) conduct examinations and investigations, on behalf of the authority;

(2) hear testimony and take proof under oath at public hearings, on behalf of the authority;

(3) administer oaths;

(4) issue subpoenas requiring the attendance of witnesses or the production of books and papers;

(5) issue commissions for the examination of witnesses who are outside Indiana, unable to appear before the authority, or excused from attendance; and

(6) make its findings and recommendations regarding any building or property that is dangerous to the public health, safety, or welfare available to appropriate agencies, including agencies responsible for abating or eliminating nuisances, or for demolishing unsafe or unsanitary structures.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-22
Availability of housing; national defense activities; major disasters

Sec. 22. (a) Notwithstanding any statute regarding rentals of, preferences or eligibility for admissions to, or occupancy of dwellings in housing projects, during the period that a housing

authority finds that there is an acute need for housing to assure the availability of dwellings for persons engaged in national defense activities or for victims of a major disaster, it may:

(1) undertake the development and administration of housing projects for the federal government;

(2) make dwellings in any of its housing projects available to persons engaged in national defense activities or to victims of a major disaster; and

(3) contract with any governmental entity for advance payment or reimbursement for the furnishing of housing to victims of a major disaster, including the furnishing of housing free of charge for needy disaster victims during the period of acute need.

(b) For purposes of this section, persons engaged in national defense activities are:

(1) persons in the armed forces of the United States;

(2) employees of the department of defense;

(3) workers engaged or to be engaged in activities connected with national defense; and

(4) the families of these persons, employees, and workers who reside with them.

(c) For purposes of this section, a major disaster is a flood, drought, fire, hurricane, earthquake, storm, or other catastrophe that, as determined by the fiscal body that established the housing authority, is of sufficient severity and magnitude to warrant the use of available resources of the federal, state, and local governments to alleviate the resulting damage, hardship, and suffering.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-23

Authorities exempt from certain statutory requirements; trust bids, proposals, or quotations

Sec. 23. (a) A housing authority is not subject to statutes regarding the acquisition, operation, construction, reconstruction, improvement, alteration, repair, disposition, or exchange of real or personal property by other public bodies, except:

(1) with regard to money received from municipalities or counties and derived from local tax levies;

(2) with regard to money received from the state; and

(3) as otherwise provided by this chapter.

(b) A housing authority is not subject to statutes regarding appropriations by other public bodies.

(c) This subsection applies if a housing authority disposes of real property or awards a contract for the procurement of property by acceptance of bids, proposals, or quotations. A bid, proposal, or quotation submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

As added by Acts 1981, P.L.309, SEC.37. Amended by

P.L.336-1989(ss), SEC.53.

IC 36-7-18-24
Establishment of rental rates

Sec. 24. (a) A housing authority shall manage and operate its housing projects in an efficient manner so that it may fix the rentals for dwelling accommodations at the lowest possible rates while providing decent, safe, and sanitary dwelling accommodations. The authority may not construct or operate a project for profit or as a source of revenue to the municipality or county.

(b) A housing authority may not fix the rentals for dwellings in its projects at higher rates than it finds necessary to produce revenues that, together with all other available money, revenues, income, and receipts of the authority, will be sufficient:

(1) to pay, as they become due, the principal and interest on the bonds, notes, or warrants of the authority;

(2) to meet the cost of, and to provide for, maintaining and operating the projects, including the cost of insurance and the administrative expenses of the authority;

(3) to create, during a period of not less than six (6) years immediately after its issuance of any bonds, notes, or warrants, a reserve sufficient to meet the largest principal and interest payments due on them in any one (1) year after that, and to maintain that reserve; and

(4) to accumulate reasonable reserves to cover the making of necessary repairs.

(c) This section does not limit the power of an authority to vest rights in an obligee under section 33 of this chapter free from all the restrictions imposed by this section.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-25
Exemptions from taxes and assessments; agreements to pay for services

Sec. 25. The property of a housing authority is exempt from all taxes and special assessments of the state or any political subdivision. In lieu of taxes or special assessments, an authority may agree to make payments to any political subdivision for services, improvements, or facilities furnished by that political subdivision for the benefit of a housing project owned by the authority. However, these payments may not exceed the estimated cost to the political subdivision of the services, improvements, or facilities to be furnished.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-26
Tenant selection; rentals; adoption of rules

Sec. 26. (a) A housing authority shall observe the following rules with respect to rentals and tenant selection in the operation and management of housing projects:

(1) An authority may not accept a person as a tenant in a dwelling in a project if the persons who would occupy the dwelling have an aggregate annual income that equals or exceeds the amount that, as determined by the authority, is necessary to enable those persons to secure safe, sanitary, and uncongested dwelling accommodations within the jurisdiction of the authority and to provide an adequate standard of living for themselves. The determination of the authority is conclusive.

(2) An authority may rent or lease the dwelling accommodations in a project only at rentals within the financial reach of persons who lack the amount of income that, as determined in subdivision (1), is necessary to obtain safe, sanitary, and uncongested dwelling accommodations within the jurisdiction of the authority and to provide an adequate standard of living.

(3) An authority may rent or lease to a tenant a dwelling consisting of a number of rooms no greater than that which it considers necessary to provide safe and sanitary accommodations without overcrowding.

(b) The housing authority shall adopt rules indicating the manner in which it will comply with this section. These rules apply equally to all tenants and must be posted for public inspection in a conspicuous place in the office of the authority.

(c) This section does not limit the power of an authority to vest rights in an obligee under section 33 of this chapter free from all the restrictions imposed by this section.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-27

Persons ineligible as tenants

Sec. 27. (a) Officers and members of the authority other than the resident manager are not eligible as tenants under this chapter. This section may not be construed to prevent an existing tenant from being appointed to the housing authority board. However, employees of the authority are eligible as tenants under this chapter.

(b) Employees of the United States, the state, and their political subdivisions and agencies may not comprise more than twenty-five percent (25%) of the tenants in a housing project.

(c) This section does not limit the power of an authority to vest rights in an obligee under section 33 of this chapter free from all the restrictions imposed by this section.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.341-1985, SEC.1; P.L.14-1991, SEC.25; P.L.324-1995, SEC.1.

IC 36-7-18-28

Eminent domain

Sec. 28. (a) A housing authority may, by the exercise of the power of eminent domain, acquire any real property that it considers necessary for its purposes under this chapter, if it first adopts a

resolution declaring that necessity. An authority may exercise the power of eminent domain:

(1) under IC 32-24;

(2) under IC 32-24-2, as if it were a works board; or

(3) under any other applicable statutory provisions for the exercise of the power of eminent domain.

(b) Property already devoted to a public use may be acquired under this section, but real property belonging to the state or any political subdivision may not be acquired without the consent of the state or political subdivision that owns the property.

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.2-2002, SEC.115.

IC 36-7-18-29

Housing projects; applicability of ordinances and regulations

Sec. 29. All housing projects of a housing authority are subject to the applicable local ordinances and regulations regarding planning, zoning, sanitation, and building. In the planning and location of any housing project, an authority shall consider the relationship of the project to any larger plan or long-range program for the development of the area in which the authority functions.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-30

Bonds, notes, and warrants; authorization; liability; limitations upon payment; tax exemptions; legalization

Sec. 30. (a) A housing authority may issue bonds, notes, or warrants to finance any of its corporate purposes. An authority may also issue refunding bonds for the purpose of paying or retiring bonds issued by it.

(b) A housing authority may determine the types of bonds, notes, or warrants to be issued, including those on which the principal and interest are payable:

(1) exclusively from the income and revenues of the housing project financed with their proceeds;

(2) exclusively from the income and revenues of certain designated housing projects, whether or not they were financed in whole or in part with their proceeds; or

(3) except for a consolidated city, from its revenues generally.

The bonds, notes, or warrants may be additionally secured by a pledge of any revenues or a mortgage of any project or other property of the authority.

(c) Neither the commissioners of an authority nor any person executing the bonds, notes, or warrants under this section are personally liable on the bonds, notes, or warrants.

(d) The bonds, notes, or warrants of a housing authority are not a debt of the state or any political subdivision and must state this fact on their face. Neither the state nor any political subdivision is liable on them. The bonds, notes, or warrants are not payable out of any funds or properties other than those of the authority.

(e) Bonds, notes, or warrants issued under this chapter are not an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

(f) The bonds, notes, or warrants of a housing authority and the interest on them are exempt from all taxes.

(g) The bonds, notes, or warrants of a consolidated city:

(1) are payable only from revenues derived from the public housing function;

(2) are payable only from a special fund continued or established for that purpose; and

(3) are not a debt of the consolidated city and must state this fact on their face.

The consolidated city is not liable on the bonds, notes, or warrants other than out of the special fund.

(h) All bonds, notes, or warrants issued by a housing authority or a consolidated city serving the public housing function before September 1, 1987, are legalized, ratified, and declared valid, and all proceedings had and actions taken under which those bonds, notes, or warrants were issued are fully legalized and declared valid. The assumption of any obligations of a housing authority by a consolidated city is also legalized and declared valid.

(i) Bonds, notes, or warrants payable by a consolidated city under its assumption of the obligations of a housing authority under this chapter are payable only out of the funds pledged to obligees and as such are a limited obligation of the consolidated city in accordance with subsections (c), (d), (e), and (g).

As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.344-1987, SEC.8.

IC 36-7-18-31

Bonds, notes, and warrants; approval by unit; procedure for issuance and sale; negotiability

Sec. 31. (a) Issues of bonds, notes, or warrants of a housing authority must be approved by the fiscal body of the unit after a public hearing, with notice of the time, place, and purpose of the hearing given by publication in accordance with IC 5-3-1. The bonds, notes, or warrants must then be authorized by resolution of the authority.

(b) After the bonds, notes, or warrants have been approved under subsection (a), they may be issued in one (1) or more series, with the:

(1) dates;

(2) maturities;

(3) denominations;

(4) form, either coupon or registered;

(5) conversion or registration privileges;

(6) rank or priority;

(7) manner of execution;

(8) medium of payment;

(9) places of payment; and

(10) terms of redemption, with or without premium;

provided by the resolution or its trust indenture or mortgage.

(c) The bonds, notes, or warrants shall be sold at public sale under IC 5-1-11, for not less than par value, after notice published in accordance with IC 5-3-1. However, they may be sold at not less than par value to the federal government, at private sale without any public advertisement.

(d) If any of the commissioners or officers of the housing authority whose signatures appear on any bonds, notes, or warrants or coupons cease to be commissioners or officers before the delivery, exchange, or substitution of the bonds, notes, or warrants, their signatures remain valid and sufficient for all purposes, as if they had remained in office until the delivery, exchange, or substitution.

(e) Subject to provision for registration and notwithstanding any other law, any bonds, notes, or warrants issued under this chapter are fully negotiable.

(f) In any proceedings involving the validity or enforceability of any bond, note, or warrant of a housing authority or of its security, if the instrument states that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income, it shall be conclusively presumed to have been issued for that purpose and the project shall be conclusively presumed to have been planned, located, and constructed in accordance with this chapter.

As added by Acts 1981, P.L.309, SEC.37. Amended by Acts 1981, P.L.45, SEC.33; P.L.344-1987, SEC.9.

IC 36-7-18-31.1
Repealed

(*Repealed by Acts 1981, P.L.310, SEC.94.)*

IC 36-7-18-32
Bonds, notes, and warrants; additional powers of housing authorities; covenants; limitation on liability

Sec. 32. (a) In issuing bonds, notes, or warrants, incurring obligations under leases, and securing payment of those obligations, a housing authority may perform all acts necessary or desirable to secure the bonds, notes, or warrants or to make them more marketable. This includes the power to:

(1) pledge or covenant against pledging any of the gross or net rents, fees, or revenues to which it has or will have a right;

(2) mortgage or covenant against mortgaging any of the real or personal property it owns or later acquires;

(3) covenant against permitting a lien on any of its rents, fees, revenues, or real or personal property;

(4) covenant as to limitations on its right to sell, lease, or otherwise dispose of all or part of a housing project;

(5) covenant as to what additional debts or obligations it may incur;

(6) covenant as to the bonds, notes, or warrants to be issued;

(7) covenant as to the issuance of its bonds, notes, or warrants

in escrow or otherwise;
(8) covenant as to the use and disposition of the proceeds of its bonds, notes, or warrants;
(9) covenant against extending the time for the payment of its bonds, notes, or warrants or the interest on them;
(10) provide for the replacement of lost, destroyed, or mutilated bonds, notes, or warrants;
(11) redeem its bonds, notes, or warrants, and covenant for that redemption and its terms and conditions;
(12) covenant, subject to the limitations in this chapter, as to the rents and fees to be charged in the operation of housing projects;
(13) covenant as to the amount of rents, fees, and other revenues to be collected in a specified time, and as to the use and disposition of those revenues;
(14) create special funds for money held for construction or operating costs, debt service, reserves, or other purposes, and covenant as to the use and disposition of the money in those funds;
(15) prescribe the procedure, if any, by which the terms of a contract with holders of bonds, notes, or warrants may be amended or abrogated, including the amount of bonds, notes, or warrants that must be held by holders consenting to the amendment or abrogation, and the manner in which that consent may be given;
(16) covenant as to the use of any of its real or personal property;
(17) covenant as to the maintenance, replacement, and insurance of its real and personal property, and as to the use and disposition of insurance money;
(18) covenant as to the rights, liabilities, powers, and duties arising upon its breach of any covenant, condition, or obligation;
(19) prescribe and covenant as to events of default and the terms and conditions upon which any of its bonds, notes, or warrants become or may be declared due before maturity, and as to the waiver of the right to make such a declaration;
(20) vest in one (1) or more trustees or holders of bonds, notes, or warrants the right to enforce the payment of the bonds, notes, or warrants, or any covenants securing or regarding them, and provide the terms and conditions upon which these rights may be exercised;
(21) vest in one (1) or more trustees the right, in the event of a default by the authority, to take possession of and use, operate, and manage a housing project or any part of it, and to collect and dispose of rents and revenues in accordance with the agreement between the authority and trustee;
(22) establish the powers and duties of trustees and limit their liability; and
(23) make any other covenants.

(b) Any covenants made by the department, division, or agency of the consolidated city serving the public housing function under this chapter only binds the consolidated city as to the public housing function and not generally.
As added by Acts 1981, P.L.309, SEC.37. Amended by P.L.344-1987, SEC.10.

IC 36-7-18-33
Obligees of housing authorities; rights

Sec. 33. (a) For purposes of this chapter, the following persons are considered obligees of a housing authority:

(1) A holder of bonds, notes, or warrants.

(2) A trustee for such a holder.

(3) A person who leases property to the authority for use in connection with a housing project, or an assignee of that person's interest.

(4) The federal government, when it is a party to a contract with the authority.

(b) In addition to his other rights and subject only to any contractual restrictions binding upon him, an obligee of a housing authority may:

(1) by proceedings at law or in equity compel the authority and its commissioners, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to perform all duties imposed upon it by this chapter; and

(2) by proceedings in equity enjoin unlawful conduct or the violation of any of his rights as an obligee of the authority.

(c) A housing authority may, by resolution, trust indenture, mortgage, lease, or other contract, confer upon any obligee holding or representing a specified amount in bonds, notes, or warrants, or holding a lease, the right, upon the happening of an event of default as defined in the resolution or contract, to:

(1) cause possession of a housing project, or any part of a project, to be surrendered to him;

(2) require the authority and its commissioners to account as if they were the trustees of an express trust; and

(3) obtain the appointment of a receiver of a housing project, or any part of a project, and of rents and profits from it.

If a receiver is appointed under subdivision (3), he may enter, take possession of, operate, and maintain the project. The receiver may collect all fees, rents, and other revenues arising from the project, and he shall keep them in one (1) or more separate accounts and apply them in accordance with the obligations of the authority, as directed by the court.
As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-34
Exemption of real property from execution or other judicial

process

Sec. 34. (a) All real property of a housing authority is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may be issued against it.

(b) A judgment against a housing authority may not be made a charge or lien upon its real property.

(c) This section does not apply to the right of obligees to foreclose or otherwise enforce a mortgage of a housing authority, or the right of obligees to pursue remedies for the enforcement of a pledge or lien given by an authority on its rents, fees, or revenues.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-35

Federal, state, and other aid

Sec. 35. (a) A housing authority may do all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance, or operation of a housing project by the authority, including:

(1) borrowing money or accepting grants or other financial assistance from the federal government for or in aid of a housing project;

(2) taking over, leasing, or managing a housing project or undertaking constructed or owned by the federal government; and

(3) complying with any conditions and entering into any mortgages, trust indentures, leases, or other agreements that are necessary or desirable under this subsection.

(b) A housing authority may accept aid from the state, political subdivisions, or private persons.

(c) Notwithstanding subsections (a) and (b), a housing authority may not incur any indebtedness to the federal government, or to any other public or private agency, that matures more than fifty (50) years after letting of contracts for the projects.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-36

Reports

Sec. 36. At least once a year, a housing authority shall file with the clerk of the fiscal body a report of its activities for the preceding year, and shall make recommendations for any additional legislation or other action it considers necessary to carry out the purposes of this chapter. The authority shall make a copy of this report available for inspection by the public at the office of the authority.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-37

Books, records, and accounts

Sec. 37. (a) The state board of accounts shall prescribe methods and forms for keeping the accounts, records, and books to be used by a housing authority, and shall prescribe accounts to which particular

outlays and receipts are to be entered, charged, or credited.

(b) The state board of accounts shall require a housing authority to file periodic reports with it, but not more often than quarterly or less often than annually. The report must cover the operations and activities of the authority, in a form prescribed by the board. The board may from time to time require the report to include specific answers to questions upon which the board desires information. The authority shall keep copies of all periodical reports on file in its office and make them available for examination by the public.

(c) The state board of accounts shall periodically audit the books, records, and accounts of housing authorities. These audits shall be paid for in the manner prescribed by IC 5-11-4.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-38

Approval of projects by department of health; filing plans for new construction with division of fire and building safety

Sec. 38. (a) A housing authority shall file with the state department of health a description of each proposed project, including plans and layout. The state department shall, within thirty (30) days, transmit its approval or disapproval to the authority.

(b) A housing authority shall file all plans for new construction with the division of fire and building safety in the manner prescribed by IC 22-15-3.

As added by Acts 1981, P.L.309, SEC.37. Amended by Acts 1981, P.L.310, SEC.93; P.L.8-1984, SEC.128; P.L.245-1987, SEC.20; P.L.2-1992, SEC.892; P.L.1-2006, SEC.569.

IC 36-7-18-39

Approval of projects by state agencies, boards, and commissions

Sec. 39. Approval of a project of a housing authority by a state board, commission, or agency is required only to the extent prescribed by this chapter.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-40

Supervision of federally financed projects

Sec. 40. Notwithstanding this chapter, a housing project wholly or partially financed by the federal government remains subject to supervision and control by the federal government.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-41

Jurisdiction of authorities; shared jurisdiction

Sec. 41. (a) This subsection applies to a municipality located in a county that does not have a county housing authority. A municipal housing authority has jurisdiction to exercise the powers granted by this chapter in the municipality and in the area within five (5) miles of the corporate boundaries of the municipality. However, the authority may not exercise its powers within the corporate

boundaries of another municipality without the consent, by resolution, of the fiscal body of that municipality.

(b) Except as provided in subsection (c), a county housing authority has jurisdiction to exercise the powers granted by this chapter in all unincorporated areas of the county outside the jurisdiction of municipal housing authorities. However, the jurisdiction of a county housing authority may be expanded to include all or part of the jurisdiction of a municipal housing authority within the corporate boundaries of the municipality if the fiscal bodies of the county and of the municipality each adopt a resolution declaring a need for the county housing authority to exercise its powers within the jurisdiction of the municipal housing authority. Such a resolution may be adopted only after a public hearing, with notice of the time, place, and purpose of the hearing given by the fiscal body by publication in accordance with IC 5-3-1.

(c) A municipal housing authority and a county housing authority share jurisdiction to exercise the powers granted by this chapter in the area that is:

(1) within the county; and

(2) located within five (5) miles outside the corporate boundaries of the municipality.

(d) Notwithstanding subsections (a), (b), and (c), the housing authority of a consolidated city has jurisdiction to exercise the powers granted by this chapter only in the area that was subject to its jurisdiction on December 31, 1969.

As added by Acts 1981, P.L.309, SEC.37. Amended by Acts 1981, P.L.45, SEC.34; P.L.52-2003, SEC.1.

IC 36-7-18-42
Joint projects; authorization

Sec. 42. Two (2) or more housing authorities may join or cooperate with one another in the exercise of any of the powers conferred by this chapter, for the purpose of financing, planning, undertaking, constructing, or operating housing projects located within the jurisdiction of any one (1) or more of the authorities.

As added by Acts 1981, P.L.309, SEC.37.

IC 36-7-18-43
Repealed

(*Repealed by P.L.41-1987, SEC.22.)*

IC 36-7-18-44
Repealed

(*Repealed by P.L.41-1987, SEC.22.)*

IC 36-7-19
Chapter 19. Aid to Housing Authorities

IC 36-7-19-1
Application of chapter
Sec. 1. This chapter applies to all political subdivisions.
As added by Acts 1981, P.L.309, SEC.38.

IC 36-7-19-2
Aid by political subdivisions; authorization
Sec. 2. A political subdivision may spend public money for and give other aid to a housing authority that operates within the jurisdiction of the political subdivision.
As added by Acts 1981, P.L.309, SEC.38.

IC 36-7-19-3
Powers of political subdivisions
Sec. 3. (a) A political subdivision has all the powers necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of:
(1) a housing project under this article; or
(2) a similar project of the federal government.
(b) The powers granted to a political subdivision by this section include the power to:
(1) furnish, dedicate, close, pave, install, grade, regrade, plan, or replan public ways, sidewalks, or other places, if it is otherwise empowered to do so;
(2) plan or replan, zone or rezone any part of the political subdivision;
(3) make exceptions from building regulations and ordinances;
(4) enter into agreements (which may extend over any period, notwithstanding any law to the contrary) with a housing authority or the federal government respecting powers to be exercised by the political subdivision under this chapter;
(5) purchase or legally invest in the bonds, notes, or warrants of a housing authority and exercise all of the rights of a holder of housing authority bonds, notes, or warrants;
(6) incur the entire expense of any public improvements it makes in exercising the powers granted in this chapter;
(7) provide financial assistance of any nature to a housing authority;
(8) acquire for, lease or transfer to, or exchange or trade with a housing authority any interest in real or personal property; and
(9) exercise all powers granted by this section upon terms determined by the fiscal body of the political subdivision.
(c) Notwithstanding subsections (a) and (b), if a housing authority:
(1) acquires or takes over a housing project from the federal government; and
(2) finds, by resolution, that the project is constructed in a

manner that promotes the public interest and affords necessary safety, sanitation, and other protection;

a political subdivision may not require any changes in the housing project.

As added by Acts 1981, P.L.309, SEC.38.

IC 36-7-19-4

Contracts for services, improvements, and facilities

Sec. 4. In connection with:

(1) a housing project under this article; or

(2) a similar project of the federal government;

wholly or partly within its jurisdiction, a political subdivision may contract with a housing authority or the federal government with respect to the sums (if any) that the housing authority or the federal government agrees to pay, during any year or period of years, to the political subdivision for the improvements, services, and facilities to be furnished by it for the benefit of the housing project. However, the amount of these payments may not exceed the estimated cost to the political subdivision of the improvements, services, or facilities to be furnished. The absence of a contract for payment does not relieve the political subdivision of the duty to furnish, for the benefit of the housing project, improvements, services, and facilities that the political subdivision usually furnishes without a service fee.

As added by Acts 1981, P.L.309, SEC.38.

IC 36-7-19-5

Resolutions authorizing exercise of powers

Sec. 5. A political subdivision may exercise the powers granted by this chapter if authorized by a resolution of its fiscal body. The resolution takes effect immediately and need not be laid over, published, or posted.

As added by Acts 1981, P.L.309, SEC.38.

IC 36-7-19-6

Appropriations

Sec. 6. When a housing authority is established in a political subdivision, the fiscal body of the subdivision shall immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of the authority during the first year after that, and shall appropriate that amount to the authority out of any unappropriated money in the treasury of the subdivision.

As added by Acts 1981, P.L.309, SEC.38.

IC 36-7-20
Repealed

(*Repealed by P.L.339-1985, SEC.2.)*

IC 36-7-21

Chapter 21. Special Improvement Districts for Redevelopment of Blighted Areas

IC 36-7-21-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by P.L.380-1987(ss), SEC.20.

IC 36-7-21-2

Legislative finding

Sec. 2. The general assembly finds that the redevelopment purposes for which special improvement districts may be established under this chapter constitute local public improvements.

As added by P.L.380-1987(ss), SEC.20.

IC 36-7-21-3

Establishment of special improvement district; prerequisite findings

Sec. 3. (a) A redevelopment commission may by resolution request the legislative body of the unit to establish a special improvement district for the purposes set forth in IC 36-7-15.1 with respect to counties having a consolidated city and in IC 36-7-14 with respect to all other eligible units.

(b) A special improvement district shall be established according to the procedures set forth for the establishment of allocation areas under IC 36-7-15.1 or IC 36-7-14, as applicable.

(c) In establishing the special improvement district, the legislative body must find that the projects to be undertaken in the district:

(1) constitute local public improvements;

(2) provide special benefits to property owners in the district; and

(3) will be of public utility and benefit.

As added by P.L.380-1987(ss), SEC.20.

IC 36-7-21-4

Resolution requesting establishment of district; contents

Sec. 4. In the resolution requesting the legislative body to establish a special improvement district, the redevelopment commission shall include the following information:

(1) A map of the boundaries of the proposed special improvement district, to include, if applicable, zone boundaries as prescribed by section 6 of this chapter.

(2) The name and address of each parcel and owner of land within the district and a description of the existing land use and zoning classification of each parcel.

(3) A detailed description of the proposed improvement its estimated cost, and the benefits expected to accrue to the property owners within the district.

(4) A plan for the application of assessment revenue to the cost

of the project.

(5) A proposed apportionment of the annual assessment to the parcels of real property within the district, as prescribed by sections 5 and 6 of this chapter.

As added by P.L.380-1987(ss), SEC.20.

IC 36-7-21-5

Apportionment of benefits; adjustment

Sec. 5. Benefits shall be apportioned on a gross square footage basis or on any other basis reasonably representative of the diffusion of benefits and may be adjusted by zone and land use as provided for in section 6 of this chapter.

As added by P.L.380-1987(ss), SEC.20.

IC 36-7-21-6

Benefit adjustment through establishment of multiple zone districts and land use management

Sec. 6. (a) If the redevelopment commission finds that the benefit of the special improvement varies from one (1) area to another within the district, the commission may establish up to three (3) zones within the district to delineate the approximate difference in beneficial impact and may propose the apportionment of benefits accordingly. The redevelopment commission may exclude all or part of the area actually encompassed by the improvement.

(b) In order to encourage the retention or development of various land uses within the district, the redevelopment commission may adjust the assessment according to the zoning classification of the property.

As added by P.L.380-1987(ss), SEC.20.

IC 36-7-21-7

Certification of scheduled assessments to county auditor; designation of assessment on property tax statement; judicial review of ordinance establishing district

Sec. 7. (a) Upon the approval by the legislative body of the resolution establishing the special improvement district, the redevelopment commission shall certify the list of assessments apportioned under sections 5 and 6 of this chapter to the county auditor. The scheduled assessments shall be collected only insofar as the schedule of assessments has been approved by the legislative body.

(b) Within thirty (30) days after the county auditor receives the certification of final scheduled assessments for the completion of the special improvement, the auditor shall deliver a copy of the duplicate to the county treasurer. Each year the treasurer shall add to the tax statements of a person owning the property affected by an assessment, designating it in a manner distinct from general taxes, the full annual assessment due in the year the statement is sent.

(c) Any owner of the property to be assessed under the ordinance establishing the special improvement district is entitled to judicial

review of that ordinance in the circuit or superior court of the county in which the redevelopment commission is located.
As added by P.L.380-1987(ss), SEC.20.

IC 36-7-21-8
Bonds or notes payable from special improvement assessments

Sec. 8. Subject to the approval of the legislative body under IC 36-7-14 or IC 36-7-15.1, as applicable, the redevelopment commission may issue notes or bonds payable from the special improvement assessments. These assessments are not ad valorem property taxes, and any bonds issued and payable by the assessment revenues are not a general obligation of the unit that established the special improvement district.
As added by P.L.380-1987(ss), SEC.20.

IC 36-7-22

Chapter 22. Economic Improvement Districts

IC 36-7-22-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to an economic improvement board established under section 11 of this chapter.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-3

"Economic improvement project" defined

Sec. 3. As used in this chapter, "economic improvement project" means the following:

(1) Planning or managing development or improvement activities.

(2) Designing, landscaping, beautifying, constructing, or maintaining public areas, public improvements, or public ways (including designing, constructing, or maintaining lighting, infrastructure, utility facilities, improvements, and equipment, water facilities, improvements, and equipment, sewage facilities, improvements, and equipment, streets, or sidewalks for a public area or public way).

(3) Promoting commercial activity or public events.

(4) Supporting business recruitment and development.

(5) Providing security for public areas.

(6) Acquiring, constructing, or maintaining parking facilities.

(7) Constructing, rehabilitating, or repairing residential property, including improvements related to the habitability of the residential property.

As added by P.L.195-1988, SEC.1. Amended by P.L.114-1989, SEC.12; P.L.131-2008, SEC.54.

IC 36-7-22-4

Petition; filing; contents

Sec. 4. A petition for the establishment of an economic improvement district may be filed with the legislative body of the unit. The petition must include the following information:

(1) The boundaries of the proposed district, including the boundaries of any zones to be established under section 5(b) of this chapter.

(2) The name and address of each parcel and owner of land within the proposed district and a description of the existing land use and zoning classification of each parcel.

(3) A detailed description of the economic improvement projects to be carried out within the proposed district, the

estimated cost of these projects, and the benefits to accrue to the property owners within the district.

(4) A plan for the application of assessment revenue to the cost of the economic improvement projects within the district.

(5) A proposed formula for determining the percentage of the total benefit to be received by each parcel of real property within the district, in the manner provided by section 5 of this chapter.

(6) The number of years in which assessments will be levied.

(7) A proposed list of members for the board.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-5

Apportionment of benefits

Sec. 5. (a) The benefits accruing to parcels of real property within an economic improvement district may be apportioned among those parcels on any basis reasonably representative of the diffusion of benefits from the economic improvement project, including the following:

(1) Proximity of the parcel to the project.

(2) Accessibility of the parcel to the project.

(3) True cash value of the parcel.

(4) True cash value of any improvement on the parcel.

(5) Age of any improvement on the parcel.

(6) Other similar factors.

The apportionment of benefits under this subsection may be adjusted by zone or land use as provided in subsections (b) and (c).

(b) If the benefit of the economic development project varies from one (1) area to another within the economic improvement district, up to three (3) zones may be established within the district to delineate the approximate difference in beneficial impact, and benefits may be apportioned accordingly.

(c) In order to encourage the retention or development of various land uses within the district, assessments may be adjusted according to the zoning classification of the property.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-6

Hearing; notice; questions heard

Sec. 6. (a) After receipt of a petition under section 4 of this chapter, the legislative body shall, in the manner provided by IC 5-3-1, publish notice of a hearing on the proposed economic improvement district. The legislative body shall mail a copy of the notice to each owner of real property within the proposed economic improvement district. The notice must include the boundaries of the proposed district, a description of the proposed projects, and the proposed formula for determining the percentage of the total benefit to be received by each parcel of property.

(b) At the public hearing under subsection (a), the legislative body shall hear all owners of real property in the proposed district (who

appear and request to be heard) upon the questions of:

(1) the sufficiency of the notice;

(2) whether the proposed economic improvement projects are of public utility and benefit;

(3) whether the formula to be used for the assessment of special benefits is appropriate; and

(4) whether the district contains all, or more or less than all, of the property specially benefited by the proposed project.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-7

Ordinance; establishing district

Sec. 7. (a) After conducting a hearing on the proposed economic improvement district, the legislative body may adopt an ordinance establishing the economic improvement district if it determines that:

(1) the petition meets the requirements of this section and sections 4 and 5 of this chapter;

(2) the economic improvement projects to be undertaken in the district will provide special benefits to property owners in the district and will be of public utility and benefit;

(3) the benefits provided by the project will be new benefits that do not replace benefits existing before the establishment of the district; and

(4) the formula to be used for the assessment of benefits is appropriate.

(b) The legislative body may adopt the ordinance only if it determines that the petition has been signed by:

(1) a majority of the owners of real property within the proposed district; and

(2) the owners of real property constituting more than fifty percent (50%) of the assessed valuation in the proposed district.

(c) The signature of a person whose property would be exempt from assessments under the ordinance may not be considered in determining whether the requirements of subsection (b) are met. In addition, the assessed valuation of any property that would be exempt from assessment under the ordinance may not be considered in determining the total assessed valuation in the proposed district.

As added by P.L.195-1988, SEC.1. Amended by P.L.25-1993, SEC.12; P.L.113-2010, SEC.135.

IC 36-7-22-8

Ordinance; amending or modifying petition proposals

Sec. 8. An ordinance adopted under section 7 of this chapter may amend or modify the proposals contained in the petition submitted under section 4 of this chapter. However, if the ordinance will increase the area of the district beyond the area described in the petition, the ordinance may not be adopted until notice of this fact has been published in the manner provided by IC 5-3-1 and mailed to each owner of real property in the additional area proposed to be included in the district.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-9
Ordinance; repeal or amendment

Sec. 9. An ordinance adopted under section 7 of this chapter may be repealed or amended only after notice of the proposed repeal or amendment is published and mailed in the manner provided by section 6 of this chapter.
As added by P.L.195-1988, SEC.1.

IC 36-7-22-10
Ordinance; exemption from special assessments

Sec. 10. An ordinance adopted under section 7 of this chapter may provide that businesses established within the district after the creation of the district are exempt from special assessments for a period not to exceed one (1) year.
As added by P.L.195-1988, SEC.1.

IC 36-7-22-11
Ordinance; economic improvement board

Sec. 11. An ordinance adopted under section 7 of this chapter must establish an economic improvement board to be appointed by the legislative body. The board must have at least three (3) members, and a majority of the board members must own real property within the district. However, if there is only one (1) property owner within a district formed before March 1, 2010, the legislative body shall appoint one (1) member to the economic improvement board who owns real property within the district and not more than two (2) other members who are not required to own real property within the district. After, February 28, 2010, a district formed under this chapter must have at least one (1) parcel of real property that is not owned by an owner of other parcels of real property in the district.
As added by P.L.195-1988, SEC.1. Amended by P.L.113-2010, SEC.136.

IC 36-7-22-12
Assessments; percentage of benefit; notice; hearing; decision; lien; certification; economic improvement districts

Sec. 12. (a) The board shall use the formula approved by the legislative body under section 7(a)(4) of this chapter to determine the percentage of benefit to be received by each parcel of real property within the economic improvement district. The board shall apply the percentage determined for each parcel to the total amount that is to be defrayed by special assessment and determine the special assessment for each parcel.

(b) Promptly after determining the proposed assessment for each parcel, the board shall mail notice to each owner of property to be assessed. This notice must:

(1) set forth the amount of the proposed special assessment;

(2) state that the proposed special assessment on each parcel of

real property in the economic improvement district is on file and can be seen in the board's office;

(3) state the time and place where written remonstrances against the special assessment may be filed;

(4) set forth the time and place where the board will hear any owner of assessed real property who has filed a remonstrance before the hearing date; and

(5) state that the board, after hearing evidence, may increase or decrease, or leave unchanged, the special assessment on any parcel.

(c) The notices must be deposited in the mail twenty (20) days before the hearing date. The notices to the owners must be addressed as the names and addresses appear on the tax duplicates and the records of the county auditor.

(d) At the time fixed in the notice, the board shall hear any owner of assessed real property who has filed a written remonstrance before the date of the hearing. The hearing may be continued from time to time as long as is necessary to hear the owners.

(e) The board shall render its decision by increasing, decreasing, or confirming each special assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the board. However, if the total of the special assessments exceeds the amount needed, the board shall make a prorated reduction in each special assessment.

(f) Except as provided in section 13 of this chapter, the signing of the special assessment schedule by a majority of the members of the board and the delivery of the schedule to the county auditor constitute a final and conclusive determination of the benefits that are assessed.

(g) Each special assessment is a lien on the real property that is assessed, second only to ad valorem property taxes levied on that property.

(h) The board shall certify to the county auditor the schedule of special assessments of benefits. For purposes of providing substantiation of the deductibility of a special assessment for federal adjusted gross income tax purposes under Section 164 of the Internal Revenue Code, the board shall, to the extent practicable, supplement the schedule of special assessments provided to the county auditor with a statement that identifies the part of each special assessment that is allocable to interest, maintenance, and repair charges. If the board provides the county auditor with the statement, the county auditor shall show, on the tax statement, the part of the special assessment that is for interest and maintenance and repair items separately from the remainder of the special assessment.

As added by P.L.195-1988, SEC.1. Amended by P.L.131-2008, SEC.55; P.L.1-2009, SEC.166; P.L.113-2010, SEC.137.

IC 36-7-22-13

Ordinance or assessment schedule; action contesting validity

Sec. 13. (a) Any owner of real property in an economic

improvement district may file an action contesting the validity of:

(1) the ordinance adopted under section 7 of this chapter; or

(2) the assessment schedule adopted under section 12 of this chapter.

(b) An action under this section must be filed:

(1) in the circuit or superior court of the county in which the economic improvement district is located; and

(2) within thirty (30) days after adoption of the ordinance or assessment schedule.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-14

Certification of final scheduled assessments

Sec. 14. Within thirty (30) days after the county auditor receives the certification of final scheduled assessments for the completion of the economic improvement project, the auditor shall deliver a copy of the certificate to the county treasurer. Each year, the treasurer shall add the full annual assessment due in that year to the tax statements of the person owning the property affected by the assessment, designating it in a manner distinct from general taxes.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-15

Assessments; payment to board

Sec. 15. Assessments collected under this chapter shall be paid to the board.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-16

Economic improvement fund

Sec. 16. (a) The board shall establish an economic improvement fund and shall deposit in this fund all assessments received under this chapter and any other amounts received by the board.

(b) Money in the economic improvement fund may be used only for the purposes specified in the ordinance establishing the economic improvement district. Any money earned from investment of money in the fund becomes a part of the fund.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-17

Budget

Sec. 17. (a) Before November 1 of each year, the board shall prepare and submit to the fiscal body a budget for the following calendar year governing the board's projected expenditures from the economic improvement fund. The fiscal body may approve, modify, or reject the proposed budget.

(b) The board may make an expenditure from the economic improvement fund only if the expenditure was approved by the fiscal body in its review of the board's budget or was otherwise approved by the fiscal body.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-18
Purchasing materials or equipment; contracting for public works

Sec. 18. The board must comply with IC 36-1-12 when contracting for public works.

As added by P.L.195-1988, SEC.1. Amended by P.L.1-2010, SEC.150.

IC 36-7-22-19
Lease or contractual agreements

Sec. 19. The board may enter into lease or contractual agreements, or both, with governmental, not-for-profit, or other private entities for the purpose of carrying out economic improvement projects.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-20
Disposal of assets and liabilities upon repeal of ordinance

Sec. 20. If the ordinance that established an economic improvement district is repealed, the assets and liabilities of the economic improvement district shall be disposed of in the manner determined by the unit. However, liabilities incurred by the economic improvement district are not an obligation of the unit and are payable only from the special assessments and other revenues of the district.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-21
Annual report

Sec. 21. The board shall submit an annual report to the legislative body and the fiscal body before February 15 of each year. The report must summarize the board's activities and expenditures during the preceding calendar year.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-22
Powers of the board to finance economic improvement projects

Sec. 22. The board may:

(1) exercise of any of the powers of a unit under IC 36-7-12-18 or IC 36-7-12-18.5; or

(2) issue revenue bonds;

to finance an economic improvement project.

As added by P.L.131-2008, SEC.56.

IC 36-7-23

Chapter 23. Multiple County Infrastructure Authority

IC 36-7-23-1

"Authority" defined

Sec. 1. As used in this chapter, "authority" refers to a multiple jurisdiction infrastructure authority established under this chapter.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.5.

IC 36-7-23-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to the board of directors of the authority.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-3

Repealed

(*Repealed by P.L.86-1999, SEC.21.)*

IC 36-7-23-3.7

Applicability of chapter

Sec. 3.7. This chapter applies to all units except townships.

As added by P.L.86-1999, SEC.6.

IC 36-7-23-4

Establishment; public body corporate and politic; multiple county participation; distribution of funds

Sec. 4. (a) A multiple jurisdiction infrastructure authority may be established under this chapter by:

(1) ordinance of the fiscal body of each unit participating in the authority; and

(2) if a county is one (1) of the units participating in the authority, the order of the executive of that county; and

(3) an agreement among the participating units, executed by the executive of each participating unit following the approval of the legislative body of each of the participating units.

(b) The authority is a public body corporate and politic. The authority is separate from the state, but the exercise by the authority of its powers is an essential governmental function.

(c) An agreement to establish an authority must include:

(1) more than one (1) unit as a participant; and

(2) a formula for distributing funds contributed by the units participating in the authority.

(d) An authority may add additional participating units at any time by following the procedures set forth in subsection (a).

(e) A unit may participate in more than one (1) authority.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.7.

IC 36-7-23-5
Purpose; activities

Sec. 5. The purpose of the authority is to promote cooperation among the units participating in the authority in order to assist the development of the units included in the agreement by doing the following:

(1) Utilizing private and public sector resources to address development problems and opportunities.

(2) Planning, developing, rehabilitating, and otherwise managing infrastructure located in the authority's jurisdiction.

(3) Supplementing, but not supplanting, traditional local or state responsibilities.

(4) Providing financial resources to local communities to address their infrastructure needs.

(5) Providing revenue bonding capacity and resources for bond retirement, or lease rental capacity and resources, that can be directed to development or recapitalization of infrastructure located in the authority's jurisdiction.

(6) Providing the means to develop revenue producing infrastructure ventures, where revenue can be rechanneled back into the overall infrastructure development effort.

(7) Providing an overall balanced infrastructure investment strategy that addresses important needs of the participating units for capital projects.

(8) Providing operating involvement appropriate to each infrastructure component.

(9) Providing for a continuing and stable source of public funding for infrastructure development for participating units.

(10) Providing the mechanism to address other regional services as determined to be appropriate by the board.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.8.

IC 36-7-23-6
Repealed

(*Repealed by P.L.11-1993, SEC.8.)*

IC 36-7-23-7
Eminent domain

Sec. 7. The authority may exercise the power of eminent domain, with the approval of the executive of the unit affected, for any public use in the manner provided by IC 32-24-1.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.2-2002, SEC.116.

IC 36-7-23-8
Contracts with political subdivisions

Sec. 8. The authority may enter into contracts with a political subdivision to carry out the purposes of this chapter.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-9
Board of directors

Sec. 9. The powers of the authority are vested in a board of directors. The board is comprised of the following members:

(1) One (1) member appointed by the executive of each unit participating in the authority.

(2) One (1) member appointed by the fiscal body of each unit participating in the authority.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.9.

IC 36-7-23-10
Appointed members of board of directors

Sec. 10. (a) A member appointed under section 9 of this chapter must be a resident of the unit whose officials or representatives make the appointment.

(b) A member appointed under section 9(1) or 9(2) of this chapter by a unit executive or unit fiscal body must be an elected official of the unit whose officials or representatives make the appointment.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.10.

IC 36-7-23-11
Terms of office

Sec. 11. (a) A member of the board appointed under section 9 of this chapter serves a term of four (4) years.

(b) The agreement establishing the authority under this chapter must provide:

(1) that the terms of the initial members appointed under section 9 of this chapter expire after one (1), two (2), three (3), or four (4) years; and

(2) for approximately twenty-five percent (25%) of the terms of the initial members appointed under section 9 of this chapter to expire in each of the first four (4) years that the agreement is in effect.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.11.

IC 36-7-23-12
Vacancy on board of directors

Sec. 12. The officials responsible for appointing members of the board shall fill a vacancy on the board among the members appointed under section 9 of this chapter by appointment for the unexpired term.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.12.

IC 36-7-23-13
Compensation and expenses of board members

Sec. 13. (a) A member of the board is entitled to reimbursement

for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(b) A member of the board is not entitled to either a salary or a per diem for services rendered in connection with the member's duties.
As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.13.

IC 36-7-23-14
Repealed

(*Repealed by P.L.86-1999, SEC.21.)*

IC 36-7-23-15
Officers of board of directors

Sec. 15. The members shall elect:

(1) a chairman;
(2) a vice chairman;
(3) a secretary; and
(4) other officers determined to be necessary for the board to function;

at the first meeting of the board in January of each year.
As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.14.

IC 36-7-23-16
Vacancies in offices of board of directors

Sec. 16. The members shall fill a vacancy in an office described by section 15 of this chapter for the unexpired term.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-17
Quorum; proxies

Sec. 17. (a) A majority of the members of the board constitutes a quorum for the transaction of business. The affirmative vote of a majority of the board is necessary for an action to be taken by the board.

(b) A member may vote by written proxy delivered in advance to the chairman or secretary of the board.

(c) A vacancy in the membership of the board does not impair the right of a quorum to exercise all rights and perform all duties of the board.
As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.15.

IC 36-7-23-18
Meetings

Sec. 18. Meetings of the board shall be held at the call of the chairman or at the request of at least three (3) members. The board shall meet at least once every three (3) months to attend to the

business of the authority.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-19
Powers and duties

Sec. 19. The board may do the following:

(1) Borrow money or otherwise incur indebtedness for any of its purposes, and issue revenue bonds, notes, or other evidences of indebtedness, whether secured or unsecured (other than general obligation bonds), to a person.

(2) Purchase, discount, sell, and negotiate notes and other evidences of indebtedness.

(3) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss and any other insurance the board considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.

(4) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, a federal or state agency, municipality, private organization, or other source.

(5) Adopt, amend, or rescind bylaws, rules, and regulations necessary or convenient for the performance of the authority's powers and duties under this chapter.

(6) Sue and be sued.

(7) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with, real and personal property, or an interest in real or personal property, wherever situated.

(8) Sell, convey, lease, exchange, transfer, or otherwise dispose of all its property or an interest in its property, wherever situated.

(9) Adopt a seal.

(10) Cooperate with other public and private organizations to carry out the purposes of the authority.

(11) Exercise all other powers and functions necessary or appropriate to carry out the duties and purposes set forth in this chapter.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-20
Bylaws, rules, and regulations

Sec. 20. The board may adopt bylaws, rules, and regulations without complying with IC 4-22-2.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-21
Broad construction of board's powers

Sec. 21. The board's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be

construed as a limitation of powers.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-22
Revenue bond resolutions

Sec. 22. The board must adopt a resolution before issuing and selling revenue bonds under this chapter. The amount of the bonds issued under a resolution may not exceed the total, as estimated by the board, of all expenses reasonably incurred in connection with the purpose for which the bonds were issued.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-23
Amount of bonds sold

Sec. 23. In determining the amount of bonds to be issued and sold, the board may include the costs of the following:

(1) Acquisition and construction of infrastructure.

(2) Financing charges, bond sale discount, reasonable issuance costs, and interest accruing on the bonds before and during the construction period and for a reasonable period of time after construction.

(3) Expenses such as legal fees and engineering fees.

(4) All other expenses necessary or incidental to accomplishing the purposes of the authority.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-24
Disclosures on face of bond

Sec. 24. The bonds must indicate the following on the face of each bond:

(1) The denomination of the bond.

(2) The maturity date or dates, not exceeding fifty (50) years from the date of issue.

(3) The interest rate or rates if fixed rates are used, or the manner in which the interest rate will be determined if variable or adjustable rates are used.

(4) The registration privileges.

(5) That the bond does not constitute a debt of the state or a political subdivision within the meaning or application of a constitutional provision or limitation, but that the bond is payable solely as to both principal and interest from all or part of the revenues of the authority, as set forth in the resolution of the authority.

(6) The conditions and terms under which the bonds may be redeemed before maturity.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-25
Execution, attestation, and authentication of bonds

Sec. 25. The bonds:

(1) shall be executed by the manual or facsimile signature of the chairman of the board;
(2) shall be attested by the manual or facsimile signature of the secretary of the board;
(3) shall be imprinted or impressed with the seal of the authority;
(4) may be authenticated by a trustee, registrar, or paying agent; and
(5) constitute valid and binding obligations of the authority, even if the chairman, the secretary, or both, whose manual or facsimile signature appears on the bond, no longer hold those offices.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-26
Negotiability of bonds

Sec. 26. The bonds, when issued, have all the qualities of negotiable instruments under IC 26, subject to their provisions for registration, and are incontestable in the hands of a bona fide purchaser or holder of bonds for value.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-27
Sale of bonds

Sec. 27. The bonds issued under this chapter may be sold by the board at a public or private sale at a time or times determined by the board.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-28
Disposition of bond proceeds; bond maturities; rights of bondholders; rights and duties of directors

Sec. 28. The proceeds of bonds issued under this chapter are appropriated for the purpose for which the bonds are issued. The proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the board provides in the resolution or trust indenture authorizing the issuance of the bonds in the first instance and the issuance of any refunding bonds, or in a trust indenture authorized and approved by resolution of the board. The maturities of the bonds, the rights of the holders, and the rights, duties, and obligations of the board are governed in all respects by this chapter.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-29
Bonds payable from and secured by authority revenues only

Sec. 29. The bonds issued under this chapter constitute the corporate obligations only of the authority and are payable solely from and secured exclusively by the pledge of all or part of the revenues of the authority, as set forth in the resolution of the

authority.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-30
Covenant not to impair taxes pledged to bonds

Sec. 30. With respect to bonds for which a pledge of revenue has been made under this chapter, the general assembly convenants with the authority and the purchasers or owners of those bonds that this chapter will not be repealed or amended in any manner that will adversely affect the imposition of a tax in which revenue was the basis of the pledge as long as the principal of, or interest on, any of those bonds is unpaid.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-31
Long term management plan

Sec. 31. The board shall adopt, and may amend or repeal, a long term management plan for the authority.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-32
Executive director

Sec. 32. (a) The board may appoint an executive director of the authority.

(b) If the board determines to appoint an executive director, the board shall appoint a nominating committee composed of members of the board. The committee must submit a recommendation to the board concerning the individuals qualified to serve as executive director.
As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.16.

IC 36-7-23-33
Powers and duties of executive director

Sec. 33. The executive director shall:

(1) administer, manage, and direct the affairs and activities of the authority in accordance with the policies of the board and under the control and direction of the board;

(2) maintain and be custodian of all books, documents, and papers filed with the authority and the official seal of the authority; and

(3) perform other duties directed by the members to carry out the purposes of this chapter.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.17.

IC 36-7-23-34
Salaries; expenses of board, authority, employees, and consultants

Sec. 34. The executive director must approve all accounts for salaries, allowable expenses of the board or of an employee or

consultant, and the expenses incidental to the operation of the authority.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-35
Minutes of board; records and documents of authority
Sec. 35. The secretary of the board may:
(1) make copies of the minutes of the board and other records and documents of the authority; and
(2) give certificates under the seal of the authority to the effect that the copies are true copies.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-36
Officers, agents, and employees; legal counsel; technical experts
Sec. 36. The board may, without the approval of the attorney general or any other state officer, employ legal counsel, technical experts, and permanent or temporary officers, agents, and employees that the board determines necessary to carry out the efficient operation of the authority. The board shall determine the qualification, duties, compensation, and terms of office of persons employed under this section.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-37
Delegation of administrative duties
Sec. 37. The board may delegate to one (1) or more agents or employees of the authority the administrative duties the board considers proper.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-38
Personnel policies
Sec. 38. The board shall adopt personnel policies governing the employees of the authority.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-39
Authority employees not employees of state
Sec. 39. An employee of the authority is not an employee of the state.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-40
Conflict of interest disclosure
Sec. 40. A member of the board or employee of the authority who has, will have, or later acquires an interest, direct or indirect, in a transaction with the authority shall immediately disclose the nature and extent of the interest in writing to the board as soon as the member or employee has knowledge of the actual or prospective

interest.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-41
Nonparticipation of director or employer with conflicting interest

Sec. 41. A disclosure under section 40 of this chapter shall be announced at the first meeting of the board following the disclosure and entered upon the minutes of that meeting. Upon disclosure, the member or employee shall not participate in an action by the board or authority authorizing the transaction. However, an interest described under section 40 of this chapter does not invalidate an action by the board or authority with the participation of the disclosing member before the time when the member became aware of the interest or should reasonably have become aware of the interest.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-42
Officers and employees of state or political subdivisions

Sec. 42. Notwithstanding any other law, an officer or employee of the state or a political subdivision does not forfeit that office or employment by reason of acceptance of membership on the board or of providing services to the authority.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-43
Personal liability of directors, officers, employees, and agents

Sec. 43. The members of the board and the officers, employees, and agents of the authority are not subject to personal liability or accountability by reason of an act authorized by this chapter.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-44
Funds and accounts

Sec. 44. The board may create funds and accounts necessary and desirable for its purposes.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-45
Deposit of funds

Sec. 45. All money of the authority, except as provided in this chapter, shall be deposited as soon as practicable in a separate account or accounts in one (1) or more financial institutions. The money in these accounts shall be paid on checks signed by the chairman or other officers or employees of the authority or by wire transfer or other electronic means that the board authorizes. All deposits of money shall, if required by the board, be secured in a manner that the board determines to be prudent.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-46
Authority funds as trust funds

Sec. 46. Notwithstanding any other law, funds received by the authority under this chapter are trust funds to be held and applied solely as provided by this chapter.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-47
Audit of funds and accounts

Sec. 47. The funds and accounts of the authority are subject to an annual audit by the state board of accounts.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-48
Authority property as public property; tax exemption

Sec. 48. All property, both tangible and intangible, acquired or held by the authority under this chapter is public property used for public and governmental purposes. All the property, along with the income from the property, is exempt from all taxes imposed by the state or a political subdivision, except for the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.21-1990, SEC.55; P.L.254-1997(ss), SEC.32.

IC 36-7-23-49
Payment of expenses; indebtedness or liability of state or political subdivision

Sec. 49. All expenses incurred by the board in carrying out this chapter are payable solely from funds provided under this chapter. This chapter does not authorize the board to incur indebtedness or liability on behalf of or payable by the state or a political subdivision.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-50
Annual report

Sec. 50. The board shall, at the close of each fiscal year, submit in an electronic format under IC 5-14-6 an annual report of its activities for the preceding year to the legislative council. Each member of the general assembly may receive a copy of the report by submitting a request to the executive director of the legislative council.

As added by P.L.346-1989(ss), SEC.7. Amended by P.L.28-2004, SEC.182.

IC 36-7-23-51
Operating and financial statement

Sec. 51. A report under section 50 of this chapter must set forth a complete operating and financial statement for the authority during

the fiscal year covered by the report.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-52
Fees, rates, and charges for use of infrastructures

Sec. 52. (a) A resolution establishing just and reasonable fees, rates, and charges for the use of infrastructures under this chapter may be adopted by the board after a public hearing. Notice of the hearing must be published one (1) time, at least ten (10) days before the hearing, in one (1) newspaper published in each county in which a participating unit is located in accordance with IC 5-3-1. The notice must provide a summary of the resolution.

(b) Fees, rates, and charges adopted by the authority for a particular infrastructure shall comply with statutes authorizing units to adopt fees, rates, and charges for that particular type of infrastructure or, if there is no statute authorizing units to adopt fees, rates, and charges for that particular type of infrastructure, the fees, rates, and charges must comply with IC 36-1-3.
As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.18.

IC 36-7-23-53
Lease of infrastructures

Sec. 53. (a) An authority may enter into a lease of any infrastructure that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed fifty (50) years, and the lease may provide for payments to be made by the authority from any revenues of the authority.

(b) A lease may provide that payments by the authority to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased infrastructure in accordance with the lease. The terms of each lease must be based upon the value of the infrastructure leased and may not create a debt of the authority or a member for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the authority only after a public hearing by the board at which all interested parties are provided the opportunity to be heard. After the public hearing, the board may adopt a resolution authorizing the execution of the lease on behalf of the authority if the board finds that the service to be provided throughout the term of the lease will serve the public purpose of the authority and is in the best interests of its residents.

(d) The authority may:

(1) pledge revenues to make payments under the lease; and

(2) establish a special fund to make the payments.

(e) Lease rentals may be limited to money in the special fund so that the obligations of the authority to make the lease rental payments are not considered debt of the authority or a member for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, no approvals of any governmental body or agency are required before the authority enters

into a lease under this section.
As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.19.

IC 36-7-23-54
Corporations permitted to lease infrastructures to authorities

Sec. 54. A nonprofit or for profit corporation organized under Indiana law or admitted to do business in Indiana may lease facilities referred to in section 53 of this chapter to an authority under this chapter.
As added by P.L.346-1989(ss), SEC.7. Amended by P.L.179-1991, SEC.33.

IC 36-7-23-55
Securities exempt from registration laws

Sec. 55. Any security issued in connection with a financing under this chapter is exempt from the registration requirements of IC 23-19 or any other securities registration law.
As added by P.L.346-1989(ss), SEC.7. Amended by P.L.27-2007, SEC.34.

IC 36-7-23-56
Bonds exempt from taxation

Sec. 56. All bonds issued under this chapter and the interest on the bonds are exempt from taxation in accordance with IC 6-8-5.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-57
Revenues of authority exempt from taxation

Sec. 57. All revenues received by the authority under this chapter are exempt from all taxation.
As added by P.L.346-1989(ss), SEC.7.

IC 36-7-23-58
Financing methods

Sec. 58. The infrastructure, or any part of the infrastructure, to be financed under this chapter, may be financed by any one (1) or more or any combination of one (1) or more of the methods provided for in this chapter. The authority may pledge any money or mortgage or pledge property available to it under this chapter as set forth in IC 5-1-14-4 and any member may pledge any money or mortgage or pledge property available to it to the authority as set forth in the agreement creating the authority. Any such pledge or mortgage by a member to the authority shall be governed by and binding under IC 5-1-14-4.
As added by P.L.346-1989(ss), SEC.7. Amended by P.L.86-1999, SEC.20.

IC 36-7-23-59
Full authority to issue bonds without state approval; construction

with other statutes conferring powers

Sec. 59. This chapter constitutes full authority for the issuance of bonds. No procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things, by a board, officer, commission, department, agency, or instrumentality of the state is required to issue bonds or to do any act or perform anything under this chapter except as prescribed by this chapter. The powers conferred by this chapter are in addition to, and not a subsitute for, and the limitations imposed by this chapter do not affect, the powers conferred by any other statute.

As added by P.L.346-1989(ss), SEC.7.

IC 36-7-24

Chapter 24. Multiple County Juvenile Facility Authorities

IC 36-7-24-1

"Authority"

Sec. 1. As used in this chapter, "authority" refers to a multiple county juvenile facility authority established under this chapter.

As added by P.L.223-1991, SEC.1.

IC 36-7-24-2

"Board"

Sec. 2. As used in this chapter, "board" refers to the board of directors of an authority.

As added by P.L.223-1991, SEC.1.

IC 36-7-24-3

"Facility"

Sec. 3. As used in this chapter, "facility" refers to the following:

(1) A secure facility for juveniles (as defined in IC 31-9-2-115).

(2) A shelter care facility for juveniles (as defined in IC 31-9-2-117).

As added by P.L.223-1991, SEC.1. Amended by P.L.1-1997, SEC.155; P.L.1-2009, SEC.167.

IC 36-7-24-4

Multiple county juvenile facility authority; establishment

Sec. 4. (a) A multiple county juvenile facility authority may be established under this chapter by:

(1) ordinance of the fiscal body of each county participating in the authority; and

(2) ordinance of the executive of each county participating in the authority.

(b) An agreement to establish an authority must include the following:

(1) More than one (1) county as a participant.

(2) A formula to determine the amount of money to be contributed to the authority by each county participating in the authority.

(3) Provisions concerning the construction of a facility or the operation and maintenance of a facility, or both, by the authority.

As added by P.L.223-1991, SEC.1.

IC 36-7-24-5

Public body; exercise of powers

Sec. 5. An authority is a public body corporate and politic. The exercise of an authority's powers is an essential governmental function.

As added by P.L.223-1991, SEC.1.

IC 36-7-24-6
Board of directors; membership; chairman; executive director

Sec. 6. (a) The powers of an authority are vested in a board of directors of the authority. The board consists of the following members:

(1) The county executive of each county participating in the authority, or the county executive's designee.

(2) A juvenile court judge of each county participating in the authority. However, if a county participating in the authority does not have a juvenile court judge, the circuit court judge of the county is a member of the board.

(3) A member of the county fiscal body of each county participating in the authority, or the member's designee.

(b) The members of the board shall select a member to be the chairman of the board.

(c) An authority may select an executive director by a majority vote of the members of the board.

As added by P.L.223-1991, SEC.1.

IC 36-7-24-7
Quorum; majority vote

Sec. 7. A majority of the members of a board constitutes a quorum for the transaction of business. The affirmative vote of a majority of the board is necessary for an action to be taken by the board.

As added by P.L.223-1991, SEC.1.

IC 36-7-24-8
Eminent domain

Sec. 8. With the approval of the executive of the county affected, an authority may exercise the power of eminent domain under IC 32-24-1.

As added by P.L.223-1991, SEC.1. Amended by P.L.2-2002, SEC.117.

IC 36-7-24-9
Powers of authority

Sec. 9. Subject to the terms of the original agreement under section 4 of this chapter, an authority may do the following:

(1) Adopt, amend, and repeal bylaws for the conduct of the authority's business.

(2) Accept gifts and grants.

(3) Enter into contracts.

(4) Sue and be sued.

(5) Acquire, own, sell, convey, lease, or transfer property.

(6) Cooperate with a public or private organization to carry out the purposes of the authority.

As added by P.L.223-1991, SEC.1.

IC 36-7-24-10
Operation and maintenance of facilities

Sec. 10. An authority may construct, purchase, lease, or pay operation and maintenance costs of a facility.
As added by P.L.223-1991, SEC.1.

IC 36-7-24-11
Leases of facilities; establishment of authority

Sec. 11. A county that is a lessor of a facility or a part of a facility may establish an authority under section 4 of this chapter with a county that is a lessee of a facility or a part of a facility.
As added by P.L.223-1991, SEC.1.

IC 36-7-25

Chapter 25. Additional Powers of Redevelopment Commissions

IC 36-7-25-1

Application

Sec. 1. This chapter applies to all units having a department of redevelopment under IC 36-7-14-3 or a department of metropolitan development as the redevelopment commission of a consolidated city or excluded city under IC 36-7-15.1.

As added by P.L.35-1990, SEC.62. Amended by P.L.102-1999, SEC.28.

IC 36-7-25-2

Definitions

Sec. 2. The definitions set forth in IC 36-7-14 and IC 36-7-15.1 apply throughout this chapter.

As added by P.L.35-1990, SEC.62.

IC 36-7-25-3

Financing of projects, improvements, and purposes

Sec. 3. (a) Projects, improvements, or purposes that may be financed by a commission in redevelopment project areas or economic development areas may be financed if the projects, improvements, or purposes are not located in those areas or the redevelopment district as long as the projects, improvements, or purposes directly serve or benefit those areas.

(b) This subsection applies only to counties having a consolidated city. A metropolitan development commission acting as the redevelopment commission of the consolidated city may finance projects, improvements, or purposes that are located in the county and in a reuse area established under IC 36-7-30, even though the reuse area is not located in the redevelopment district. However, at the time this financing is initiated, the redevelopment commission must make a finding that the project, improvement, or purpose will serve or benefit the redevelopment district.

As added by P.L.35-1990, SEC.62. Amended by P.L.26-1995, SEC.13; P.L.185-2005, SEC.50.

IC 36-7-25-4

Joint undertaking of redevelopment or economic development projects in contiguous areas

Sec. 4. Notwithstanding any other law, if two (2) or more units want to jointly undertake redevelopment or economic development projects in contiguous areas in the units' respective jurisdictions that benefit or serve the units' jurisdictions, the legislative body of a unit may:

(1) assign an area within the unit's jurisdiction to the commission of another unit to allow the creation of an allocation area for the purpose of the allocation of property tax

proceeds even though part of the allocation area will be outside the jurisdiction of the commission to which the new area is assigned; or

(2) may pledge property tax proceeds that would be allocated to the unit's allocation fund to the commission of another unit for the projects.

The commission to which an area is assigned or allocated proceeds are pledged may then take all actions in the area or with respect to the pledged proceeds that could be taken by a commission in an allocation area or with respect to the commission's own revenues until the later of the time when an ordinance rescinding this assignment or pledge is adopted by the legislative body of the assigning or pledging unit or the date on which outstanding bonds or lease rentals payable from allocated property tax proceeds are finally retired. The assigning unit shall continue to tax the taxpayers in the assigned portion of the allocation area at the assigning unit's tax rates.

As added by P.L.35-1990, SEC.62.

IC 36-7-25-5

Project agreements; procedures

Sec. 5. A commission may enter into a project agreement with a developer that has been selected as the successful bidder after following the procedures set forth in IC 36-7-14-22, IC 36-7-15.1-15, or IC 36-7-15.1-44 regarding dispositions of property or interests. Any project agreement must be approved by resolution of the commission. The project agreement may contain terms and provisions for development of projects in a redevelopment or economic development area that are negotiated with the developer in the discretion of the commission, including the type and character of consideration for the disposition, conditions and covenants as to future actions of the commission and the developer, and the obligation of the commission to exercise any of the commission's powers under IC 36-7-14, IC 36-7-15.1, this chapter, or any other applicable law.

As added by P.L.35-1990, SEC.62. Amended by P.L.102-1999, SEC.29.

IC 36-7-25-6

Limitation on taxpayer's right to challenge taxes or assessments; agreement; lien

Sec. 6. A commission may enter into an agreement with a taxpayer in an allocation area that limits the taxpayer's rights to challenge the taxpayer's assessment or property taxes or that guarantees, enhances, or otherwise further secures bonds or lease obligations of the commission. The obligation to make payments under a taxpayer agreement that guarantee, enhance, or otherwise further secure bonds or lease obligations of the commission under this section shall be treated in the same manner as property taxes for purposes of IC 6-1.1-22-13, if, and to the extent that, the taxpayer

agreement provides for a property tax lien.
As added by P.L.35-1990, SEC.62. Amended by P.L.147-1992, SEC.2.

IC 36-7-25-7
Contracts with eligible entities for educational and training programs

Sec. 7. (a) As used in this section, "eligible entity" means a person whose principal functions include the provision of:

(l) educational programs;
(2) work training programs;
(3) worker retraining programs; or
(4) any other programs;

designed to prepare individuals to participate in the competitive and global economy.

(b) After making the findings set forth in subsection (c), a commission, or two (2) or more commissions acting jointly, may contract with an eligible entity to provide:

(1) educational programs;
(2) work training programs;
(3) worker retraining programs; or
(4) any other programs;

designed to prepare individuals to participate in the competitive and global economy.

(c) Before a commission may contract for a program described in subsection (b), the commission must find that the program will promote the redevelopment and economic development of the unit, is of utility and benefit, and is in the best interests of the unit's residents.

(d) Except as provided in subsection (e), a commission may use any revenues legally available to the commission to fund a program described in subsection (b).

(e) A commission may not spend:

(1) bond proceeds; or
(2) more than fifteen percent (15%) of the allocated tax proceeds it receives on an annual basis;

to fund a program described in subsection (b).
As added by P.L.182-2009(ss), SEC.513.

IC 36-7-26

Chapter 26. Economic Development Project Districts

IC 36-7-26-1

Application of chapter

Sec. 1. This chapter applies to the following:

(1) A city having a population of more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).

(2) A city having a population of more than one hundred thousand (100,000) but less than one hundred ten thousand (110,000).

(3) A city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000).

(4) A city having a population of more than one hundred ten thousand (110,000) but less than one hundred fifty thousand (150,000).

As added by P.L.35-1990, SEC.63. Amended by P.L.12-1992, SEC.172; P.L.185-2001, SEC.6 and P.L.291-2001, SEC.200; P.L.170-2002, SEC.160; P.L.177-2002, SEC.14 and P.L.178-2002, SEC.120; P.L.119-2012, SEC.208.

IC 36-7-26-2

Legislative findings and declarations; construction

Sec. 2. (a) Present economic conditions in certain areas of certain cities are stagnant or deteriorating.

(b) Present economic conditions in such areas are beyond remedy and control by existing regulatory processes because of the substantial public financial commitments necessary to encourage significant increases in economic activities in such areas.

(c) Encouraging economic development in these areas will:

(1) attract new businesses and encourage existing business to remain or expand;

(2) increase temporary and permanent employment opportunities and private sector investment;

(3) protect and increase state and local tax bases; and

(4) encourage overall economic growth in Indiana.

(d) Redevelopment and stimulation of economic development benefit the health and welfare of the people of Indiana, are public uses and purposes for which the public money may be spent, and are of public utility and benefit.

(e) Economic development in such areas can be accomplished only by a coordinated effort of local and state governments.

(f) This chapter shall be liberally construed to carry out the purposes of this chapter and to provide cities with maximum flexibility to accomplish those purposes.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-3

"Adjustment factor" defined

Sec. 3. As used in this chapter, "adjustment factor" means the amount, stated as a percentage, that the board determines under section 22 of this chapter should be applied in determining the district's net increment. However, the adjustment factor may not exceed eighty percent (80%).

As added by P.L.35-1990, SEC.63.

IC 36-7-26-4

"Base period amount" defined

Sec. 4. As used in this chapter, "base period amount" means the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the district during the full state fiscal year that precedes the date on which the commission confirmed the resolution designating the district.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-5

"Board" defined

Sec. 5. As used in this chapter, "board" refers to the state board of finance created in IC 4-9.1-1.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-6

"Commission" defined

Sec. 6. As used in this chapter, "commission" refers to a redevelopment commission established under IC 36-7-14.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-7

"Department" defined

Sec. 7. As used in this chapter, "department" refers to the department of state revenue.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-8

"District" defined

Sec. 8. As used in this chapter, "district" refers to an economic development project district established under this chapter.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-9

"Fund" defined

Sec. 9. As used in this chapter, "fund" refers to the sales tax increment financing fund established in section 23 of this chapter.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-10

"Gross increment" defined

Sec. 10. As used in this chapter, "gross increment" means the

aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the district, as determined by the department under section 23 of this chapter, minus the base period amount.
As added by P.L.35-1990, SEC.63.

IC 36-7-26-11
"Local public improvement" defined

Sec. 11. As used in this chapter, "local public improvement" means any redevelopment project or purpose of a commission or any city under this chapter or IC 36-7-14.
As added by P.L.35-1990, SEC.63.

IC 36-7-26-12
"Net increment" defined

Sec. 12. As used in this chapter, "net increment" means, for a particular state fiscal year, the product of:

(1) the gross increment for the state fiscal year ending in the year of the determination; multiplied by

(2) the adjustment factor.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-13
Power and duties of commission, department, and board

Sec. 13. In addition to the powers and duties set forth in any other statute, a commission, the department, and the board have the powers and duties set forth in this chapter.
As added by P.L.35-1990, SEC.63.

IC 36-7-26-14
Compilation of data; requirements for proposed districts

Sec. 14. (a) Whenever a commission determines that the redevelopment and economic development of an area situated within the commission's jurisdiction may require the establishment of a district, the commission shall cause to be assembled data sufficient to make the determinations required under section 15 of this chapter, including the following:

(1) Maps and plats showing the boundaries of the proposed district.

(2) A complete list of street names and the range of street numbers of each street situated in the proposed district.

(3) A plan for the redevelopment and economic development of the proposed district. The plan must describe the local public improvements necessary or appropriate for the redevelopment or economic development.

(b) For a city described in section 1(2) or 1(3) of this chapter, the proposed district must contain a commercial retail facility with at least five hundred thousand (500,000) square feet, and any distributions from the fund must be used in the area described in subsection (a) or in areas that directly benefit the area described in

subsection (a).

(c) For a city described in section 1(4) of this chapter, the proposed district may not contain any territory outside the boundaries of a redevelopment project area established within the central business district of the city before 1985.

As added by P.L.35-1990, SEC.63. Amended by P.L.185-2001, SEC.7 and P.L.291-2001, SEC.201; P.L.185-2005, SEC.51.

IC 36-7-26-15

Resolution declaring area as district; adoption

Sec. 15. After compilation of the data required by section 14 of this chapter, the commission may adopt a resolution declaring the area described under section 14 of this chapter as a district. The commission may adopt the resolution only after finding that the completion of the redevelopment and economic development of the district will do all of the following:

(1) Attract new business enterprises to the district or retain or expand existing business enterprises in the district.

(2) Benefit the public health and welfare and be of public utility and benefit.

(3) Protect and increase state and local tax bases or revenues.

(4) Result in a substantial increase in temporary and permanent employment opportunities and private sector investment within the district.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-16

Submission of resolution for approval; requirements; publication of notice of adoption; content

Sec. 16. (a) Upon adoption of a resolution designating a district under section 15 of this chapter, the commission shall submit the resolution to the board for approval. In submitting the resolution to the board, the commission shall deliver to the board:

(1) the data required under section 14 of this chapter;

(2) the information concerning the proposed redevelopment and economic development of the proposed district; and

(3) the proposed utilization of the revenues to be received under section 23 of this chapter.

This information may be modified from time to time after the initial submission. The commission shall provide to the board any additional information that the board may request from time to time.

(b) Upon adoption of a resolution designating a district under section 15 of this chapter, and upon approval of the resolution by the board under subsection (a), the commission shall publish (in accordance with IC 5-3-1) notice of the adoption and purport of the resolution and of the hearing to be held. The notice must provide a general description of the boundaries of the district and state that information concerning the district can be inspected at the commission's office. The notice must also contain a date when the commission will hold a hearing to receive and hear remonstrances

and other testimony from persons interested in or affected by the establishment of the district. All affected persons, including all persons or entities owning property or doing business in the district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and resolutions of the commission by the notice given under this section.
As added by P.L.35-1990, SEC.63.

IC 36-7-26-17
Hearing

Sec. 17. At the hearing, which may be adjourned from time to time, the commission shall hear all persons interested in the proceedings and shall consider all written remonstrances that have been filed with the commission.
As added by P.L.35-1990, SEC.63.

IC 36-7-26-18
Final action on resolution

Sec. 18. After considering the evidence presented at the hearing, the commission shall take final action confirming, modifying and confirming, or rescinding the resolution. The action taken by the commission is final, except that an appeal may be taken under section 19 of this chapter.
As added by P.L.35-1990, SEC.63.

IC 36-7-26-19
Appeal; dismissal; bond; burden of proof

Sec. 19. (a) A person who filed a written remonstrance with the commission under section 17 of this chapter and is aggrieved by the final action taken, may within ten (10) days after that final action, file an appeal in the office of the clerk of the circuit or superior court with a copy of the resolution of the commission and the person's remonstrance against that resolution.

(b) If an appeal is filed, the commission may petition that the appeal be dismissed unless the remonstrator posts a bond with a surety approved by the court payable to the commission for the payment of all damages and costs that may accrue by reason of the filing of the lawsuit if the commission prevails. A hearing on a petition to dismiss an appeal shall be conducted in the same manner as a hearing on a temporary injunction under IC 34-26. If at the hearing the court determines that the remonstrator cannot establish facts that would entitle the remonstrator to a temporary injunction, the court shall set the amount of the bond to be filed by the remonstrator in an amount found by the judge to cover all damages and costs that may accrue to the commission because of the appeal if the commission prevails. If no bond is filed by the remonstrator with sureties approved by the court within ten (10) days after the court's order is entered, the suit shall be dismissed, and no court has further jurisdiction of the appeal or any other lawsuit involving any issue that was or could have been raised in the appeal.

(c) The burden of proof in the appeal is on the remonstrator.

(d) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. Notwithstanding any other law, the court shall decide the appeal based on the record and evidence before the commission, not by trial de novo, and may sustain the remonstrance only if the court finds that the actions of the commission in adopting the resolution were arbitrary and capricious.

(e) The court may confirm the final action of the commission or sustain the remonstrances. The final judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions. An appeal to the court of appeals or supreme court has priority over all other civil appeals.

(f) Either the remonstrator or the commission may appeal the court order to the Indiana supreme court within the ten (10) day period by notice of appeal on a statement of errors in the same manner as is provided in a petition for mandate or prohibition. The supreme court may stay the lower court order pending its own decision, may set a bond to be filed by the remonstrator, may modify the order of the lower court, or may enter the court's order as the final order in a case.

As added by P.L.35-1990, SEC.63. Amended by P.L.1-1998, SEC.211.

IC 36-7-26-20

Approval of district by ordinance

Sec. 20. The determination of the commission to create a district under this chapter, after approval by the board, must be approved by ordinance of the legislative body of the city.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-21

Delivery of copy of resolution to department; list of street names and numbers

Sec. 21. After the approval of the creation of the district under section 20 of this chapter, the commission shall transmit to the board for delivery to the department the following:

(1) A certified copy of the resolution designating the district, as confirmed by the commission.

(2) A complete list of street names and the range of street numbers of each street situated within the district.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-22

Base period amount; adjustment factor; determination; operation of business outside district; certification of taxes remitted

Sec. 22. (a) Within sixty (60) days after receipt from the commission of the information transmitted under section 21 of this

chapter the board shall do the following:

(1) Request that the department determine the base period amount. The department shall certify the base period amount to the board and the board shall transmit the certification to the commission.

(2) Determine the adjustment factor. The adjustment factor must account for the portion of the incremental state gross retail and use tax revenues attributable to investment in the district and resulting from the redevelopment and economic development project. The adjustment factor may not be decreased after the factor is determined by the board.

(b) If a business that operates or did operate in the district also has or had one (1) or more other places of business operating in Indiana but outside the district, the business shall, in the manner and for the periods of time requested by the department, certify to the department the amount of taxes remitted by the business under IC 6-2.5 for the business's places of operation that are or were in the district.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-23

Net increment for preceding fiscal year; sales tax increment financing fund disclosure of information

Sec. 23. (a) Before the first business day in October of each year, the board shall require the department to calculate the net increment for the preceding state fiscal year. The department shall transmit to the board a statement as to the net increment in sufficient time to permit the board to review the calculation and permit the transfers required by this section to be made on a timely basis.

(b) There is established a sales tax increment financing fund to be administered by the treasurer of state. The fund is comprised of two (2) accounts called the net increment account and the credit account.

(c) On the first business day in October of each year, that portion of the net increment calculated under subsection (a) that is needed:

(1) to pay debt service on the bonds issued under section 24 of this chapter or to pay lease rentals under section 24 of this chapter; and

(2) to establish and maintain a debt service reserve established by the commission or by a lessor that provides local public improvements to the commission;

shall be transferred to and deposited in the fund and credited to the net increment account. Money credited to the net increment account is pledged to the purposes described in subdivisions (1) and (2), subject to the other provisions of this chapter.

(d) On the first business day of October in each year, the remainder of:

(1) eighty percent (80%) of the gross increment; minus

(2) the amount credited to the net increment account on the same date;

shall be transferred and credited to the credit account.

(e) The remainder of:

(1) the gross increment; minus

(2) the amounts credited to the net increment account and the credit account;

shall be deposited by the auditor of state as other gross retail and use taxes are deposited.

(f) A city described in section 1(2), 1(3), or 1(4) of this chapter may receive not more than fifty percent (50%) of the net increment each year. During the time a district exists in a city described in section 1(3) or 1(4) of this chapter, not more than a total of one million dollars ($1,000,000) of net increment may be paid to the city described in section 1(3) or 1(4) of this chapter. During each year that a district exists in a city described in section 1(2) of this chapter, not more than one million dollars ($1,000,000) of net increment may be paid to the city described in section 1(2) of this chapter.

(g) The auditor of state shall disburse all money in the fund that is credited to the net increment account to the commission in equal semiannual installments on November 30 and May 31 of each year. *As added by P.L.35-1990, SEC.63. Amended by P.L.185-2001, SEC.8 and P.L.291-2001, SEC.202; P.L.177-2002, SEC.15 and P.L.178-2002, SEC.121.*

IC 36-7-26-24

Bonds; issuance; lease rental payments; remitted funds; distributions

Sec. 24. (a) The commission may issue bonds, payable in whole or in part, from money distributed from the fund to the commission, to finance a local public improvement under IC 36-7-14-25.1 or may make lease rental payments for a local public improvement under IC 36-7-14-25.2 and IC 36-7-14-25.3. The term of any bonds issued under this section may not exceed twenty (20) years, nor may the term of any lease agreement entered into under this section exceed twenty (20) years. The commission shall transmit to the board a transcript of the proceedings with respect to the issuance of the bonds or the execution and delivery of a lease agreement as contemplated by this section. The transcript must include a debt service or lease rental schedule setting forth all payments required in connection with the bonds or the lease rentals.

(b) On January 15 of each year, the commission shall remit to the treasurer of state the money disbursed from the fund that is credited to the net increment account that exceeds the amount needed to pay debt service or lease rentals and to establish and maintain a debt service reserve under this chapter in the prior year and before May 31 of that year. Amounts remitted under this subsection shall be deposited by the auditor of state as other gross retail and use taxes are deposited.

(c) The commission in a city described in section 1(2) of this chapter may distribute money from the fund only for the following:

(1) Road, interchange, and right-of-way improvements.

(2) Acquisition costs of a commercial retail facility and for real

property acquisition costs in furtherance of the road, interchange, and right-of-way improvements.

(3) Demolition of commercial property and any related expenses incurred before or after the demolition of the commercial property.

(4) For physical improvements or alterations of property that enhance the commercial viability of the district.

(d) The commission in a city described in section 1(3) of this chapter may distribute money from the fund only for the following purposes:

(1) For road, interchange, and right-of-way improvements and for real property acquisition costs in furtherance of the road, interchange, and right-of-way improvements.

(2) For the demolition of commercial property and any related expenses incurred before or after the demolition of the commercial property.

(e) The commission in a city described in section 1(4) of this chapter may distribute money from the fund only for the following purposes:

(1) For:

(A) the acquisition, demolition, and renovation of property; and

(B) site preparation and financing;

related to the development of housing in the district.

(2) For physical improvements or alterations of property that enhance the commercial viability of the district.

As added by P.L.35-1990, SEC.63. Amended by P.L.185-2001, SEC.9; P.L.291-2001, SEC.203; P.L.1-2002, SEC.161; P.L.177-2002, SEC.16 and P.L.178-2002, SEC.122.

IC 36-7-26-25

Maximization of use of tax increment financing by city; property tax abatements

Sec. 25. The board may not approve a resolution under section 16 of this chapter until the board has satisfied itself that the city in which the proposed district will be established has maximized the use of tax increment financing under IC 36-7-14 or IC 36-7-14.5 to finance public improvements within or serving the proposed district. The city may not grant property tax abatements to the taxpayers within the proposed district or a district, except that the board may approve a resolution under section 16 of this chapter in the proposed district or a district in which real property tax abatement not to exceed three (3) years has been granted.

As added by P.L.35-1990, SEC.63. Amended by P.L.146-2008, SEC.769.

IC 36-7-26-26

Credit account; use of funds

Sec. 26. To the extent prescribed by the board, and subject to the terms and conditions established by the board, any money credited

to the credit account may be used by the commission, and, if desired by the board, irrevocably pledged by the board, to further secure bonds or a lease agreement issued or entered into under this chapter. Further security includes, the following:

(1) Holding money in the credit account and pledging sums to payment of debt service on bonds issued under or lease rentals payable under this chapter, or maintenance of debt service reserves.

(2) Transferring money from the credit account to the net increment account or, if desired by the board, to the commission to enable the commission to finance local public improvements.

(3) Payment of bond insurance premiums or other credit enhancement fees and expenses.

As added by P.L.35-1990, SEC.63.

IC 36-7-26-27

Repeal or amendment of chapter; adverse effect on bond owners

Sec. 27. The general assembly covenants that this chapter will not be repealed or amended in a manner that will adversely affect the owner of bonds issued under this chapter.

As added by P.L.35-1990, SEC.63.

IC 36-7-27

Chapter 27. Economic Development Tax Area

IC 36-7-27-1

Application of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-2

"Base period amount" defined

Sec. 2. As used in this chapter, "base period amount" means the aggregate amount of covered local income taxes paid by employees employed in a tax area with respect to wages earned for work in the tax area for the state fiscal year that precedes the date on which the commission confirmed the resolution designating the tax area. However, the base period amount with respect to a tax area covered by section 11(c) of this chapter is zero (0).

As added by P.L.27-1992, SEC.28.

IC 36-7-27-3

"Commission" defined

Sec. 3. As used in this chapter, "commission" refers to the metropolitan development commission acting as the redevelopment commission of a consolidated city, subject to IC 36-3-4-23.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-4

"County taxpayer" defined

Sec. 4. (a) As used in this chapter, "county taxpayer" means an individual who:

(1) resides in the county; or

(2) maintains the individual's principal place of business or employment in the county and who does not reside in another county in which the county option income tax, the county adjusted income tax, or the county economic development income tax is in effect.

(b) For purposes of this section, an individual shall be treated as a resident of the county in which the individual:

(1) maintains a home, if the individual maintains only one (1) home in Indiana;

(2) if subdivision (1) does not apply, is registered to vote;

(3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or

(4) if subdivision (1), (2), or (3) does not apply, spends the majority of the individual's time spent in Indiana during the taxable year in question.

As added by P.L.27-1992, SEC.28. Amended by P.L.42-1994, SEC.12.

IC 36-7-27-5
"Covered local income taxes" defined

Sec. 5. As used in this chapter, "covered local income taxes" means the following income taxes imposed on county taxpayers:

(1) County option income tax.

(2) County economic development income tax.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-6
"Department" defined

Sec. 6. As used in this chapter, "department" refers to the department of state revenue.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-7
"Fund" defined

Sec. 7. As used in this chapter, "fund" refers to an incremental income tax financing fund established under section 13 of this chapter.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-8
"Incremental income tax" defined

Sec. 8. As used in this chapter, "incremental income tax" means the remainder of:

(1) the aggregate amount of covered local income taxes paid by employees employed in a tax area with respect to wages earned for work in the tax area for a particular state fiscal year; minus

(2) the base period amount.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-9
"Qualified economic development tax project" defined

Sec. 9. As used in this chapter, "qualified economic development tax project" means a project that is expected to create, retain, or create and retain at least two thousand (2,000) jobs in the county.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-10
"Tax area" defined

Sec. 10. As used in this chapter, "tax area" means a geographic area established by a commission under section 11 of this chapter in which a qualified economic development tax project is located.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-11
Tax area; establishment; procedures; area containing armed forces provider; findings; special taxing district

Sec. 11. (a) A commission may establish a tax area according to the procedures set forth for the establishment of economic

development areas under IC 36-7-15.1. Notwithstanding any other law, the tax area must be wholly within an airport development zone established under IC 8-22-3.5 or within any other area in the county in which there is located a provider of services, equipment, or both to the United States armed forces.

(b) In establishing the tax area, the commission must make the following findings in lieu of the findings required for the establishment of economic development areas:

(1) That a project to be undertaken or that has been undertaken in the area is a qualified economic development tax project.

(2) That the local public improvements (as defined in IC 36-7-15.3-6) being constructed, acquired, or provided or to be constructed, acquired, or provided in or serving the tax area will benefit the public health and welfare and will be of public utility and benefit.

(3) That the qualified economic development tax project being constructed, acquired, or provided or to be constructed, acquired, or provided in or serving the tax area will protect or increase state and local tax bases or revenues.

(c) In addition to the findings required under subsection (b), the commission may find that the qualified economic development project involves a provider of services, equipment, or both to the United States armed forces.

(d) The tax area established by the commission under this chapter is a special taxing district authorized by the general assembly to enable the county to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-12

Allocation provision; adoption; notice; certification of base period amount

Sec. 12. (a) A resolution adopted under section 11 of this chapter must include a provision with respect to the allocation and distribution of covered local income taxes for the purposes and in the manner provided in this section. The allocation provision must apply to the entire tax area.

(b) When an allocation provision is adopted under subsection (a), the commission shall notify the department by certified mail of the adoption of the provision and shall include with the notification a complete list of the following:

(1) Employers in the tax area.

(2) Street names and the range of street numbers of each street in the tax area.

The commission shall update the list before July 1 of each year.

(c) Not later than sixty (60) days after receipt from the commission of the notification under subsection (b), the department shall determine the base period amount and certify that amount to the commission.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-13

Incremental income tax financing fund; establishment; administration; estimate, certification, and collection of tax; disbursement and pledge of fund; sufficiency to meet obligations

Sec. 13. (a) The treasurer of state shall establish an incremental income tax financing fund for the county. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Before July 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall estimate and certify to the county auditor the amount of incremental income tax for the tax areas in the county that will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the following calendar year. The amount certified shall be deposited into the fund and shall be distributed on the dates specified in subsection (e) for the following calendar year. The amount certified may be adjusted under subsection (c) or (d).

(c) The department may certify to the county an amount that is greater than the estimated twelve (12) month incremental income tax collection if the department, after reviewing the recommendation of the budget agency, determines that there will be a greater amount of incremental income tax available for distribution from the fund.

(d) The department may certify an amount less than the estimated twelve (12) month incremental income tax collection if the department, after reviewing the recommendation of the budget agency, determines that a part of those collections need to be distributed during the current calendar year so that the county will receive its full certified amount for the current calendar year.

(e) The auditor of state shall disburse the certified amount to the commission in equal semiannual installments on May 31 and November 30 of each year.

(f) Money in the fund may be pledged by the commission to the following purposes:

(1) To pay debt service on the bonds issued under section 14 of this chapter.

(2) To pay lease rentals under section 14 of this chapter.

(3) To establish and maintain a debt service reserve established by the commission or by a lessor that provides local public improvements to the commission.

(g) When money in the fund is sufficient when combined with other sources of payment to pay all outstanding principal and interest or lease rentals to the date on which the obligations can be redeemed on obligations of the commission for a local public improvement in the county, no additional incremental income tax for that project shall be deposited in the fund and covered income taxes shall be distributed as provided in IC 6-3.5-6 or IC 6-3.5-7, as appropriate.

As added by P.L.27-1992, SEC.28.

IC 36-7-27-14
Bonds; issuance; purposes

Sec. 14. The commission may issue bonds payable in whole or in part from money distributed from the fund to the commission to finance local public improvements under IC 36-7-15.1-17 or make lease rental payments in whole or in part from money distributed from the fund to the commission for a local public improvement under IC 36-7-15.1-17.1 and IC 36-7-15.1-17.2, including debt service payments on or lease rental payments for local public improvements under bonds issued or a lease entered into before January 1, 1992. Local public improvements to be financed by the commission may be in or serving the tax area.
As added by P.L.27-1992, SEC.28.

IC 36-7-27-15
Tax covenant with bond owners

Sec. 15. The general assembly covenants that this chapter will not be repealed or amended in a manner that will adversely affect the owners of bonds issued under this chapter by the commission or a lessor corporation providing local public improvements to the commission.
As added by P.L.27-1992, SEC.28.

IC 36-7-27-16
Pledge to finance economic development tax project

Sec. 16. Notwithstanding any other law, a county that expects to receive an economic benefit from a qualified economic development tax project under this chapter, a county contiguous to such a county, or a municipality that expects to receive an economic benefit from a qualified economic development tax project under this chapter, may pledge (as authorized in IC 5-1-14-4) any legally available money to the payment of bonds or lease rentals to finance a qualified economic development tax project. The pledge does not create a debt of the pledging county or municipality under the Constitution of the State of Indiana so long as the money is designated to make lease rental payments to finance a qualified economic development tax project.
As added by P.L.28-1993, SEC.14.

IC 36-7-27-18
Information required to be disclosed by employers

Sec. 18. Upon request of the department, employers in the tax area shall provide the department with:

(1) the names and addresses of all persons employed by the employer in the tax area;
(2) information concerning the wages earned by the persons for work in the tax area; and
(3) any other information the department requires to administer this chapter.

As added by P.L.42-1994, SEC.13.

IC 36-7-28

Chapter 28. Minority Enterprise Small Business Investment Companies

IC 36-7-28-1

Applicability of chapter

Sec. 1. This chapter applies to all cities.

As added by P.L.264-1993, SEC.1.

IC 36-7-28-2

Powers of city

Sec. 2. Notwithstanding any other law, a city may take all actions necessary to establish or provide assistance to a nonprofit corporation that serves as a minority enterprise small business investment company for purposes of 15 U.S.C. 681(d).

As added by P.L.264-1993, SEC.1.

IC 36-7-29

Chapter 29. Local Environmental Response Financing

IC 36-7-29-1

Application of chapter

Sec. 1. This chapter applies to the following units:

(1) A city having a population of more than eight thousand seven hundred (8,700) but less than nine thousand (9,000).

(2) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred seventy-five thousand (175,000).

As added by P.L.44-1994, SEC.11. Amended by P.L.170-2002, SEC.161; P.L.119-2012, SEC.209.

IC 36-7-29-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to the local environmental response financing board established by section 10 of this chapter.

As added by P.L.44-1994, SEC.11.

IC 36-7-29-3

"District" defined

Sec. 3. As used in this chapter, "district" refers to the special taxing district established by section 9 of this chapter.

As added by P.L.44-1994, SEC.11.

IC 36-7-29-4

"Qualified site" defined

Sec. 4. As used in this chapter, "qualified site" means a site that is wholly or partially located in the district and on July 1, 1994, is:

(1) a site at which solid waste or substances are present or deposited in or on the ground as an intended place of final location; or

(2) an industrial site where a substance is present in or on the ground.

As added by P.L.44-1994, SEC.11.

IC 36-7-29-5

"Remedial action" defined

Sec. 5. As used in this chapter, "remedial action" has the meaning set forth in IC 13-11-2-185.

As added by P.L.44-1994, SEC.11. Amended by P.L.1-1996, SEC.87.

IC 36-7-29-6

"Removal" defined

Sec. 6. As used in this chapter, "removal" has the meaning set forth in IC 13-11-2-187.

As added by P.L.44-1994, SEC.11. Amended by P.L.1-1996, SEC.88.

IC 36-7-29-7
"Responsible person" defined

Sec. 7. As used in this chapter, "responsible person" has the meaning set forth in IC 13-11-2-192(b).

As added by P.L.44-1994, SEC.11. Amended by P.L.1-1996, SEC.89.

IC 36-7-29-8
"Substance" defined

Sec. 8. As used in this chapter, "substance" has the meaning set forth in IC 13-11-2-98 for the term "hazardous substance".

As added by P.L.44-1994, SEC.11. Amended by P.L.1-1996, SEC.90.

IC 36-7-29-9
Local environmental response taxing districts

Sec. 9. (a) A special taxing district to be known as the local environmental response taxing district is created in a city described in section 1(1) of this chapter and in a county described in section 1(2) of this chapter for the purpose of funding substance removal or remedial action for a qualified site. The district shall exist for the public purpose of protecting the health, safety, and welfare of residents in the district by substance removal or remedial action. The general assembly finds that the actions and purposes set forth in this chapter are public purposes.

(b) The district is coterminous with the territory of the unit.

As added by P.L.44-1994, SEC.11.

IC 36-7-29-10
Local environmental response financing boards

Sec. 10. (a) The district shall be governed by a local environmental response financing board.

(b) If the unit is a city described in section 1(1) of this chapter, the board consists of five (5) members appointed by the city executive.

(c) If the unit is a county described in section 1(2) of this chapter, the board consists of the following six (6) members:

(1) Two (2) members appointed by the county executive.

(2) One (1) member appointed by the county fiscal body.

(3) Two (2) members appointed by the executive of the municipality having the largest population in the district.

(4) One (1) member appointed by the executive of the municipality that has the second largest population in the district.

All board members appointed under this subsection must be local elected officials. A board member appointed under this subsection who ceases to be a local elected official forfeits membership on the board.

(d) The term of office of a board member is four (4) years. The appointing authority shall fill a vacancy on the board for the unexpired term.

(e) Board members are not entitled to compensation or reimbursement for any services or expenses.

As added by P.L.44-1994, SEC.11.

IC 36-7-29-11
Resolutions

Sec. 11. The board may by its resolutions provide the procedure for its actions, the manner of selection of the board's chairperson, treasurer, secretary, and the other officers or employees of the district, their titles, terms of office, duties, number, and qualifications, and any other lawful subject necessary to the operation of the district and the exercise of the power granted under this chapter. Actions of a legislative nature must be by resolution adopted by a majority of the board. Resolutions proposed may be read by title only unless a reading in full is requested by a member of the board. Actions of an administrative or executive nature may be taken by a majority of the board or by officers of the board or employees of the district as authorized by the board.
As added by P.L.44-1994, SEC.11.

IC 36-7-29-12
Powers and duties of boards

Sec. 12. (a) The board may:

(1) receive and disburse funds;
(2) sue and be sued;
(3) plan, finance, and manage substance removal or remedial action at qualified sites;
(4) make and contract for plans, surveys, studies, and investigations necessary for the purpose of substance removal or remedial action at qualified sites;
(5) enter upon property to make surveys, soundings, borings, and examinations;
(6) acquire by negotiation any property or rights or interest in property reasonably required for substance removal or remedial action under the bond resolution without following any other statutory procedures for that acquisition;
(7) accept gifts, grants, or loans of money, other property, or services from any source, public or private, and comply with the terms of the gift, grant, or loan;
(8) borrow in anticipation of taxes;
(9) contract for professional services;
(10) enter into an interlocal cooperation agreement under IC 36-1-7 to obtain funds for:
    (A) fiscal;
    (B) administrative;
    (C) managerial; or
    (D) operational;
services from a county or municipality;
(11) conduct or contract for ongoing site maintenance, leachate collection, and long term monitoring at a qualified site after the substance removal or remedial action is complete;
(12) enter into an agreement with a state or federal agency that

regulates remedial action or removal;

(13) pursue all legal remedies available as to other responsible persons who are not participating in the financing of the substance removal or remedial action through payment of property taxes that, in the sole judgment of the board, are commensurate with the responsible person's past use of the qualified site; and

(14) otherwise do all things necessary or proper to accomplish the purposes of this chapter.

(b) This subsection applies to a district located in a county described in section 1(2) of this chapter. In addition to the powers set forth in subsection (a), the board may levy a tax within the district to pay the costs of operation of the district, subject to regular budget and tax levy procedures. However, the maximum amount of taxes levied each year may not exceed fifty thousand dollars ($50,000). The tax described in this subsection shall not be levied after substance removal and remedial action at a qualified site have been completed.

(c) Money recovered by the district from responsible persons shall be used for any of the following:

(1) To redeem bonds issued under section 13 of this chapter.

(2) To pay debt service on bonds issued under section 13 of this chapter.

(3) To reimburse a unit in the district for costs associated with removal or remediation at the qualified site prior to the issuance of bonds issued under section 13 of this chapter.

(4) To pay ongoing costs of the district associated with remediation or removal.

As added by P.L.44-1994, SEC.11.

IC 36-7-29-13

Issuance of bonds

Sec. 13. (a) Subject to section 15 of this chapter, the board may issue district bonds under this section for the payment of the cost of substance removal or remedial action at a qualified site.

(b) On adopting a resolution ordering the issuance of district bonds, the board shall certify a copy of the resolution and a copy of the approval to the treasurer of the district, who shall prepare the district bonds.

(c) The district bonds are special obligations of indebtedness of the district. The district bonds issued under this section, and interest on the district bonds, are payable solely out of a special tax levied on all of the property of the district or other funds that may, under this chapter, or under any other law, be used to pay debt service on bonds. The district bonds must recite the terms on the face of the district bonds together with the purpose for which the district bonds are issued. For the purpose of raising money to pay district bonds issued under this section, the board shall levy each year a special tax on all of the property in the district in the amount and the manner necessary to meet and pay the principal of the district bonds as they

severally mature, together with all accruing interest on them. The tax is declared to constitute the amount of benefits resulting to all of the property of the district.

(d) All proceeds from the sale of district bonds shall be kept as a separate and specific fund, to pay the cost of substance removal or remedial action, and no part of the proceeds may be used for any other purpose, except as provided in IC 5-1-13 and IC 5-1-14.

(e) The tax levied each year shall be certified to the treasurer of the district and to the county auditor. The tax levied and certified shall be estimated and entered upon the tax duplicate by the county auditor and shall be collected and enforced. As the tax is collected by the county treasurer, the tax shall be transferred to the treasurer of the district, kept in a separate fund to be known as the district bond fund, and applied to the payment of the principal of and interest on the district bonds as the district bonds become due and to no other purpose, except as provided in IC 5-1-13 and IC 5-1-14.

(f) The special tax described in this section may not be levied after the last of the principal and interest on bonds issued under this chapter have been completely paid.

As added by P.L.44-1994, SEC.11.

IC 36-7-29-14
Form of bonds

Sec. 14. (a) All district bonds issued under this chapter may:

(1) be issued as serial or term bonds or as a combination of both;

(2) be executed and delivered by the district at any time and from time to time;

(3) bear the date or dates;

(4) bear the maximum interest rates, if fixed rates are used, or specify any manner in which the interest rate will be determined, if variable or adjustable rates are used;

(5) be redeemable before their stated maturities on the terms and conditions and at premiums as determined by the board;

(6) be issued in any denomination of not less than five thousand dollars ($5,000);

(7) be in a form, either book entry or registered, or both;

(8) carry registration conversion privileges;

(9) be payable in a medium of payment and at a place or places, which may be at any one (1) or more banks or trust companies within or outside Indiana;

(10) provide for the replacement of mutilated, destroyed, stolen, or lost bonds;

(11) be authenticated in a manner and upon compliance with conditions;

(12) establish reserves from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the principal and interest on the district bonds issued under this chapter; and

(13) contain other terms and covenants;

as provided in the resolution of the board authorizing the district

bonds.

(b) The district bonds issued under this chapter may mature at the time or times not to exceed forty (40) years.

(c) The district bonds issued under this chapter may bear either the impressed or facsimile seal of the district and shall be executed by the manual or facsimile signature of the chairperson of the board and attested by the manual or facsimile signature of the treasurer of the district, if one (1) of these signatures is manual. However, any signatures may be facsimiles if the bonds are to be manually authenticated by a fiduciary.

(d) The district bonds and the interest coupons appertaining to them, if any, issued under this chapter are valid and binding obligations of the district for all purposes in accordance with the terms of this chapter, notwithstanding that before delivery of the district bonds and any appertaining interest coupons, any of the persons whose signatures appear on the district bonds and any appertaining interest coupons have ceased to be officers of the district, as if the persons had continued to be officers of the district until after delivery.

(e) The district bonds issued under this chapter may be sold at public or private sale for the price or prices that may be provided in the resolution authorizing their issuance.

As added by P.L.44-1994, SEC.11.

IC 36-7-29-15

Amount of bonds

Sec. 15. (a) Except as provided in subsection (b) or (c), the amount of the district bonds issued under this chapter may not exceed the total amount that the board determines is reasonably necessary to be incurred in connection with the substance removal or remedial action. The board shall base a determination under this subsection on the best estimates available before the district bonds are issued.

(b) This subsection applies to a district located in a city described in section 1(1) of this chapter. Notwithstanding any other law, the total amount of the district bonds issued under this chapter, including district bonds already issued and outstanding under this chapter, may not exceed four percent (4%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15 of the district after deducting all mortgage exemptions in the district.

(c) This subsection applies to a district located in a county described in section 1(2) of this chapter. Notwithstanding any other law, the total amount of the district bonds issued under this chapter, including district bonds already issued and outstanding under this chapter, may not exceed two percent (2%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15.

As added by P.L.44-1994, SEC.11. Amended by P.L.6-1997, SEC.212.

IC 36-7-29-16

Procedures for issuance of bonds

Sec. 16. (a) District bonds may be issued by a board under this chapter without following any procedures set forth in any other statute except that the board must:

(1) adopt a bond resolution after a public hearing following public notice of the hearing published in accordance with IC 5-3-1;

(2) publish notice of the determination to issue district bonds in accordance with IC 6-1.1-20-5;

(3) obtain the approval for the appropriation of the proceeds of the district bonds as set forth in IC 6-1.1-18-5 if the appropriation is an additional appropriation; and

(4) obtain the approval of the department of local government finance for a tax levy under IC 6-1.1-18.5-8.

(b) The bond resolution must contain a finding that substance removal or remedial action at the qualified site will be of public utility and benefit because the conditions at the qualified site are detrimental to the social and economic interests of the district.

As added by P.L.44-1994, SEC.11. Amended by P.L.90-2002, SEC.485.

IC 36-7-29-17

Notes of indebtedness

Sec. 17. (a) A district:

(1) pending receipt of any grant; or

(2) in anticipation of the issuance of district bonds under this chapter;

may borrow money from any person and evidence the debt by a note or notes executed by the chairperson of the board and the treasurer of the district. The note or notes must contain the terms and provisions prescribed by the board.

(b) An issuance of a note or notes or evidence of indebtedness under this section may be sold at a public or private negotiated sale.

(c) A note or notes issued or renewed under this section must mature not more than five (5) years from the date of issuance of the original note and must pledge for the payment of the principal and interest the proceeds of the grant or district bonds.

(d) The board shall apply the proceeds of any note or notes issued under this section to the cost of the substance removal or remedial action for which the grant is to be made or bonds issued, but no purchaser of any obligations is liable for the proper application of the proceeds.

(e) Notes issued under this section must be approved by a resolution of the board.

As added by P.L.44-1994, SEC.11.

IC 36-7-29-18

Bond and note registration requirements

Sec. 18. A district bond or note issued in connection with a financing under this chapter is exempt from the registration

requirements of IC 23.
As added by P.L.44-1994, SEC.11.

IC 36-7-29-19
Tax exemptions for bonds and notes

Sec. 19. All district bonds, as well as bond anticipation notes, issued under this chapter and the interest on them are exempt from taxation in accordance with IC 6-8-5.
As added by P.L.44-1994, SEC.11.

IC 36-7-29-20
Actions to contest bonds

Sec. 20. An action to contest the validity of the district bonds or to prevent their issuance must be brought within thirty (30) days following the publication of the public notice under section 16(a)(1) of this chapter.
As added by P.L.44-1994, SEC.11.

IC 36-7-29-21
Authority granted by chapter

Sec. 21. This chapter constitutes full authority for the issuance of district bonds. No procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by a board, an officer, a commission, a department, an agency, or an instrumentality of the state is required to issue district bonds or to do any act or perform anything under this chapter, except as may be prescribed in this chapter. The powers conferred by this chapter are in addition to, and not in substitution for, and the limitations imposed by this chapter do not affect the powers conferred by any other statute.
As added by P.L.44-1994, SEC.11.

IC 36-7-29-22
Guaranty of rights

Sec. 22. The general assembly covenants and agrees with the holders of any district bonds that as long as any district bonds issued under this chapter are outstanding and unpaid, the state:

(1) will not limit or alter the rights of the district to fulfill the terms of any agreements made with the holders of the district bonds; and

(2) will not in any way impair the rights and remedies of the holders of the district bonds;

until the district bonds, together with interest on the district bonds, interest on any unpaid installment of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders are fully paid, met, and discharged.
As added by P.L.44-1994, SEC.11.

IC 36-7-29-22.5
Lien on property

Sec. 22.5. (a) After removal or remedial action is initiated under

this chapter, the district may impose a lien on the property on which the removal or remedial action is undertaken. The lien may secure the payment to the district of an amount of money equal to the amount of money expended periodically by the district to finance the removal or remedial action.

(b) In order to perfect a lien arising under subsection (a), the district must file notice of the lien in the office of the county recorder. At least thirty (30) days before filing notice of the lien in the office of the county recorder, the district must provide by certified mail to:

(1) the owner of the real property that would be subject to the lien, at the owner's last known address; or

(2) the tenant or other person having control of the real property that would be subject to the lien, at the last known address of the tenant or other person, if the owner of record cannot be identified;

a written notice of the date on which the district intends to impose a lien under subsection (a). The district shall also provide the county recorder with a copy of the written notice required by this subsection.

(c) When a notice of a lien arising under subsection (a) is presented to the county recorder for filing, the county recorder shall enter the lien appropriately in the entry book and in the miscellaneous record. The entries made under this subsection must show the following:

(1) The date of filing.

(2) The book and page number or instrument number.

(3) The name of the person named in the notice.

(4) A legal description of the property if appropriate.

(5) A serial number or other identifying number given in the notice.

(d) After a notice of a lien is filed with the county recorder under subsection (c), the district shall provide notice of the filing of the lien by certified mail to:

(1) the owner of the property that is subject to the lien, at the owner's last known address; or

(2) the tenant or other person having control of the property that is subject to the lien, at the last known address of the tenant or other person, if the owner of record cannot be identified.

(e) Subject to subsection (f), when a certificate of discharge of a lien arising under this section is:

(1) issued by the board or its designated representative; and

(2) presented for filing in the office of the county recorder;

the county recorder shall record the certificate of discharge as a release of the lien.

(f) To be recorded under subsection (e), the certificate must refer to the county recorder's book and page number or instrument number under which the lien was recorded.

(g) When recording a release of a lien under subsection (e), the county recorder shall inscribe, in the margin of each entry made to record the lien under subsection (d), a reference to the place where

the release is recorded.

(h) Upon:

(1) the recording of the certificate of discharge as a release under subsection (e); and

(2) the inscribing of the references to the release under this section;

a certificate of discharge of a lien arising under subsection (a) operates as a full discharge and satisfaction of the lien unless the references to the release inscribed under subsection (e) specifically note the release as a partial lien release.

(i) A lien created under subsection (a) continues until the earlier of the following:

(1) The full discharge and satisfaction of the lien.

(2) The expiration of a twenty (20) year period from the date of the creation of the lien, unless an action to foreclose the lien is pending.

As added by P.L.60-1999, SEC.1.

IC 36-7-29-23

Construction of chapter

Sec. 23. This chapter is supplemental to all other statutes covering the funding of substance removal or remedial action.

As added by P.L.44-1994, SEC.11.

IC 36-7-30

Chapter 30. Reuse of Federal Military Bases

IC 36-7-30-1

Applicability of chapter; definitions

Sec. 1. (a) This chapter applies to all units in which all or a part of a military base is located.

(b) As used in sections 18 and 24 of this chapter, "bonds" means bonds, notes, evidences of indebtedness, or other obligations issued by the reuse authority in the name of the unit.

(c) As used in this chapter, "military base" means a United States government military base or other military installation that is scheduled for closing or is completely or partially inactive or closed.

(d) As used in this chapter, "military base property" means real and personal property that is currently or was formerly part of a military base and is subject to reuse.

(e) As used in this chapter, "municipal utility" means a utility that is owned by a municipality and provides at least one (1) of the following:

(1) Water services.

(2) Sewer services.

(3) Electric services.

(4) Stormwater services.

(f) As used in this chapter, "reuse authority" means a military base reuse authority established under section 3 of this chapter.

As added by P.L.26-1995, SEC.14. Amended by P.L.228-1997, SEC.1.

IC 36-7-30-2

Preparation for reuse of military bases

Sec. 2. (a) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for reuse of military bases and military base property are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of the following:

(1) The provisions of federal law that provide for the expeditious and affordable transfer of military base property to an entity established by local government for these purposes.

(2) The necessity for requiring the proper use of the land to best serve the interests of the unit and its citizens.

(3) The costs of the projects.

(b) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for reuse will do the following:

(1) Benefit the public health, safety, morals, and welfare.

(2) Increase the economic well-being of the unit and the state.

(3) Serve to protect and increase property values in the unit and the state.

(c) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for reuse of military bases and military base property under this chapter are public uses and

purposes for which public money may be spent and private property may be acquired.

(d) Each unit shall, to the extent feasible under this chapter and consistent with the needs of the unit as a whole, provide a maximum opportunity for reuse of federal military bases by private enterprise or state and local government.

(e) This section shall be liberally construed to carry out the purposes of this section.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-3

Establishment of reuse authority; taxing districts; consolidated city

Sec. 3. (a) A unit may establish a board of five (5) members to be known as the "_____ Reuse Authority", designating the name of the military base. Once a unit has established a reuse authority for a military base, no other unit may create a reuse authority for that portion of the military base that lies within the boundaries of that unit.

(b) All of the territory within the corporate boundaries of a municipality constitutes a taxing district for the purpose of levying and collecting special benefit taxes for reuse purposes as provided in this chapter. All of the territory in a county constitutes a taxing district for a county.

(c) All of the taxable property within a taxing district is considered to be benefited by reuse projects carried out under this chapter to the extent of the special taxes levied under this chapter.

(d) A county having a consolidated city may not establish a reuse authority for a military base located in an excluded city without the approval of the legislative body of the excluded city.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-4

Appointment of members to reuse authority

Sec. 4. (a) Except as provided in subsection (c), the five (5) members of a municipal military base reuse authority shall be appointed as follows:

(1) Three (3) members shall be appointed by the municipal executive.

(2) Two (2) members shall be appointed by the municipal legislative body.

(b) The five (5) members of a county military base reuse authority shall be appointed by the county executive.

(c) The five (5) members of a municipal military base reuse authority in an excluded city that is located in a county with a consolidated city shall be appointed as follows:

(1) One (1) member shall be appointed by the executive of the excluded city.

(2) One (1) member shall be appointed by the legislative body of the excluded city.

(3) One (1) member shall be appointed by the consolidated city

executive.

(4) One (1) member shall be appointed by the consolidated city legislative body.

(5) One (1) member shall be appointed by the board of county commissioners.

However, at least three (3) of the members must be residents of the excluded city.

As added by P.L.26-1995, SEC.14. Amended by P.L.42-2011, SEC.79.

IC 36-7-30-5

Term of members; oath; bond; qualifications; reimbursement for expenses

Sec. 5. (a) Except as provided in subsection (b), each member of a military base reuse authority shall serve the longer of three (3) years beginning with the first day of January after the member's appointment or until the member's successor has been appointed and qualified. If a vacancy occurs, a successor shall be appointed in the same manner as the original member, and the successor shall serve for the remainder of the vacated term.

(b) In the case of a municipal military base reuse authority in an excluded city located in a county with a consolidated city, the original members shall serve for the following terms:

(1) A member appointed by the executive of the excluded city or the consolidated city executive shall serve for the longer of three (3) years beginning with the first day of January after the member's appointment or until the member's successor is appointed and qualified.

(2) A member appointed by the legislative body of the excluded city or the consolidated city legislative body shall serve for the longer of one (1) year beginning with the first day of January after the member's appointment or until the member's successor is appointed and qualified.

(3) A member appointed by the board of county commissioners shall serve for the longer of two (2) years beginning with the first day of January after the member's appointment or until the member's successor is appointed and qualified.

(c) Each member of a reuse authority, before beginning the member's duties, shall take and subscribe an oath of office in the usual form, to be endorsed on the certificate of the member's appointment. The endorsed certificate must be promptly filed with the clerk for the unit that the member serves.

(d) Each member of a reuse authority, before beginning the member's duties, shall execute a bond payable to the state, with surety to be approved by the executive of the unit. The bond must be in the penal sum of fifteen thousand dollars ($15,000) and must be conditioned on the faithful performance of the duties of the member's office and the accounting for all money and property that may come into the member's hands or under the member's control. The cost of the bond shall be paid by the special taxing district.

(e) A member of a reuse authority must be at least eighteen (18) years of age and, except as provided in section 4(c) of this chapter, must be a resident of the unit responsible for the member's appointment.

(f) If a member ceases to be qualified under this section, the member forfeits the member's office.

(g) Members of a reuse authority are not entitled to salaries but are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-6

Meetings; secretary-treasurer; rules; quorum

Sec. 6. (a) The reuse authority members shall hold a meeting for the purpose of organization not later than thirty (30) days after they are appointed and, after that, each year on the first day in January that is not a Saturday, Sunday, or legal holiday. They shall choose one (1) of their members as president, another as vice president, and another as secretary-treasurer. These officers shall perform the duties usually concerning their offices and shall serve from the date of their election until their successors are elected and qualified.

(b) Except as otherwise provided in this chapter, the secretary-treasurer shall be responsible for the funds and accounts of the reuse authority. The reuse authority may employ personnel for compensation to assist the secretary-treasurer or may designate or appoint a fiscal officer of the unit or of another unit responsible for appointing one (1) or more reuse authority members to perform the duties that are delegated by the reuse authority and accepted by the fiscal officer.

(c) The members of a reuse authority may adopt rules and bylaws the members consider necessary for the proper conduct of proceedings, carrying out of the members' duties, and safeguarding the money and property placed in the members' custody by this chapter. In addition to the annual meeting, the members may by resolution or in accordance with the rules and bylaws prescribe the date and manner of notice of other regular or special meetings.

(d) Three (3) members of the reuse authority constitute a quorum, and the concurrence of three (3) members is necessary to authorize an action.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-7

Removal from office

Sec. 7. A member of a military base reuse authority may be summarily removed from office at any time by the government body or officer that appointed the member.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-8

Duties of reuse authority

Sec. 8. The military base reuse authority shall do the following:

(1) Investigate, study, and survey the area surrounding and the real property and structures that are part of a military base within the corporate boundaries of the unit.

(2) Investigate, study, and determine the means by which military base property may be reused by private enterprise to promote economic development within the unit or by state and local government to otherwise benefit the welfare of the citizens of the unit.

(3) Promote the reuse of military base property in the manner that best serves the interests of the unit and its inhabitants.

(4) Cooperate with the departments and agencies of the unit and of other governmental entities, including the state and the federal government, in the manner that best serves the purposes of this chapter.

(5) Make findings and reports on their activities under this section, and keep the reports available for inspection by the public.

(6) Select and acquire military base property to be reused by private enterprise or state or local government under this chapter.

(7) Transfer acquired military base property and other real and personal property to private enterprise or state or local government in the manner that best serves the social and economic interests of the unit and the unit's inhabitants.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-9

Powers of reuse authority

Sec. 9. (a) The military base reuse authority may do the following:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal military base property or interest in real military base property or other real or personal property located within the corporate boundaries of the unit.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of real or personal military base property or other real and personal property to private enterprise or state or local government, on the terms and conditions that the reuse authority considers best for the unit and its inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired from a military base to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for the purposes of this chapter.

(5) Repair and maintain structures acquired for the purposes of this chapter.

(6) Remodel, rebuild, enlarge, or make major structural

improvements on structures acquired from a military base.
(7) Survey or examine any land to determine whether it should be acquired for the purpose of this chapter and to determine the value of the land.
(8) Appear before any other department or agency of the unit or any other governmental agency in respect to any matter affecting:
(A) real property acquired or being acquired for the purposes of this chapter; or
(B) any reuse area within the jurisdiction of the reuse authority.
(9) Institute or defend in the name of the unit any civil action.
(10) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the reuse authority.
(11) Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit in the manner prescribed by section 16 of this chapter.
(12) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, and other consultants that are necessary or desired by the authority in exercising its powers or carrying out its responsibilities under this chapter.
(13) Appoint clerks, guards, laborers, and other employees the reuse authority considers advisable. However, the appointments must be made in accordance with the merit system of the unit if the unit has a merit system.
(14) Prescribe the duties and regulate the compensation of employees of the military base reuse authority.
(15) Provide a pension and retirement system for employees of the military base reuse authority, or use the public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.
(16) Discharge and appoint successors to employees of the military base reuse authority subject to subdivision (13).
(17) Rent offices for use of the reuse authority or accept the use of offices furnished by the unit.
(18) Equip the offices of the reuse authority with the necessary furniture, furnishings, equipment, records, and supplies.
(19) Expend on behalf of the special taxing district all or any part of the money of the special taxing district.
(20) Design, order, contract for, and construct, reconstruct, improve, or renovate the following:
(A) Local public improvements or structures that are necessary for the reuse of military base property within the corporate boundaries of the unit.
(B) Any structure that enhances the development, economic development, or reuse of military base property.
(21) Accept loans, grants, and other forms of financial assistance from the federal government, the state government,

a municipal corporation, a special taxing district, a foundation, or any other source.

(22) Provide financial assistance, in the manner that best serves the purposes of this chapter, including grants and loans, to enable private enterprise to develop, redevelop, and reuse military base property or otherwise enable private enterprise to provide social and economic benefits to the citizens of the unit.

(23) Enter into contracts for providing police, fire protection, and utility services to the military base reuse area.

(24) Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the reuse authority and the execution of the power of the reuse authority under this chapter.

(25) Take any action necessary to implement the purposes of the reuse authority.

(b) All powers that may be exercised under this chapter by the reuse authority may also be exercised by the reuse authority in carrying out its duties and purposes under IC 36-7-14.5 or IC 36-7-15.3.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-10

Plan and declaration of reuse area

Sec. 10. (a) The reuse authority shall adopt a plan for the rehabilitation, development, redevelopment, and reuse of military base property to be acquired from the federal government upon the closure of a military base within the boundaries of the unit.

(b) In conjunction with the military base reuse plan, the reuse authority may adopt a resolution declaring that a geographic area is a military base reuse area and approving the plan if it makes the following findings:

(1) All or part of a military base is located in the military base reuse area.

(2) The plan for the military base reuse area will accomplish the public purposes of this chapter, supported by specific findings of fact to be adopted by the reuse authority.

(3) The public health and welfare will be benefited by accomplishment of the plan for the military base reuse area.

(4) The plan for the military base reuse area conforms to other development and redevelopment plans for the unit.

(c) A military base reuse area may include territory within the corporate boundaries of the unit and in the vicinity of the military base that is not on military base property. However, a military base reuse area may not include any area of land that constitutes part of an economic development area, a redevelopment project area, or an urban renewal area under IC 36-7-14 or IC 36-7-15.1.

(d) The resolution must state the general boundaries of the area, and that the reuse authority proposes to acquire all of the interests in the land within the boundaries, with certain designated exceptions, if there are any.

(e) For the purpose of adopting a resolution under subsection (b), it is sufficient to describe the boundaries of the area by its location in relation to public ways or streams, or otherwise, as determined by the reuse authority. Property excepted from the acquisition may be described by street numbers or location.
As added by P.L.26-1995, SEC.14. Amended by P.L.185-2005, SEC.52.

IC 36-7-30-11
Adoption of resolution

Sec. 11. (a) After adoption of a resolution under section 10 of this chapter, the reuse authority shall submit the resolution and supporting data to the plan commission of the unit or other body charged with the duty of developing a general plan for the unit, if there is such a body. The plan commission may determine whether the resolution and the reuse plan conform to the plan of development for the unit and approve or disapprove the resolution and plan proposed. The reuse authority may amend or modify the resolution and proposed plan to conform to the requirements of the plan commission. The plan commission shall issue a written order approving or disapproving the resolution and military base reuse plan, and may with the consent of the reuse authority rescind or modify the order.

(b) The determination that a geographic area is a military base reuse area must be approved by the unit's legislative body.

(c) If a military base is located in an excluded city that is located in a county having a consolidated city, the determination that a geographic area is a military base reuse area must be approved by the excluded city legislative body and the consolidated city legislative body.
As added by P.L.26-1995, SEC.14.

IC 36-7-30-12
Notice and hearing on adoption of resolution

Sec. 12. (a) After receipt of all orders and approvals required under section 11 of this chapter, the reuse authority shall publish notice of the adoption and the substance of the resolution in accordance with IC 5-3-1. The notice must name a date when the reuse authority will receive and hear remonstrances and objections from persons interested in or affected by the proceedings concerning the proposed project and will determine the public utility and benefit of the proposed project. All persons affected in any manner by the hearing, including all taxpayers of the special taxing district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the reuse authority by the notice given under this section.

(b) At the hearing, which may be adjourned from time to time, the reuse authority shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the reuse

authority shall take final action determining the public utility and benefit of the proposed project, and confirming, modifying and confirming, or rescinding the resolution. The final action taken by the reuse authority is final and conclusive, except that an appeal may be taken in the manner prescribed by section 14 of this chapter.
As added by P.L.26-1995, SEC.14.

IC 36-7-30-13
Amendments to resolution or plan

Sec. 13. (a) The reuse authority must conduct a public hearing before amending a resolution or plan for a military base reuse area. The reuse authority shall give notice of the hearing in accordance with IC 5-3-1. The notice must do the following:

(1) Set forth the substance of the proposed amendment.
(2) State the time and place where written remonstrances against the proposed amendment may be filed.
(3) Set forth the time and place of the hearing.
(4) State that the reuse authority will hear any person who has filed a written remonstrance during the filing period set forth in subdivision (2).

(b) For the purposes of this section, the consolidation of areas is not considered the enlargement of the boundaries of an area.

(c) If the reuse authority proposes to amend a resolution or plan, the military base reuse authority is not required to have evidence or make findings that were required for the establishment of the original military base reuse area. However, the reuse authority must make the following findings before approving the amendment:

(1) The amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter.
(2) The resolution or plan, with the proposed amendment, conforms to the comprehensive plan for the unit.

(d) Notwithstanding subsections (a) and (c), if the resolution or plan is proposed to be amended in a way that enlarges the original boundaries of the area by more than twenty percent (20%), the reuse authority must use the procedure provided for the original establishment of areas and must comply with sections 10 through 12 of this chapter.

(e) At the hearing on the amendments, the reuse authority shall consider written remonstrances that are filed. The action of the reuse authority on the amendment is final and conclusive, except that an appeal of the reuse authority's action may be taken under section 14 of this chapter.
As added by P.L.26-1995, SEC.14.

IC 36-7-30-14
Appeal from final action of reuse authority

Sec. 14. (a) A person who filed a written remonstrance with the reuse authority under section 12 or 13 of this chapter and is aggrieved by the final action taken may not more than ten (10) days

after that final action file in the office of the clerk of the circuit or superior court a copy of the order of the reuse authority and person's remonstrances against that order, together with the person's bond conditioned to pay the costs of the person's appeal if the appeal is determined against the person. The only ground of remonstrance that the court may hear is whether the proposed project will be of public utility and benefit. The burden of proof is on the remonstrator.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined not more than thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the remonstrances and may confirm the final action of the reuse authority or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-15

Purchase of property

Sec. 15. (a) If no appeal is taken or if an appeal is taken but is unsuccessful, the reuse authority shall proceed with the plan to the extent that money is available for that purpose.

(b) Negotiations for the purchase of property may be carried on directly by the reuse authority, by its employees, or by expert negotiators, but no option, contract, or understanding relative to the purchase of real property is binding on the reuse authority until approved and accepted by the reuse authority in writing. Payment for the property purchased shall be made when and as directed by the reuse authority but only on delivery of proper instruments conveying the title or interest of the owner to the reuse authority or its designee.

(c) The acquisition of real and personal property by the reuse authority under this chapter is not subject to the provisions of IC 5-22, IC 36-1-10.5, or any other statutes governing the purchase of property by public bodies or their agencies.

As added by P.L.26-1995, SEC.14. Amended by P.L.49-1997, SEC.80.

IC 36-7-30-16

Acquisition of property by eminent domain

Sec. 16. (a) If the reuse authority considers it necessary to acquire real property in or serving a reuse area by the exercise of the power of eminent domain, it shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the unit on behalf of the reuse authority, in the circuit or superior court of the county in which the property is situated. The resolution must contain a finding by the reuse authority that the property to be acquired is in an area needing redevelopment (as defined in IC 36-7-1-3). The resolution must be approved by the legislative body of the unit before the petition is filed.

(b) Eminent domain proceedings under this section are governed

by IC 32-24 and other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired under this section, but property belonging to the state or a political subdivision may not be acquired without the consent of the state or the political subdivision.

(c) The court having jurisdiction shall direct the clerk of the circuit court to execute a deed conveying the title of real property acquired under this section to the unit for the use and benefit of the reuse authority.

As added by P.L.26-1995, SEC.14. Amended by P.L.2-2002, SEC.118; P.L.185-2005, SEC.53.

IC 36-7-30-17

Clearing, maintenance, and replanning of area

Sec. 17. (a) The reuse authority may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of the area. The reuse authority may also proceed with the repair and maintenance of buildings that have been acquired and are not to be cleared. This clearance, repair, and maintenance may be carried out by labor employed directly by the reuse authority or by contract. Contracts for clearance may provide that the contractor is entitled to retain and dispose of salvaged material, as a part of the contract price or on the basis of stated prices for the amounts of the various materials actually salvaged.

(b) All contracts for material or labor under this section shall be let under IC 36-1.

(c) To the extent the reuse authority undertakes to engage in the planning and rezoning of the real property acquired, the opening, closing, relocation, and improvement of public ways, and the construction, relocation, and improvement of levees, sewers, parking facilities, and utility services, the reuse authority shall proceed in the same manner as private owners of the property. The reuse authority may negotiate with the proper officers and agencies of the unit to secure the proper orders, approvals, and consents.

(d) Construction work required in connection with improvements in the area described in the resolution may be carried out by the following:

(1) The appropriate municipal or county department or agency.

(2) The reuse authority, if:

(A) all plans, specifications, and drawings are approved by the appropriate department or agency; and

(B) the statutory procedures for the letting of contracts by the appropriate department or agency are followed by the reuse authority.

(e) The reuse authority may pay any charges or assessments made on account of orders, approvals, consents, and construction work under this section, or may agree to pay the assessments in installments as provided by statute in the case of private owners. The reuse authority may do the following:

(1) By special waiver filed with the municipal works board or

county executive, waive the statutory procedure and notices required by law in order to create valid liens on private property.

(2) Cause any assessments to be spread on a different basis than that provided by statute.

(f) The real property acquired under this chapter may not be set aside and dedicated for public ways, parking facilities, sewers, levees, parks, or other public purposes until the reuse authority has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

(g) The reuse authority may negotiate for the sale, lease, or other disposition of real and personal property without complying with the provisions of IC 36-1-11 or any other statute governing the disposition of public property. A conveyance under this section may not be made until the agreed consideration has been paid, unless the reuse authority passes a resolution expressly providing that the consideration does not have to be paid before the conveyance is made. The resolution may provide for a mortgage or other security. All deeds, leases, land sale contracts, or other conveyances shall be executed in the name of the reuse authority and shall be signed by the president or vice president of the reuse authority and attested by the secretary-treasurer. A seal is not required on these instruments or any other instruments executed in the name of the reuse authority. Proceeds from the sale, lease, or other disposition of property may be deposited in any fund and used for any purpose permitted under this chapter, as directed by the reuse authority.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-18

Issuance of bonds

Sec. 18. (a) In addition to other methods of raising money for property acquisition, redevelopment, or economic development activities in or directly serving or benefiting a military base reuse area, and in anticipation of the taxes allocated under section 25 of this chapter, other revenues of the district, or any combination of these sources, the reuse authority may by resolution issue the bonds of the special taxing district in the name of the unit.

(b) The reuse authority shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds or a facsimile of the seal must be printed on the bonds.

(c) The bonds must be executed by the appropriate officer of the unit, and attested by the unit's fiscal officer.

(d) The bonds are exempt from taxation for all purposes.

(e) Bonds issued under this section may be sold at public sale in accordance with IC 5-1-11 or at a negotiated sale.

(f) The bonds are not a corporate obligation of the unit but are an indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the reuse authority, from any of the following:

(1) The tax proceeds allocated under section 25 of this chapter.
(2) Other revenues available to the reuse authority.
(3) A combination of the methods stated in subdivisions (1) through (2).

If the bonds are payable solely from the tax proceeds allocated under section 25 of this chapter, other revenues of the reuse authority, or any combination of these sources, the bonds may be issued in any amount without limitation.

(g) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years after the date of issuance.

(h) All laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers and voters to remonstrate against the issuance of bonds do not apply to bonds issued under this chapter.

(i) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(j) If bonds are issued under this chapter that are payable solely or in part from revenues of the reuse authority, the reuse authority may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign revenues of the reuse authority and properties becoming available to the reuse authority under this chapter. The resolution or trust indenture may also contain provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including a covenant setting forth the duties of the reuse authority. The reuse authority may establish fees and charges for the use of any project and covenant with the owners of any bonds to set the fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Revenue bonds issued by the reuse authority that are payable solely from revenues of the reuse authority shall contain a statement to that effect in the form of the bond.

As added by P.L.26-1995, SEC.14. Amended by P.L.228-1997, SEC.2; P.L.219-2007, SEC.134.

IC 36-7-30-19
Lease of property

Sec. 19. (a) A reuse authority may enter into a lease of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed fifty (50) years and the lease may provide for payments to be made by the reuse authority from taxes allocated under section 25 of this chapter, any other revenues available to the reuse authority, or any combination of these sources.

(b) A lease may provide that payments by the reuse authority to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of

the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the reuse authority only after a public hearing by the reuse authority at which all interested parties are provided the opportunity to be heard. After the public hearing, the reuse authority may adopt a resolution authorizing the execution of the lease on behalf of the unit if the reuse authority finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the reuse authority must be approved by the fiscal body of the unit.

(d) A reuse authority entering into a lease payable from allocated taxes under section 25 of this chapter or other available funds of the reuse authority may do the following:

(1) Pledge the revenue to make payments under the lease under IC 5-1-14-4.

(2) Establish a special fund to make the payments.

(e) Lease payments may be limited to money in the special fund so that the obligations of the reuse authority to make the lease rental payments are not considered a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, approvals of any governmental body or agency are not required before the reuse authority may enter into a lease under this section.

(g) If a reuse authority exercises an option to buy a leased facility from a lessor, the reuse authority may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the reuse authority through auction, appraisal, or negotiation. If the facility is sold at auction, after appraisal or through negotiation, the reuse authority shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought not more than fifteen (15) days after the hearing.

(h) Notwithstanding this section, a reuse authority may negotiate and enter into leases of property from the United States or any department or agency of the United States without complying with the requirements of this section.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-20

Lessor of property

Sec. 20. (a) Any of the following persons may lease facilities referred to in section 19 of this chapter to a military base reuse authority under this chapter:

(1) A for-profit or nonprofit corporation organized under Indiana law or admitted to do business in Indiana.

(2) A partnership, an association, a limited liability company, or a firm.

(3) An individual.

(4) With respect to all reuse authorities located in a county that does not have a consolidated city, a redevelopment authority established under IC 36-7-14.5.

(5) With respect to all reuse authorities located in a county with a consolidated city, an authority established under IC 36-7-15.3.

(b) Notwithstanding any other law, a lessor under this section and section 19 of this chapter is a qualified entity for purposes of IC 5-1.4.

(c) Notwithstanding any other law, a military base reuse facility leased by the reuse authority under this chapter from a lessor borrowing bond proceeds from a unit under IC 36-7-12 is an economic development facility for purposes of IC 36-7-11.9-3 and IC 36-7-12.

(d) Notwithstanding IC 36-7-12-25 and IC 36-7-12-26, payments by a reuse authority to a lessor described in subsection (c) may be made from sources set forth in section 19 of this chapter if the payments and the lease are structured to prevent the lease obligation from constituting a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-21

Covenant and pledge of revenues

Sec. 21. (a) Notwithstanding any other law, the legislative body may pledge revenues received or to be received by the unit from:

(1) the unit's distributive share of the county option income tax under IC 6-3.5-6;

(2) the unit's distributive share of the county economic development income tax under IC 6-3.5-7;

(3) any other source legally available to the unit for the purposes of this chapter; or

(4) any combination of revenues under subdivisions (1) through (3);

in any amount to pay amounts payable under section 18 or 19 of this chapter.

(b) The legislative body may covenant to adopt an ordinance to increase its tax rate under the county option income tax, county economic development income tax, or any other revenues at the time it is necessary to raise funds to pay any amounts payable under section 18 or 19 of this chapter.

(c) The reuse authority may pledge revenues received or to be received from any source legally available to the reuse authority for the purposes of this chapter in any amount to pay amounts payable under section 18 or 19 of this chapter.

(d) The pledge or covenant under this section may be for the term of the bonds issued under section 18 of this chapter, the term of a lease entered into under section 19 of this chapter, or for a shorter period as determined by the legislative body. Money pledged by the legislative body under this section shall be considered revenues or other money available to the reuse authority under sections 18

through 19 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant as long as any bonds issued under section 18 of this chapter are outstanding or as long as any lease entered into under section 19 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-22

Deposits to military base reuse district capital fund and general fund

Sec. 22. (a) All proceeds from the sale of bonds under section 18 of this chapter shall be kept as a separate and specific fund to pay the expenses incurred in connection with the property acquisition, redevelopment, and economic development of the military base reuse area. The fund shall be known as the military base reuse district capital fund.

(b) All gifts or donations that are given or paid to the reuse authority or to the unit for military base reuse purposes shall be promptly deposited to the credit of the military base reuse district general fund unless otherwise directed by the grantor. The reuse authority may use these gifts and donations for the purposes of this chapter.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-23

Payments from funds

Sec. 23. (a) All payments from any of the funds established by this chapter shall be made by warrants drawn by the secretary-treasurer or the secretary-treasurer's agent under section 6 of this chapter on vouchers of the reuse authority signed by the president or vice president and the secretary-treasurer or executive director. An appropriation is not necessary, but all money raised under this chapter is considered appropriated to the respective purposes stated and is under the control of the reuse authority. The reuse authority has complete and exclusive authority to expend the money for the purposes provided.

(b) Each fund established by this chapter is a continuing fund and does not revert to the general fund of the unit at the end of the calendar year.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-24

Activities financed by bonds, notes, or warrants

Sec. 24. (a) In order to finance activities authorized under this chapter, the reuse authority may apply for and accept advances, short term and long term loans, grants, contributions, and any other form of financial assistance from the federal government, or from any of its agencies. The reuse authority may also enter into and carry out contracts and agreements in connection with that financial assistance

upon the terms and conditions that the reuse authority considers reasonable and appropriate, if those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or an agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the unit or its executive departments and officers, as well as the reuse authority, notwithstanding any other provision of this chapter.

(b) The reuse authority may issue and sell bonds, notes, or warrants to the federal government to evidence short term or long term loans made under this section, without notice of sale being given or a public offering being made.

(c) Notwithstanding the provisions of this chapter or any other law, the bonds, notes, or warrants issued by the reuse authority under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured, subject to other provisions of this section, in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at time or times, which may be upon demand, and at a place or places;

(9) be subject to terms of redemption, with or without premium;

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the reuse authority considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the unit or taxing district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by any combination of:

(1) income funds;

(2) properties of the project becoming available to the reuse authority under this chapter; or

(3) any other legally available revenues of the reuse authority;

as the reuse authority specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation for all purposes.

(f) Bonds, notes, or warrants issued under this section must be executed by the appropriate officers of the unit and must be attested by the appropriate officers of the unit.

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the reuse authority shall certify a copy of that resolution to the officers of the

unit who have duties with respect to bonds, notes, or warrants of the unit. At the proper time, the reuse authority shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the unit who have duties with respect to the sale of bonds, notes, or warrants of the unit. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the reuse authority can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the reuse authority may do so and may pledge the loan contract and any rights under the contract as security for the repayment of the loans obtained from other sources. A loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. The bonds, notes, or warrants may be sold at either public or private sale, as the reuse authority considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or an agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans may be expended by the reuse authority without regard to any law concerning the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

As added by P.L.26-1995, SEC.14. Amended by P.L.228-1997, SEC.3.

IC 36-7-30-25 Version a

Allocation areas; allocation and distribution of property taxes

Note: This version of section effective until 1-1-2013. See also following version of this section, effective 1-1-2013.

Sec. 25. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base reuse area to which an allocation provision of a declaratory resolution adopted under section 10 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding

the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment thereto, as finally determined for any subsequent assessment date; plus

(C) to the extent that it is not included in clause (A) or (B), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Clause (C) applies only to allocation areas established in a military reuse area after June 30, 1997, and to the part of an allocation area that was established before June 30, 1997, and that is added to an existing allocation area after June 30, 1997.

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 10 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 13 of this chapter. The allocation provision may apply to all or part of the military base reuse area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution are made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and

(2) shall be allocated to the military base reuse district and, when collected, paid into an allocation fund for that allocation area that may be used by the military base reuse district and only to do one (1) or more of the following:

(A) Pay the principal of and interest and redemption premium on any obligations incurred by the military base reuse district or any other entity for the purpose of financing or refinancing military base reuse activities in or directly serving or benefiting that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the reuse authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefiting that allocation area.

(E) Pay expenses incurred by the reuse authority, any other department of the unit, or a department of another governmental entity for local public improvements or structures that are in the allocation area or directly serving or benefiting the allocation area, including expenses for the operation and maintenance of these local public improvements or structures if the reuse authority determines those operation and maintenance expenses are necessary or desirable to carry out the purposes of this chapter.

(F) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment financing are made.

Except as provided in clause (E), the allocation fund may not be used for operating expenses of the reuse authority.

(4) Except as provided in subsection (g), before July 15 of each year the reuse authority shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds

described in subdivision (3) plus the amount necessary for other purposes described in subdivision (3).

(B) Provide a written notice to the county auditor, the fiscal body of the unit that established the reuse authority, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess property taxes that the reuse authority has determined may be paid to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the reuse authority has determined that there are no excess property tax proceeds that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess property tax proceeds determined by the reuse authority. The reuse authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (3) or lessors under section 19 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the military base reuse district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the military base reuse district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the reuse authority, reassess the taxable property situated upon or in or added to the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has

obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. The amount sufficient for purposes specified in subsection (b)(3) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) that are derived from property in the enterprise zone in the fund. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(3), except that where reference is made in subsection (b)(3) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the military base reuse district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the military base reuse district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the military base reuse district under subsection (b)(3) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

As added by P.L.26-1995, SEC.14. Amended by P.L.255-1997(ss), SEC.18; P.L.90-2002, SEC.486; P.L.192-2002(ss), SEC.185; P.L.4-2005, SEC.141; P.L.154-2006, SEC.79; P.L.146-2008, SEC.770; P.L.104-2010, SEC.2; P.L.203-2011, SEC.19.

IC 36-7-30-25 Version b

Allocation areas; allocation and distribution of property taxes

Note: This version of section effective 1-1-2013. See also preceding version of this section, effective until 1-1-2013.

Sec. 25. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base reuse area to which an allocation provision of a declaratory resolution adopted under section 10 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment thereto, as finally determined for any subsequent assessment date; plus

(C) to the extent that it is not included in clause (A) or (B), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Clause (C) applies only to allocation areas established in a military reuse area after June 30, 1997, and to the part of an allocation area that was established before June 30, 1997, and that is added to an existing allocation area after June 30, 1997.

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 10 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 13 of this chapter. The allocation provision may apply to all or part of the military base reuse area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution are made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the military base reuse district and, when collected, paid into an allocation fund for that allocation area that may be used by the military base reuse district and only to do one (1) or more of the following:

(A) Pay the principal of and interest and redemption premium on any obligations incurred by the military base reuse district or any other entity for the purpose of financing or refinancing military base reuse activities in or directly serving or benefiting that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the reuse authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefiting that allocation area.

(E) Pay expenses incurred by the reuse authority, any other department of the unit, or a department of another governmental entity for local public improvements or structures that are in the allocation area or directly serving or benefiting the allocation area, including expenses for the operation and maintenance of these local public improvements or structures if the reuse authority determines those operation and maintenance expenses are necessary or desirable to carry out the purposes of this chapter.

(F) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the

allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment financing are made.

Except as provided in clause (E), the allocation fund may not be used for operating expenses of the reuse authority.

(4) Except as provided in subsection (g), before July 15 of each year the reuse authority shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3) plus the amount necessary for other purposes described in subdivision (3).

(B) Provide a written notice to the county auditor, the fiscal body of the unit that established the reuse authority, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess property taxes that the reuse authority has determined may be paid to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the reuse authority has determined that there are no excess property tax proceeds that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess property tax proceeds determined by the reuse authority. The reuse authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (3) or lessors under section 19 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the military base reuse district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the military base reuse district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the reuse authority, reassess the taxable property situated

upon or in or added to the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. The amount sufficient for purposes specified in subsection (b)(3) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) that are derived from property in the enterprise zone in the fund. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(3), except that where reference is made in subsection (b)(3) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) After each general reassessment of real property in an area under IC 6-1.1-4-4 or reassessment under the county's reassessment plan under IC 6-1.1-4-4.2, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the reassessment of the real property in the area on the property tax proceeds allocated to the military base reuse district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall

adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the military base reuse district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the military base reuse district under subsection (b)(3) than would otherwise have been received if the general reassessment, reassessment under the county's reassessment plan, or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

As added by P.L.26-1995, SEC.14. Amended by P.L.255-1997(ss), SEC.18; P.L.90-2002, SEC.486; P.L.192-2002(ss), SEC.185; P.L.4-2005, SEC.141; P.L.154-2006, SEC.79; P.L.146-2008, SEC.770; P.L.104-2010, SEC.2; P.L.203-2011, SEC.19; P.L.112-2012, SEC.59.

IC 36-7-30-26

Resolution to modify definition of property taxes

Sec. 26. (a) As used in this section, "depreciable personal property" refers to:

(1) all or any part of the designated taxpayer's depreciable personal property that is located in the allocation area; and

(2) all or any part of the other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area;

and that is designated as depreciable personal property for purposes of this section by the reuse authority in a declaratory resolution adopted or amended under section 10 or 13 of this chapter.

(b) As used in this section, "designated taxpayer" means a taxpayer designated by the reuse authority in a declaratory resolution adopted or amended under section 10 or 13 of this chapter, and with respect to which the reuse authority finds that taxes to be derived from the depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of the personal property, are needed to pay debt service or provide security for bonds issued or to be issued under section 18 of this chapter or make payments or provide security on leases payable or to be payable under section 19 of this chapter in order to provide local public improvements or structures for a particular allocation area.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 25(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of the designated taxpayers in accordance with the procedures and limitations set forth in this section and section 25 of this chapter. If such a modification is included in the resolution, for purposes of section 25 of this chapter, the term "base assessed value" with respect to the depreciable personal property means the net assessed

value of all the depreciable personal property as finally determined for the assessment date immediately preceding the adoption date of the modification, as adjusted under section 25(b) of this chapter.
As added by P.L.26-1995, SEC.14.

IC 36-7-30-27
Repealed
(*Repealed by P.L.146-2008, SEC.813.)*

IC 36-7-30-28
Violations
Sec. 28. A person who knowingly:
(1) applies any money raised under this chapter to any purpose other than those permitted by this chapter; or
(2) fails to follow the voucher and warrant procedure prescribed by this chapter in expending any money raised under this chapter;
commits a Class C felony.
As added by P.L.26-1995, SEC.14.

IC 36-7-30-29
Joint projects
Sec. 29. Notwithstanding any other law, two (2) or more units may jointly undertake military base reuse projects in contiguous areas in the units' respective jurisdictions that benefit or serve the units' jurisdictions by following the procedures set forth in IC 36-1-7. The legislative body of a unit may do the following:
(1) Assign an area within the unit's jurisdiction to the reuse authority of another unit to allow the creation of an allocation area for the purpose of the allocation of property tax proceeds even though part of the allocation area will be outside the jurisdiction of the reuse authority to which the new area is assigned.
(2) Pledge property tax proceeds that would be allocated to the unit's allocation fund to the reuse authority of another unit for the projects.
The reuse authority to which an area is assigned or allocated proceeds are pledged may then take all action in the area or with respect to the pledged proceeds that could be taken by a reuse authority in an allocation area or with respect to the reuse authority's own revenues until the later of the time when an ordinance rescinding this assignment or pledge is adopted by the legislative body of the assigning or pledging unit or the date on which outstanding bonds or lease rentals payable from allocated property tax proceeds are finally retired. The assigning unit shall continue to tax the taxpayers in the assigned part of the allocation area at the assigning unit's tax rates.
As added by P.L.26-1995, SEC.14.

IC 36-7-30-30

Utility services

Sec. 30. Notwithstanding any other law, utility services provided within the military base reuse district are subject to regulation by the appropriate regulatory agencies unless the utility service is provided by a utility that provides utility service solely within the geographic boundaries of an existing or a closed military installation by a utility facility in existence and operating on July 1, 1995, in which case the utility service is not subject to regulation for purposes of rate making, regulation, service delivery, or issuance of bonds or other forms of indebtedness. However, this exemption from regulation does not apply to utility service if the service is generated, treated, or produced outside the boundaries of the existing or closed military installation.

As added by P.L.26-1995, SEC.14.

IC 36-7-30-31

PILOTS

Sec. 31. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessed value.

(2) Owner.

(3) Person.

(4) Personal property.

(5) Property taxation.

(6) Tangible property.

(7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) The general assembly finds the following:

(1) That the closing of a military base in a unit results in an increased cost to the unit of providing governmental services to the area formerly occupied by the military base.

(2) That military base property held by a reuse authority is exempt from property taxation, resulting in the lack of an adequate tax base to support the increased governmental services.

(3) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the fiscal body of the unit should be authorized to collect PILOTS from the reuse authority.

(4) That the appropriate maximum PILOTS would be the amount of the property taxes that would be paid if the tangible property were not exempt.

(d) The fiscal body of the unit may adopt an ordinance to require a reuse authority to pay PILOTS at times set forth in the ordinance with respect to tangible property of which the reuse authority is the owner or the lessee and that is exempt from property taxes. The ordinance remains in full force and effect until repealed or modified by the fiscal body.

(e) The PILOTS must be calculated so that the PILOTS do not

exceed the amount of property taxes that would have been levied by the fiscal body for the unit upon the tangible property described in subsection (d) if the property were not exempt from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (d). Except as provided in subsection (j), the township assessor, or the county assessor if there is no township assessor for the township, shall assess the tangible property described in subsection (d) as though the property were not exempt. The reuse authority shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(g) Notwithstanding any other law, a reuse authority is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The reuse authority may consider these payments to be operating expenses for all purposes.

(h) PILOTS shall be deposited in the general fund of the unit and used for any purpose for which the general fund may be used.

(i) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as property taxes for purposes of all procedural and substantive provisions of law.

(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

As added by P.L.26-1995, SEC.14. Amended by P.L.219-2007, SEC.136; P.L.146-2008, SEC.771.

IC 36-7-30-32

Conditions on property development; development fees

Sec. 32. (a) Notwithstanding any other law, a reuse authority may:

(1) impose conditions on the development of any property in a reuse area; and

(2) require the payment of development fees or other fees by private persons to pay, defray, or mitigate the costs of the construction, operation, and maintenance of infrastructure that is required or needed to serve the development, redevelopment, and reuse of property within the reuse area.

(b) Before a reuse authority may impose conditions under subsection (a)(1), the reuse authority shall adopt a written resolution finding that the conditions to be imposed are:

(1) necessary to carry out at least one (1) of the purposes of this chapter; and

(2) reasonably related in nature and extent to the impact upon the development, redevelopment, and reuse of the property upon which the conditions are imposed.

(c) Before a reuse authority may impose fees under subsection (a)(2), the reuse authority shall adopt a written resolution finding that:

(1) the infrastructure for which the fees are to be imposed is necessary to carry out at least one (1) of the purposes of this chapter and is required or needed to serve the development, redevelopment, and reuse of the property within the reuse area; and

(2) the fees to be imposed are reasonably related in nature and extent to the impact upon the infrastructure attributable to the development, redevelopment, and reuse of the property within the reuse area upon which the fees are imposed.

(d) Conditions imposed under subsection (a)(1) must be approved by the plan commission of the unit or other body responsible for developing a general plan for the unit. To approve the conditions, the plan commission or other body shall adopt a written resolution making the same findings required to be made by the reuse authority under subsection (b).

(e) Fees imposed under subsection (a)(2) must be deposited in the appropriate fund of the unit responsible for constructing, operating, and maintaining the particular infrastructure for which the fee has been imposed.

As added by P.L.228-1997, SEC.4.

IC 36-7-30-33

Provision of utility services on current or former air force base property

Sec. 33. (a) This section applies to a military base or military base property that is or was operated by the United States Air Force as an air force base.

(b) Notwithstanding any other provision of this chapter or any other law, a municipal utility may through any means provide and acquire without appraisal water, sewer, electric, and stormwater services to a military base or military base property under a negotiated agreement with:

(1) the state;

(2) the federal government;

(3) agencies or departments of the state or federal government;

(4) a reuse authority;

(5) an authority operating under IC 36-7-14.5-12.5; or

(6) any other legal entity;

without regard to territorial or geographical restrictions except for territorial or geographical restrictions on electric services under IC 8-1-2.3 and without approvals by any entity or body other than the municipal legislative body or the board that oversees the municipal utility.

(c) An agreement entered into under subsection (b) and the provision of services under the agreement are not subject to regulatory approval. Rates and charges for the provision of services and financing of improvements to provide the services are not subject to regulatory approval.

(d) A municipal utility may fund improvements serving a military base or military base property with:

(1) bonds payable from revenues or sources of funds permitted by statute; or

(2) a separate series of bonds payable solely from revenues of improvements serving the military base or military base property.

(e) A municipal utility may hire employees or set up departments it considers necessary to serve a military base or military base property under this section.

(f) The municipal legislative body or the board that oversees the municipal utility may set rates and charges for the services provided on the military base or military base property that are separate from rates and charges for other ratepayers for the same services after conducting a public hearing with notice given under IC 5-3-1.

(g) Rates charged by a municipal utility providing services to a military base under this section must be established using the criteria set forth in:

(1) IC 8-1.5-3 with respect to water services and electric services;

(2) IC 36-9-23 with respect to sewer services; and

(3) IC 8-1.5-5 with respect to storm water services.

(h) Nothing in this section shall be construed to prohibit a rural electric membership corporation established under IC 8-1-13 that has entered into an agreement with any entity to provide electric services to a portion of a military base or military base property from continuing to provide electric services under the agreement.

As added by P.L.229-1997, SEC.2.

IC 36-7-30-33.5

Legalization of certain contracts, agreements, and arrangements

Sec. 33.5. A contract, agreement, or arrangement executed before April 23, 1997, by a municipal utility with any entity regarding services provided in the same manner as services provided under section 33 of this chapter, as in effect on April 23, 1997, is legalized and made valid, and the contract, agreement, or arrangement is not subject to challenge.

As added by P.L.220-2011, SEC.665.

IC 36-7-30-34

Military base reuse authority; public utility providing water service

Sec. 34. (a) This section applies to a reuse authority that owns or acquires a public utility (as defined in IC 8-1-2-1) established to provide water service.

(b) The reuse authority shall operate the public utility as a municipal water utility in accordance with IC 8-1.5-3, and has all the powers and duties of:

(1) the board (as defined in IC 8-1.5-3-2); and

(2) the municipal legislative body;

under IC 8-1.5-3 with respect to the operation of its municipal water utility.

As added by P.L.104-2010, SEC.3.

IC 36-7-30-35
Military base reuse authority; public utility providing sewage disposal service

Sec. 35. (a) This section applies to a reuse authority that owns or acquires a public utility (as defined in IC 8-1-2-1) established to provide sewage disposal service.

(b) The reuse authority shall operate the public utility as a municipal sewage works in accordance with IC 36-9-23, and has all the powers and duties of:

(1) the board (as defined in IC 36-9-23-5); and

(2) the municipal legislative body;

under IC 36-9-23 with respect to the operation of its municipal sewage works.

As added by P.L.104-2010, SEC.4.

IC 36-7-30.1

Chapter 30.1. Planning and Zoning Affecting Military Bases

IC 36-7-30.1-1

"Military base"

Sec. 1. As used in this chapter, "military base" means a United States government military installation that:

(1) has an area of at least sixty thousand (60,000) acres; and

(2) is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

As added by P.L.5-2005, SEC.7.

IC 36-7-30.1-2

Notification requirement

Sec. 2. (a) Before a unit may take action to:

(1) plan or regulate the:

(A) use, improvement, and maintenance of real property; or

(B) location, condition, and maintenance of structures and other improvements; or

(2) regulate the platting and subdividing of real property;

located within three (3) miles of the perimeter of a military base, the unit must notify the commander of the military base of the unit's intent to take action to ensure the action will not have an adverse impact on the operation of the military base.

(b) The notice provided under subsection (a) must request that the commander of the military base respond to the notice:

(1) with written recommendations and supporting facts concerning the action and its impact on the operation of the military base; and

(2) not more than fifteen (15) days after the date the commander receives the notice.

(c) If the commander does not submit a response to the notice provided under subsection (a) not more than fifteen (15) days after the date the commander receives the notice, the unit may presume that the action will not have an adverse impact on the operation of the military base.

As added by P.L.5-2005, SEC.7.

IC 36-7-30.1-3

Impact on military bases

Sec. 3. A unit may not take action to:

(1) plan or regulate the:

(A) use, improvement, and maintenance of real property; or

(B) location, condition, and maintenance of structures and other improvements; or

(2) regulate the platting and subdividing of real property;

located within three (3) miles of the perimeter of a military base if the action will have an adverse impact on the operation of the military base.

As added by P.L.5-2005, SEC.7.

IC 36-7-30.5

Chapter 30.5. Development of Multicounty Federal Military Bases

IC 36-7-30.5-1

Application

Sec. 1. This chapter applies only to a military base that is located in more than two (2) counties.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-2

"Bonds"

Sec. 2. As used in sections 23 and 29 of this chapter, "bonds" means bonds, notes, evidences of indebtedness, or other obligations issued by the development authority in the name of a unit.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-3

"Council"

Sec. 3. As used in this chapter, "council" refers to the military base planning council established under IC 4-3-21-3.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-4

"Development authority"

Sec. 4. As used in this chapter, "development authority" means a military base development authority established under section 8 of this chapter.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-5

"Military base"

Sec. 5. As used in this chapter, "military base" means a United States government military base or other military installation that is:

(1) scheduled for closing or realignment; or

(2) completely or partially inactive or closed.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-6

"Military base property"

Sec. 6. As used in this chapter, "military base property" means real and personal property that is currently or was formerly part of a military base and is subject to development or reuse.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-7

Preparation for reuse of military bases

Sec. 7. (a) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for development or reuse of military bases and military base property are public and

governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of the following:

(1) The provisions of federal law that provide for the expeditious and affordable transfer of military base property to an entity established by local government for these purposes.

(2) The necessity for requiring the proper use of the land to best serve the interests of the unit and its citizens.

(3) The costs of the projects.

(b) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for development or reuse will do the following:

(1) Benefit the public health, safety, morals, and welfare.

(2) Increase the economic well-being of counties represented on the development authority and the state.

(3) Serve to protect and increase property values in the counties represented on the development authority and the state.

(c) The planning, replanning, rehabilitation, development, redevelopment, and other preparation for development or reuse of military bases and military base property under this chapter are public uses and purposes for which public money may be spent and private property may be acquired.

(d) A development authority and all appropriate units shall, to the extent feasible under this chapter and consistent with the needs of the development authority and the units, provide a maximum opportunity for development or reuse of federal military bases by private enterprise or state and local government.

(e) This section shall be liberally construed to carry out the purposes of this section.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-8

Council action to establish development authority

Sec. 8. (a) If the council, by the affirmative votes of a majority of the voting members of the council, votes to require that a development authority should be established under this chapter, the development authority shall be established.

(b) A unit may not create a reuse authority under IC 36-7-30 for all or part of a military base that is:

(1) governed by this chapter; and

(2) located within the boundaries of the unit.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-9

Development authority governed by board

Sec. 9. A development authority established under this chapter shall be governed by a board of nine (9) members to be known as the "Crane Development Authority".

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-10

Appointment of members to development authority

Sec. 10. (a) The nine (9) members of a development authority shall be appointed as follows:

(1) Two (2) members shall be appointed by the county executive of Greene County.

(2) Two (2) members shall be appointed by the county executive of Lawrence County.

(3) Two (2) members shall be appointed by the county executive of Martin County.

(4) One (1) member shall be appointed by the county executive of Daviess County.

(5) One (1) member shall be appointed by the county executive of Monroe County.

(6) One (1) member shall be appointed by the county executive of Orange County.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-11

Terms of members; oath; bond; qualifications; reimbursement for expenses

Sec. 11. (a) Each member of a military base development authority shall serve the longer of:

(1) three (3) years beginning with the first day of January after the member's appointment; or

(2) until the member's successor has been appointed and qualified.

If a vacancy occurs, a successor shall be appointed in the same manner as the original member. The successor shall serve for the remainder of the vacated term.

(b) Each member of a development authority, before beginning the member's duties, shall take and subscribe an oath of office in the usual form, to be endorsed on the certificate of the member's appointment. The endorsed certificate must be promptly filed with the clerk for the unit that the member serves.

(c) Each member of a development authority, before beginning the member's duties, shall execute a bond payable to the state, with surety to be approved by the executive of the unit. The bond must be:

(1) in the penal sum of fifteen thousand dollars ($15,000); and

(2) conditioned on the faithful performance of the duties of the member's office and the accounting for all money and property that may come into the member's hands or under the member's control.

(d) A member of a development authority must be:

(1) at least eighteen (18) years of age; and

(2) a resident of the county responsible for the member's appointment.

(e) If a member ceases to be qualified under this section, the member forfeits the member's office.

(f) Members of a development authority are not entitled to salaries but are entitled to reimbursement for expenses necessarily incurred

in the performance of their duties.
As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-12
Meetings; officers; rules; quorum

Sec. 12. (a) The development authority members shall hold a meeting for the purpose of organization not later than thirty (30) days after they are appointed and, after that, each year on the first day in January that is not a Saturday, Sunday, or legal holiday. The members shall choose one (1) of their members as president, another as vice president, and another as secretary-treasurer. These officers shall perform the duties usually concerning their offices and shall serve from the date of their election until their successors are elected and qualified.

(b) Except as otherwise provided in this chapter, the secretary-treasurer shall be responsible for the funds and accounts of the development authority. The development authority may:

(1) employ personnel for compensation to assist the secretary-treasurer; or

(2) designate or appoint a fiscal officer of a county responsible for appointing one (1) or more development authority members to perform the duties that are delegated by the development authority and accepted by the fiscal officer.

(c) The members of a development authority may adopt rules and bylaws the members consider necessary for:

(1) the proper conduct of proceedings;

(2) carrying out of the members' duties; and

(3) safeguarding the money and property placed in the members' custody by this chapter.

In addition to the annual meeting, the members may by resolution or in accordance with the rules and bylaws prescribe the date and manner of notice of other regular or special meetings.

(d) Five (5) members of the development authority constitute a quorum. The concurrence of five (5) members is necessary to authorize an action.
As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-13
Removal from office

Sec. 13. A member of a military base development authority may be summarily removed from office at any time by the county executive that appointed the member.
As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-14
Duties of development authority

Sec. 14. The development authority shall do the following:

(1) Investigate, study, and survey the area surrounding and the real property and structures that are part of the military base.

(2) Investigate, study, and determine the means by which

military base property may be developed or reused by private enterprise to promote economic development within counties represented on the development authority or by state and local government to otherwise benefit the welfare of the citizens of the counties represented on the development authority.

(3) Promote the development of military base property in the manner that best serves the interests of the state and its inhabitants.

(4) Cooperate with the departments and agencies of units and of other governmental entities, including the state and the federal government, in the manner that best serves the purposes of this chapter.

(5) Make findings and reports on their activities under this section, and keep the reports available for inspection by the public.

(6) Select and acquire military base property to be developed or reused by private enterprise or state or local government under this chapter.

(7) Transfer acquired military base property and other real and personal property to private enterprise or state or local government in the manner that best serves the social and economic interests of the state and the state's inhabitants.

(8) Consider recommendations made by the council concerning the operations of the development authority.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-15

Powers of development authority

Sec. 15. The development authority may do the following:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal military base property or interest in real military base property or other real or personal property located within the corporate boundaries of a unit that contains all or part of the military base.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of real or personal military base property or other real and personal property to private enterprise or state or local government, on the terms and conditions that the development authority considers best for the state and the state's inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired from a military base to a department of a unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for the purposes of this chapter.

(5) Repair and maintain structures acquired for the purposes of this chapter.

(6) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired from a military base.

(7) Survey or examine any land to determine whether it should be acquired for the purpose of this chapter and to determine the value of the land.
(8) Appear before any other department or agency of a unit or any other governmental agency in respect to any matter affecting:
(A) real property acquired or being acquired for the purposes of this chapter; or
(B) any development area within the jurisdiction of the development authority.
(9) Institute or defend in the name of the development authority any civil action.
(10) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the development authority.
(11) Exercise the power of eminent domain within military base property in the manner prescribed by section 21 of this chapter.
(12) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, and other consultants that are necessary or desired by the authority in exercising its powers or carrying out its responsibilities under this chapter.
(13) Appoint clerks, guards, laborers, and other employees the development authority considers advisable.
(14) Prescribe the duties and regulate the compensation of employees of the development authority.
(15) Provide a pension and retirement system for employees of the development authority.
(16) Discharge and appoint successors to employees of the development authority.
(17) Rent offices for use of the development authority or accept the use of offices furnished by a unit.
(18) Equip the offices of the development authority with the necessary furniture, furnishings, equipment, records, and supplies.
(19) Expend on behalf of the counties represented on the development authority all or any part of the money of the development authority.
(20) Design, order, contract for, construct, reconstruct, improve, or renovate the following:
(A) Local public improvements or structures that are necessary for the development of military base property.
(B) Any structure that enhances the development, economic development, or reuse of military base property.
(21) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.
(22) Provide financial assistance, in the manner that best serves the purposes of this chapter, including grants and loans, to

enable private enterprise to develop, redevelop, and reuse military base property or otherwise enable private enterprise to provide social and economic benefits to the citizens of the state.

(23) Enter into contracts for providing police, fire protection, and utility services to the military base development area.

(24) Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the development authority and the execution of the power of the development authority under this chapter.

(25) Adopt a seal.

(26) Take any action necessary to implement the purposes of the development authority.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-16

Plan and declaration of military base development area

Sec. 16. (a) The development authority shall adopt a plan for the:

(1) rehabilitation;

(2) development;

(3) redevelopment; and

(4) reuse;

of military base property to be acquired from the federal government upon the closure or scheduled closure of the military base.

(b) In conjunction with the plan adopted under subsection (a), the development authority may adopt a resolution declaring that a geographic area is a military base development area and approving the plan if it makes the following findings:

(1) All or part of a military base is located in the military base development area.

(2) The plan for the military base development area will accomplish the public purposes of this chapter, supported by specific findings of fact to be adopted by the development authority.

(3) The public health and welfare will be benefitted by accomplishment of the plan for the military base development area.

(4) The plan for the military base development area conforms to other development and redevelopment plans for the counties represented on the development authority.

(c) A military base development area may include territory within military base property. However, a military base development area may not include any area of land that constitutes part of an economic development area, a blighted area, or an urban renewal area under IC 36-7-14.

(d) The resolution must state:

(1) the general boundaries of the area; and

(2) that the development authority proposes to acquire all the interests in the land within the boundaries, with certain designated exceptions, if any.

(e) For the purpose of adopting a resolution under subsection (b),

it is sufficient to describe the boundaries of the area by its location in relation to public ways or streams, or otherwise, as determined by the development authority. Property excepted from the acquisition may be described by street numbers or location.
As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-17
Adoption of resolution

Sec. 17. (a) After adoption of a resolution under section 16 of this chapter, the development authority shall submit the resolution and supporting data to the plan commission of an affected unit or other body charged with the duty of developing a general plan for the unit, if there is such a body. The plan commission may determine whether the resolution and the development plan conform to the plan of development for the unit and approve or disapprove the resolution and plan proposed. The development authority may amend or modify the resolution and proposed plan to conform to the requirements of a plan commission. A plan commission shall issue a written order approving or disapproving the resolution and military base development plan, and may with the consent of the development authority rescind or modify the order.

(b) The determination that a geographic area is a military base development area must be approved by an affected unit's legislative body.

(c) After receipt of all orders and approvals required under subsections (a) and (b), the development authority shall publish notice of the adoption and the substance of the resolution in accordance with IC 5-3-1. The notice must name a date when the development authority will receive and hear remonstrances and objections from persons interested in or affected by the proceedings concerning the proposed project and will determine the public utility and benefit of the proposed project. All persons affected in any manner by the hearing shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the development authority by the notice given under this section.

(d) At the hearing under subsection (c), which may be adjourned from time to time, the development authority shall:

(1) hear all persons interested in the proceedings; and
(2) consider all written remonstrances and objections that have been filed.

After considering the evidence presented, the development authority shall take final action determining the public utility and benefit of the proposed project, and confirming, modifying and confirming, or rescinding the resolution. The final action taken by the development authority is final and conclusive, except that an appeal may be taken in the manner prescribed by section 19 of this chapter.
As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-18

Notice and hearing on adoption of resolution

Sec. 18. (a) The development authority must conduct a public hearing before amending a resolution or plan for a military base development area. The development authority shall give notice of the hearing in accordance with IC 5-3-1. The notice must do the following:

(1) Set forth the substance of the proposed amendment.

(2) State the time and place where written remonstrances against the proposed amendment may be filed.

(3) Set forth the date, time, and place of the hearing.

(4) State that the development authority will hear any person who has filed a written remonstrance during the filing period set forth in subdivision (2).

(b) For the purposes of this section, the consolidation of areas is not considered the enlargement of the boundaries of an area.

(c) If the development authority proposes to amend a resolution or plan, the development authority is not required to have evidence or make findings that were required for the establishment of the original military base development area. However, the development authority must make the following findings before approving the amendment:

(1) The amendment is reasonable and appropriate when considered in relation to the original resolution or plan and the purposes of this chapter.

(2) The resolution or plan, with the proposed amendment, conforms to the comprehensive plan for an affected unit.

(d) Notwithstanding subsections (a) and (c), if the resolution or plan is proposed to be amended in a way that enlarges the original boundaries of the area by more than twenty percent (20%), the development authority must use the procedure provided for the original establishment of areas and must comply with sections 16 through 17 of this chapter.

(e) At the hearing on the amendments, the development authority shall consider written remonstrances that are filed. The action of the development authority on the amendment is final and conclusive, except that an appeal of the development authority's action may be taken under section 19 of this chapter.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-19

Appeal from final action of development authority

Sec. 19. (a) A person who filed a written remonstrance with the development authority under section 17 or 18 of this chapter and is aggrieved by the final action taken may, not more than ten (10) days after that final action, file in the office of the clerk of an appropriate circuit or superior court a copy of the order of the development authority and person's remonstrances against that order, together with the person's bond conditioned to pay the costs of the person's appeal if the appeal is determined against the person. The only ground of remonstrance that the court may hear is whether the proposed project

will be of public utility and benefit. The burden of proof is on the remonstrator.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined not more than thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the remonstrances and may confirm the final action of the development authority or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-20

Purchase of property

Sec. 20. (a) If:

(1) an appeal is not taken; or

(2) an appeal is taken but is unsuccessful;

the development authority shall proceed with the plan to the extent that money is available for that purpose.

(b) Negotiations for the purchase of property may be carried on directly by the development authority, by its employees, or by expert negotiators. However, an option, a contract, or an understanding relative to the purchase of real property is not binding on the development authority until approved and accepted by the development authority in writing. Payment for the property purchased shall be made when and as directed by the development authority but only on delivery of proper instruments conveying the title or interest of the owner to the development authority or its designee.

(c) The acquisition of real and personal property by the development authority under this chapter is not subject to the provisions of IC 5-22, IC 36-1-10.5, or any other statutes governing the purchase of property by public bodies or their agencies.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-21

Acquisition of property by eminent domain

Sec. 21. (a) If the development authority considers it necessary to acquire real property in or serving a development area by the exercise of the power of eminent domain, the development authority shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition on behalf of the development authority in the circuit or superior court of the county in which the property is situated. The resolution must be approved by the legislative body of the affected unit before the petition is filed.

(b) Eminent domain proceedings under this section are governed by IC 32-24 and other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired under this section. However, property belonging to the state or a political subdivision may not be acquired without the

consent of the state or the political subdivision.

(c) The court having jurisdiction shall direct the clerk of the circuit court to execute a deed conveying the title of real property acquired under this section to the development authority for the use and benefit of the development authority.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-22

Clearing, maintenance, and replanning of development area

Sec. 22. (a) The development authority may proceed with the clearing and replanning of the area described in the resolution before the acquisition of all of the area. The development authority may also proceed with the repair and maintenance of buildings that have been acquired and are not to be cleared. This clearance, repair, and maintenance may be carried out by labor employed directly by the development authority or by contract. Contracts for clearance may provide that the contractor is entitled to retain and dispose of salvaged material, as a part of the contract price or on the basis of stated prices for the amounts of the various materials actually salvaged.

(b) All contracts for material or labor under this section shall be let under IC 36-1.

(c) To the extent the development authority undertakes to engage in the planning and rezoning of the real property acquired, in the opening, closing, relocation, and improvement of public ways, and in the construction, relocation, and improvement of levees, sewers, parking facilities, and utility services, the development authority shall proceed in the same manner as private owners of the property. The development authority may negotiate with the proper officers and agencies of the unit to secure the proper orders, approvals, and consents.

(d) Construction work required in connection with improvements in the area described in the resolution may be carried out by the following:

(1) The appropriate municipal or county department or agency.

(2) The development authority, if:

(A) all plans, specifications, and drawings are approved by the appropriate department or agency; and

(B) the statutory procedures for the letting of contracts by the appropriate department or agency are followed by the development authority.

(e) The development authority may pay any charges or assessments made on account of orders, approvals, consents, and construction work under this section, or may agree to pay the assessments in installments as provided by statute in the case of private owners. The development authority may do the following:

(1) By special waiver filed with the appropriate municipal works board or county executive, waive the statutory procedure and notices required by law in order to create valid liens on private property.

(2) Cause any assessments to be spread on a different basis than that provided by statute.

(f) The real property acquired under this chapter may not be set aside and dedicated for public ways, parking facilities, sewers, levees, parks, or other public purposes until the development authority has obtained the consent and approval of the department or agency under whose jurisdiction the property will be placed.

(g) The development authority may negotiate for the sale, lease, or other disposition of real and personal property without complying with the provisions of IC 36-1-11 or any other statute governing the disposition of public property. A conveyance under this section may not be made until the agreed consideration has been paid, unless the development authority passes a resolution expressly providing that the consideration does not have to be paid before the conveyance is made. The resolution may provide for a mortgage or other security. All deeds, leases, land sale contracts, or other conveyances shall be:

(1) executed in the name of the development authority; and

(2) signed by the president or vice president of the development authority and attested by the secretary-treasurer.

A seal is not required on these instruments or any other instruments executed in the name of the development authority. Proceeds from the sale, lease, or other disposition of property may be deposited in any fund and used for any purpose allowed under this chapter, as directed by the development authority.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-23

Issuance of bonds

Sec. 23. (a) In addition to other methods of raising money for property acquisition, redevelopment, reuse, or economic development activities in or directly serving or benefitting a military base development area, and in anticipation of the taxes allocated under section 30 of this chapter, other revenues of the district, or any combination of these sources, the development authority may by resolution issue the bonds of the development authority.

(b) The secretary-treasurer of the development authority shall prepare the bonds. The seal of the development authority must be impressed on the bonds or a facsimile of the seal must be printed on the bonds.

(c) The bonds must be executed by the president of the development authority and attested by the secretary-treasurer.

(d) The bonds are exempt from taxation for all purposes.

(e) Bonds issued under this section may be sold at public sale in accordance with IC 5-1-11 or at a negotiated sale.

(f) The bonds are not a corporate obligation of a unit but are an indebtedness of only the development authority. The bonds and interest are payable, as set forth in the bond resolution of the development authority, from any of the following:

(1) The tax proceeds allocated under section 30 of this chapter.

(2) Other revenues available to the development authority.

(3) A combination of the methods stated in subdivisions (1) through (2).

The bonds issued under this section may be issued in any amount without limitation.

(g) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years after the date of issuance.

(h) All laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers and voters to remonstrate against the issuance of bonds do not apply to bonds issued under this chapter.

(i) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(j) If bonds are issued under this chapter that are payable solely or in part from revenues of the development authority, the development authority may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign revenues of the development authority and properties becoming available to the development authority under this chapter. The resolution or trust indenture may also contain provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including a covenant setting forth the duties of the development authority. The development authority may establish fees and charges for the use of any project and covenant with the owners of any bonds to set the fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Revenue bonds issued by the development authority that are payable solely from revenues of the development authority shall contain a statement to that effect in the form of the bond.

As added by P.L.203-2005, SEC.11. Amended by P.L.219-2007, SEC.137.

IC 36-7-30.5-24

Lease of property

Sec. 24. (a) A development authority may enter into a lease of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term of not more than fifty (50) years. The lease may provide for payments to be made by the development authority from taxes allocated under section 30 of this chapter, any other revenues available to the development authority, or any combination of these sources.

(b) A lease may provide that payments by the development authority to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of

Indiana.

(c) A lease may be entered into by the development authority only after a public hearing by the development authority at which all interested parties are provided the opportunity to be heard. After the public hearing, the development authority may adopt a resolution authorizing the execution of the lease on behalf of the unit if the development authority finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of its residents. Any lease approved by a resolution of the development authority must be approved by the fiscal body of the appropriate unit.

(d) A development authority entering into a lease payable from allocated taxes under section 30 of this chapter or other available funds of the development authority may do the following:

(1) Pledge the revenue to make payments under the lease under IC 5-1-14-4.

(2) Establish a special fund to make the payments.

(e) Lease payments may be limited to money in the special fund so that the obligations of the development authority to make the lease rental payments are not considered a debt of a unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, approvals of any governmental body or agency are not required before the development authority may enter into a lease under this section.

(g) If a development authority exercises an option to buy a leased facility from a lessor, the development authority may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the development authority through auction, appraisal, or negotiation. If the facility is sold at auction, after appraisal or through negotiation, the development authority shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought not more than fifteen (15) days after the hearing.

(h) Notwithstanding this section, a development authority may negotiate and enter into leases of property from the United States or any department or agency of the United States without complying with the requirements of this section.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-25

Lessor of property

Sec. 25. (a) Any of the following persons may lease facilities referred to in section 24 of this chapter to a development authority under this chapter:

(1) A for-profit or nonprofit corporation organized under Indiana law or admitted to do business in Indiana.

(2) A partnership, an association, a limited liability company, or a firm.

(3) An individual.

(4) A redevelopment authority established under IC 36-7-14.5.

(b) Notwithstanding any other law, a lessor under this section and section 24 of this chapter is a qualified entity for purposes of IC 5-1.4.

(c) Notwithstanding any other law, a military base development facility leased by the development authority under this chapter from a lessor borrowing bond proceeds from a unit under IC 36-7-12 is an economic development facility for purposes of IC 36-7-11.9-3 and IC 36-7-12.

(d) Notwithstanding IC 36-7-12-25 and IC 36-7-12-26, payments by a development authority to a lessor described in subsection (c) may be made from sources set forth in section 24 of this chapter if the payments and the lease are structured to prevent the lease obligation from constituting a debt of a unit or the district for purposes of the Constitution of the State of Indiana.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-26

Pledge of revenues and covenant

Sec. 26. (a) Notwithstanding any other law, the legislative body of a unit may pledge revenues received or to be received by the unit from:

(1) the unit's distributive share of the county adjusted gross income tax under IC 6-3.5-1.1;

(2) the unit's distributive share of the county option income tax under IC 6-3.5-6;

(3) the unit's distributive share of the county economic development income tax under IC 6-3.5-7;

(4) any other source legally available to the unit for the purposes of this chapter; or

(5) any combination of revenues under subdivisions (1) through (4);

in any amount to pay amounts payable under section 23 or 24 of this chapter.

(b) The legislative body may covenant to adopt an ordinance to increase its tax rate under the county adjusted gross income tax, county option income tax, county economic development income tax, or any other revenues at the time it is necessary to raise funds to pay any amounts payable under section 23 or 24 of this chapter.

(c) The development authority may pledge revenues received or to be received from any source legally available to the development authority for the purposes of this chapter in any amount to pay amounts payable under section 23 or 24 of this chapter.

(d) The pledge or covenant under this section may be for:

(1) the term of the bonds issued under section 23 of this chapter;

(2) the term of a lease entered into under section 24 of this chapter; or

(3) for a shorter period as determined by the legislative body.

Money pledged by the legislative body under this section shall be considered revenues or other money available to the development authority under sections 23 through 24 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant as long as any bonds issued under section 23 of this chapter are outstanding or as long as any lease entered into under section 24 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-27

Proceeds of bonds; capital and general funds

Sec. 27. (a) All proceeds from the sale of bonds under section 23 of this chapter shall be kept as a separate and specific fund to pay the expenses incurred in connection with the property acquisition, redevelopment, reuse, and economic development of the military base development area. The fund shall be known as the military base development district capital fund.

(b) All gifts or donations that are given or paid to the development authority or to a unit for military base development purposes shall be promptly deposited to the credit of the military base development district general fund unless otherwise directed by the grantor. The development authority may use these gifts and donations for the purposes of this chapter.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-28

Payment from funds

Sec. 28. (a) All payments from any of the funds established by this chapter shall be made by warrants drawn by the secretary-treasurer or the secretary-treasurer's agent under section 12 of this chapter on vouchers of the development authority signed by the president or vice president and the secretary-treasurer or executive director. An appropriation is not necessary, but all money raised under this chapter is considered appropriated to the respective purposes stated and is under the control of the development authority. The development authority has complete and exclusive authority to expend the money for the purposes provided.

(b) Each fund established by this chapter is a continuing fund.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-29

Activities financed by bonds, notes, or warrants

Sec. 29. (a) To finance activities authorized under this chapter, the development authority may apply for and accept advances, short term and long term loans, grants, contributions, and any other form of financial assistance from the federal government, or from any of its agencies. The development authority may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the development

authority considers reasonable and appropriate, if those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of a contract or an agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the development authority, notwithstanding any other provision of this chapter.

(b) The development authority may issue and sell bonds, notes, or warrants to the federal government to evidence short term or long term loans made under this section, without notice of sale being given or a public offering being made.

(c) Notwithstanding the provisions of this chapter or any other law, the bonds, notes, or warrants issued by the development authority under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured, subject to other provisions of this section, in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at time or times, which may be upon demand, and at a place or places;

(9) be subject to terms of redemption, with or without premium;

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the development authority considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of a unit or taxing district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by any combination of:

(1) income;

(2) funds;

(3) properties of the project becoming available to the development authority under this chapter; or

(4) any other legally available revenues of the development authority;

as the development authority specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation for all purposes.

(f) Bonds, notes, or warrants issued under this section must be executed by the appropriate officers of a development authority and must be attested by the appropriate officers of a development authority.

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the

development authority shall certify a copy of that resolution to the officers who have duties with respect to bonds, notes, or warrants of the development authority. At the proper time, the development authority shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of a development authority who have duties with respect to the sale of bonds, notes, or warrants of the development authority. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the development authority may obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement allows, the development authority may do so and may pledge the loan contract and any rights under the contract as security for the repayment of the loans obtained from other sources. A loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. The bonds, notes, or warrants may be sold at either public or private sale, as the development authority considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or an agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the development authority without regard to any law concerning the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-30 Version a

Allocation areas; allocation and distribution of property taxes

Note: This version of section effective until 1-1-2013. See also following version of this section, effective 1-1-2013.

Sec. 30. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base development area to which an allocation provision of a declaratory resolution adopted under section 16 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

(A) the net assessed value of all the property as finally

determined for the assessment date immediately preceding the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment to the declaratory resolution, as finally determined for any subsequent assessment date; plus

(C) to the extent that it is not included in clause (A) or (B), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 16 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 18 of this chapter. The allocation provision may apply to all or part of the military base development area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the development authority and, when collected, paid into an allocation fund for that allocation area

that may be used by the development authority and only to do one (1) or more of the following:

(A) Pay the principal of and interest and redemption premium on any obligations incurred by the development authority or any other entity for the purpose of financing or refinancing military base development or reuse activities in or directly serving or benefiting that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the development authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefiting that allocation area.

(E) For property taxes first due and payable before 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the development authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2 (before its repeal)) for that year as determined under IC 6-1.1-21-4 (before its repeal) that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; by

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2 (before its repeal)) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 32 of this chapter (before its repeal) in the same year.

(F) Pay expenses incurred by the development authority for local public improvements or structures that were in the allocation area or directly serving or benefiting the

allocation area.

(G) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the development authority.

(4) Except as provided in subsection (g), before July 15 of each year the development authority shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (3) plus the amount necessary for other purposes described in subdivisions (2) and (3).

(B) Provide a written notice to the appropriate county auditors and the fiscal bodies and other officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of the excess property taxes that the development authority has determined may be paid to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the development authority has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditors shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the development authority. The development authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (3) or lessors under section 24 of this chapter. Property taxes received by a taxing unit under this subdivision before 2009 are eligible for the property tax replacement credit provided under IC 6-1.1-21 (before its repeal).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in

the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the military base development district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the military base development district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon petition of the development authority, reassess the taxable property situated upon or in or added to the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the development authority shall create funds as specified in this subsection. A development authority that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. The development authority shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. The amount sufficient for purposes specified in subsection (b)(3) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A development authority that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) that are derived from property in the enterprise zone in the fund. The development authority that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or for other purposes specified in subsection (b)(3), except that where reference is made in subsection

(b)(3) to an allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the military base development district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the military base development district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the military base development district under subsection (b)(3) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

As added by P.L.203-2005, SEC.11. Amended by P.L.154-2006, SEC.80; P.L.146-2008, SEC.772; P.L.42-2011, SEC.80; P.L.203-2011, SEC.20; P.L.6-2012, SEC.246.

IC 36-7-30.5-30 Version b

Allocation areas; allocation and distribution of property taxes

Note: This version of section effective 1-1-2013. See also preceding version of this section, effective until 1-1-2013.

Sec. 30. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base development area to which an allocation provision of a declaratory resolution adopted under section 16 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment to the declaratory resolution, as finally determined for any subsequent assessment date; plus

(C) to the extent that it is not included in clause (A) or (B), the net assessed value of property that is assessed as

residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 16 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 18 of this chapter. The allocation provision may apply to all or part of the military base development area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) The excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(3) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the development authority and, when collected, paid into an allocation fund for that allocation area that may be used by the development authority and only to do one (1) or more of the following:

(A) Pay the principal of and interest and redemption premium on any obligations incurred by the development authority or any other entity for the purpose of financing or refinancing military base development or reuse activities in or directly serving or benefiting that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the development authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.
(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefiting that allocation area.
(E) For property taxes first due and payable before 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the development authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:
STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) (before their repeal) that is attributable to the taxing district.
STEP TWO: Divide:
(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2 (before its repeal)) for that year as determined under IC 6-1.1-21-4 (before its repeal) that is attributable to the taxing district; by
(ii) the STEP ONE sum.
STEP THREE: Multiply:
(i) the STEP TWO quotient; by
(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2 (before its repeal)) levied in the taxing district that have been allocated during that year to an allocation fund under this section.
If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 32 of this chapter (before its repeal) in the same year.
(F) Pay expenses incurred by the development authority for local public improvements or structures that were in the allocation area or directly serving or benefiting the allocation area.
(G) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:
(i) in the allocation area; and
(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.
However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by

the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the development authority.

(4) Except as provided in subsection (g), before July 15 of each year the development authority shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision(3) plus the amount necessary for other purposes described in subdivisions (2) and (3).

(B) Provide a written notice to the appropriate county auditors and the fiscal bodies and other officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of the excess property taxes that the development authority has determined may be paid to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the development authority has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditors shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the development authority. The development authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (3) or lessors under section 24 of this chapter. Property taxes received by a taxing unit under this subdivision before 2009 are eligible for the property tax replacement credit provided under IC 6-1.1-21 (before its repeal).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the military base development district under subsection (b)(3) may, subject to subsection (b)(4), be irrevocably pledged by the military base development district for payment as set forth in subsection (b)(3).

(e) Notwithstanding any other law, each assessor shall, upon

petition of the development authority, reassess the taxable property situated upon or in or added to the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the development authority shall create funds as specified in this subsection. A development authority that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish an allocation fund for the purposes specified in subsection (b)(3) and a special zone fund. The development authority shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(3) for the year. The amount sufficient for purposes specified in subsection (b)(3) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A development authority that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(3) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) and (b)(2) that are derived from property in the enterprise zone in the fund. The development authority that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or for other purposes specified in subsection (b)(3), except that where reference is made in subsection (b)(3) to an allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) After each general reassessment of real property in an area under IC 6-1.1-4-4 or reassessment under a reassessment plan prepared under IC 6-1.1-4-4.2, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the reassessment of the real property in the area on the property tax proceeds allocated to the military base development

district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the military base development district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the military base development district under subsection (b)(3) than would otherwise have been received if the general reassessment, reassessment under the county's reassessment plan, or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

As added by P.L.203-2005, SEC.11. Amended by P.L.154-2006, SEC.80; P.L.146-2008, SEC.772; P.L.42-2011, SEC.80; P.L.203-2011, SEC.20; P.L.6-2012, SEC.246; P.L.112-2012, SEC.60.

IC 36-7-30.5-31

Resolution to modify definition of property taxes

Sec. 31. (a) As used in this section, "depreciable personal property" refers to:

(1) all or any part of the designated taxpayer's depreciable personal property that is located in the allocation area; and

(2) all or any part of the other depreciable property located and taxable on the designated taxpayer's site of operations within the allocation area;

that is designated as depreciable personal property for purposes of this section by the development authority in a declaratory resolution adopted or amended under section 16 or 18 of this chapter.

(b) As used in this section, "designated taxpayer" means a taxpayer designated by the development authority in a declaratory resolution adopted or amended under section 16 or 18 of this chapter, and with respect to which the development authority finds that taxes to be derived from the depreciable personal property in the allocation area, in excess of the taxes attributable to the base assessed value of the personal property, are needed to pay debt service or provide security for bonds issued or to be issued under section 23 of this chapter or make payments or provide security on leases payable or to be payable under section 24 of this chapter in order to provide local public improvements or structures for a particular allocation area.

(c) The allocation provision of a declaratory resolution may modify the definition of "property taxes" under section 30(a) of this chapter to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of the designated taxpayers in accordance with the procedures and limitations set forth in this section and section 30 of this chapter. If a modification is included in the resolution, for purposes of section

30 of this chapter, the term "base assessed value" with respect to the depreciable personal property means the net assessed value of all the depreciable personal property as finally determined for the assessment date immediately preceding the adoption date of the modification, as adjusted under section 30(b) of this chapter.
As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-32
Repealed
(*Repealed by P.L.146-2008, SEC.813.)*

IC 36-7-30.5-33
Utility services
Sec. 33. Notwithstanding any other law, utility services provided within the military base development district are subject to regulation by the appropriate regulatory agencies unless the utility service is provided by a utility that provides utility service solely within the geographic boundaries of an existing or a closed military installation by a utility facility in existence and operating on July 1, 1995, in which case the utility service is not subject to regulation for purposes of rate making, regulation, service delivery, or issuance of bonds or other forms of indebtedness. However, this exemption from regulation does not apply to utility service if the service is generated, treated, or produced outside the boundaries of the existing or closed military installation.
As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-34
PILOTS
Sec. 34. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:
(1) Assessed value.
(2) Owner.
(3) Person.
(4) Personal property.
(5) Property taxation.
(6) Tangible property.
(7) Township assessor.
(b) As used in this section, "PILOTS" means payments in lieu of taxes.
(c) The general assembly finds the following:
(1) That the closing of a military base in a unit results in an increased cost to the unit of providing governmental services to the area formerly occupied by the military base.
(2) That military base property held by a development authority is exempt from property taxation, resulting in the lack of an adequate tax base to support the increased governmental services.
(3) That to restore this tax base and provide a proper allocation of the cost of providing governmental services the fiscal body

of the unit should be authorized to collect PILOTS from the development authority.

(4) That the appropriate maximum PILOTS would be the amount of the property taxes that would be paid if the tangible property were not exempt.

(d) The fiscal body of the unit may adopt an ordinance to require a development authority to pay PILOTS at times set forth in the ordinance with respect to tangible property of which the development authority is the owner or the lessee and that is exempt from property taxes. The ordinance remains in full force and effect until repealed or modified by the fiscal body.

(e) The PILOTS must be calculated so that the PILOTS do not exceed the amount of property taxes that would have been levied by the fiscal body for the unit upon the tangible property described in subsection (d) if the property were not exempt from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the tangible property described in subsection (d). Except as provided in subsection (j), the township assessor, or the county assessor if there is no township assessor for the township, shall assess the tangible property described in subsection (d) as though the property were not exempt. The development authority shall report the value of personal property in a manner consistent with IC 6-1.1-3.

(g) Notwithstanding any other law, a development authority is authorized to pay PILOTS imposed under this section from any legally available source of revenues. The development authority may consider these payments to be operating expenses for all purposes.

(h) PILOTS shall be deposited in the general fund of the unit and used for any purpose for which the general fund may be used.

(i) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as property taxes for purposes of all procedural and substantive provisions of law.

(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

As added by P.L.203-2005, SEC.11. Amended by P.L.219-2007, SEC.139; P.L.146-2008, SEC.773.

IC 36-7-30.5-35

Conditions on property development; development fees

Sec. 35. (a) Notwithstanding any other law, a development authority may:

(1) impose conditions on the development of any property in a development area; and

(2) require the payment of development fees or other fees by private persons to pay, defray, or mitigate the costs of the construction, operation, and maintenance of infrastructure that

is required or needed to serve the development, redevelopment, and reuse of property within the development area.

(b) Before a development authority may impose conditions under subsection (a)(1), the development authority shall adopt a written resolution finding that the conditions to be imposed are:

(1) necessary to carry out at least one (1) of the purposes of this chapter; and

(2) reasonably related in nature and extent to the impact upon the development, redevelopment, and reuse of the property upon which the conditions are imposed.

(c) Before a development authority may impose fees under subsection (a)(2), the development authority shall adopt a written resolution finding that:

(1) the infrastructure for which the fees are to be imposed is necessary to carry out at least one (1) of the purposes of this chapter and is required or needed to serve the development, redevelopment, and reuse of the property within the development area; and

(2) the fees to be imposed are reasonably related in nature and extent to the impact upon the infrastructure attributable to the development, redevelopment, and reuse of the property within the development area upon which the fees are imposed.

(d) Conditions imposed under subsection (a)(1) must be approved by the plan commission of the unit or other body responsible for developing a general plan for the unit. To approve the conditions, the plan commission or other body shall adopt a written resolution making the same findings required to be made by the development authority under subsection (b).

(e) Fees imposed under subsection (a)(2) must be deposited in the appropriate fund of the unit responsible for constructing, operating, and maintaining the particular infrastructure for which the fee has been imposed.

As added by P.L.203-2005, SEC.11.

IC 36-7-30.5-36

Violations

Sec. 36. A person who knowingly:

(1) applies any money raised under this chapter to any purpose other than those permitted by this chapter; or

(2) fails to follow the voucher and warrant procedure prescribed by this chapter in expending any money raised under this chapter;

commits a Class C felony.

As added by P.L.203-2005, SEC.11.

IC 36-7-31

Chapter 31. Professional Sports Development Area in County Containing a Consolidated City

IC 36-7-31-1

Applicability of chapter

Sec. 1. This chapter applies only to a county having a consolidated city.

As added by P.L.255-1997(ss), SEC.19.

IC 36-7-31-2

"Budget agency" defined

Sec. 2. As used in this chapter, "budget agency" means the budget agency established by IC 4-12-1.

As added by P.L.255-1997(ss), SEC.19.

IC 36-7-31-3

"Budget committee" defined

Sec. 3. As used in this chapter, "budget committee" has the meaning set forth in IC 4-12-1-3.

As added by P.L.255-1997(ss), SEC.19.

IC 36-7-31-4

"Capital improvement board" defined

Sec. 4. As used in this chapter, "capital improvement board" refers to the capital improvement board of managers established by IC 36-10-9-3.

As added by P.L.255-1997(ss), SEC.19.

IC 36-7-31-5

"Commission" defined

Sec. 5. As used in this chapter, "commission" refers to the metropolitan development commission acting as the redevelopment commission of a consolidated city.

As added by P.L.255-1997(ss), SEC.19.

IC 36-7-31-6

"Covered taxes" defined

Sec. 6. As used in this chapter, "covered taxes" means the following:

(1) With respect to the professional sports development area as it existed on December 31, 2008:

(A) The state gross retail tax imposed under IC 6-2.5-2-1 or use tax imposed under IC 6-2.5-3-2.

(B) An adjusted gross income tax imposed under IC 6-3-2-1 on an individual.

(C) A county option income tax imposed under IC 6-3.5-6.

(D) A food and beverage tax imposed under IC 6-9.

(2) With respect to an addition to the professional sports development area after December 31, 2008:

(A) The state gross retail tax imposed under IC 6-2.5-2-1 or use tax imposed under IC 6-2.5-3-2.

(B) An adjusted gross income tax imposed under IC 6-3-2-1 on an individual.

(C) A county option income tax imposed under IC 6-3.5-6.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.182-2009(ss), SEC.408.

IC 36-7-31-7
"Department" defined

Sec. 7. As used in this chapter, "department" refers to the department of state revenue.

As added by P.L.255-1997(ss), SEC.19.

IC 36-7-31-8
"Tax area" defined

Sec. 8. As used in this chapter, "tax area" means a geographic area established by a commission as a professional sports development area under section 14 of this chapter.

As added by P.L.255-1997(ss), SEC.19.

IC 36-7-31-9
"Taxpayer" defined

Sec. 9. As used in this chapter, "taxpayer" means a person that is liable for a covered tax.

As added by P.L.255-1997(ss), SEC.19.

IC 36-7-31-10
Establishment of area; facilities

Sec. 10. (a) A commission may establish as part of a professional sports development area any facility or complex of facilities:

(1) that is used in the training of a team engaged in professional sporting events;

(2) that is:

(A) financed in whole or in part by:

(i) notes or bonds issued by a political subdivision or issued under IC 36-10-9 or IC 36-10-9.1; or

(ii) a lease or other agreement under IC 5-1-17; and

(B) used to hold a professional sporting event; or

(3) that consists of a hotel, motel, or a multibrand complex of hotels and motels, with significant meeting space:

(A) located in an area in Indianapolis, Indiana, bounded on the east by Illinois Street, on the south by Maryland Street, and on the west and north by Washington Street, as those streets were located on June 1, 2009;

(B) that provides:

(i) convenient accommodations for consideration to the general public for periods of less than thirty (30) days, especially for individuals attending professional sporting events, conventions, or similar events in the capital

improvements that are owned, leased, or operated by the capital improvement board; and

(ii) significant meeting and convention space that directly enhances events held in the capital improvements that are owned, leased, or operated by the capital improvement board; and

(C) that enhances the convention opportunities for the capital improvement board to hold events that:

(i) would not otherwise be possible; and

(ii) directly affect the success of both the facilities and capital improvements that are owned, leased, or operated by the capital improvement board.

The tax area may include a facility or complex of facilities described in this section and any parcel of land on which the facility or complex of facilities is located. An area may contain noncontiguous tracts of land within the county.

(b) With respect to the site or future site of a facility or complex of facilities described in subsection (a)(3), the general assembly finds the following:

(1) That the facility or complex of facilities in the tax area provides both convenient accommodations for professional sporting events, conventions, or similar events and significant meeting and convention space that directly enhance events held in the capital improvements that are owned, leased, or operated by the capital improvement board.

(2) That the facility or complex of facilities in the tax area and the capital improvements that are owned, leased, or operated by the capital improvement board are integrally related to enhancing the convention opportunities that directly affect the success of both the facilities and capital improvements.

(3) That the facility or complex of facilities in the tax area provides the opportunity for the capital improvement board to hold events that would not otherwise be possible.

(4) That the facility or complex of facilities in the tax area protects or increases state and local tax bases and tax revenues.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.214-2005, SEC.66; P.L.182-2009(ss), SEC.409.

IC 36-7-31-11

Establishment of area; time; findings; area changes; special taxing district

Sec. 11. (a) A tax area must be initially established before July 1, 1999, according to the procedures set forth for the establishment of an economic development area under IC 36-7-15.1. A tax area may be changed (including to the exclusion or inclusion of a facility described in this chapter) or the terms governing the tax area may be revised in the same manner as the establishment of the initial tax area. However, a tax area may be changed as follows:

(1) After May 14, 2005, a tax area may be changed to include the site or future site of a facility that is or will be the subject of

a lease or other agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26.

(2) After June 30, 2009, a tax area may be changed to include the site or future site of a facility or complex of facilities described in section 10(a)(3) of this chapter.

(3) The terms governing a tax area may be revised only with respect to a facility or complex of facilities described in subdivision (1) or (2).

(b) In establishing or changing the tax area or revising the terms governing the tax area, the commission must do the following:

(1) With respect to a tax area change described in subsection (a)(1), the commission must make the following findings instead of the findings required for the establishment of economic development areas:

(A) That a project to be undertaken or that has been undertaken in the tax area is for a facility at which a professional sporting event or a convention or similar event will be held.

(B) That the project to be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(C) That the project to be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(2) With respect to a tax area change described in subsection (a)(2), the commission must make the following findings instead of the findings required for the establishment of an economic development area:

(A) That the facility or complex of facilities in the tax area provides both convenient accommodations for professional sporting events, conventions, or similar events and significant meeting and convention space that directly enhance events held in the capital improvements that are owned, leased, or operated by the capital improvement board.

(B) That the facility or complex of facilities in the tax area and the capital improvements that are owned, leased, or operated by the capital improvement board are integrally related to enhancing the convention opportunities that directly affect the success of both the facilities and capital improvements.

(C) That the facility or complex of facilities in the tax area provides the opportunity for the capital improvement board to hold events that would not otherwise be possible.

(D) That the facility or complex of facilities in the tax area protects or increases state and local tax bases and tax revenues.

(c) The tax area established by the commission under this chapter is a special taxing district authorized by the general assembly to

enable the county to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.214-2005, SEC.67; P.L.182-2009(ss), SEC.410.

IC 36-7-31-12

Review of resolution by budget committee; notice requirements; information to taxing units

Sec. 12. (a) Upon adoption of a resolution establishing a tax area under section 14 of this chapter, the commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. The budget committee shall meet not later than sixty (60) days after receipt of a resolution and shall make a recommendation on the resolution to the budget agency.

(b) Upon adoption of a resolution changing the boundaries of a tax area under section 14 of this chapter, the commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county in which the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(c) Upon completion of the actions required by subsection (b), the commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. The budget committee shall meet not later than sixty (60) days after receipt of a resolution and shall make a recommendation on the resolution to the budget agency.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.199-2005, SEC.36.

IC 36-7-31-13

Approval of resolution by budget agency

Sec. 13. (a) The budget agency must approve the resolution before covered taxes may be allocated under section 14 or 14.2 of this chapter.

(b) When considering a resolution with respect to a tax area change described in section 11(a)(1) of this chapter, the budget committee and the budget agency must make the following findings:

(1) The cost of the facility and facility site specified under the resolution exceeds one hundred thousand dollars ($100,000).

(2) The project specified in the resolution is economically

sound and will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the tax area established under this chapter.

(3) The political subdivisions affected by the project specified in the resolution have committed significant resources towards completion of the improvement.

(c) When considering a resolution with respect to a tax area change described in section 11(a)(2) of this chapter, the budget committee and the budget agency must make the following findings:

(1) That the facility or complex of facilities described in section 10(a)(3) of this chapter will provide accommodations and significant meeting and convention space that directly enhance events and that are located in convenient proximity to capital improvements that are owned, leased, or operated by the capital improvement board.

(2) That the facility or complex of facilities in the tax area and the capital improvements that are owned, leased, or operated by the capital improvement board are integrally related to enhancing the convention opportunities that directly affect the success of both the facilities and capital improvements.

(3) That the facility or complex of facilities specified in the resolution will benefit the people of Indiana by providing the opportunity for the capital improvement board to hold events that would not otherwise be possible.

(4) That the facility or complex of facilities specified in the resolution will protect or increase state and local tax bases and tax revenues.

(d) Revenues from the tax area may not be allocated until the budget agency approves the resolution.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.182-2009(ss), SEC.411.

IC 36-7-31-14

Resolution; allocation of taxes to professional sports development area fund

Sec. 14. (a) This section does not apply to that part of the tax area in which a facility or complex of facilities described in section 10(a)(3) of this chapter is located. A reference to "tax area" in this section does not include the part of the tax area in which a facility or complex of facilities described in section 10(a)(3) of this chapter is located.

(b) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports development area fund established for the county. The allocation provision must apply to the part of the tax area covered by this section. The resolution must provide that the tax area terminates not later than December 31, 2027.

(c) All of the salary, wages, bonuses, and other compensation that are:

(1) paid during a taxable year to a professional athlete for professional athletic services;
(2) taxable in Indiana; and
(3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(d) Except as provided by section 14.1 of this chapter, the total amount of state revenue captured by the tax area may not exceed five million dollars ($5,000,000) per year for twenty (20) consecutive years.

(e) The resolution establishing the tax area must designate the facility and the facility site for which the tax area is established and covered taxes will be used.

(f) The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.214-2005, SEC.68; P.L.182-2009(ss), SEC.412.

IC 36-7-31-14.1

Marion County allocation of additional revenue to professional sports development area fund

Sec. 14.1. (a) The budget director appointed under IC 4-12-1-3 may determine that, commencing July 1, 2007, there may be captured in the tax area up to eleven million dollars ($11,000,000) per year in addition to the up to five million dollars ($5,000,000) of state revenue to be captured by the tax area under section 14 of this chapter for the professional sports development area fund and in addition to the state revenue to be captured by the part of the tax area covered by section 14.2 of this chapter for the sports and convention facilities operating fund, for up to thirty-four (34) consecutive years. The budget director's determination must specify that the termination date of the tax area for purposes of the collection of the additional eleven million dollars ($11,000,000) per year for the professional sports development area fund is extended to not later than:

(1) January 1, 2041; or
(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26.

Following the budget director's determination, and commencing July 1, 2007, the maximum total amount of revenue captured by the tax area for years ending before January 1, 2041, is sixteen million dollars ($16,000,000) per year for the professional sports development area fund.

(b) The additional revenue captured pursuant to a determination under subsection (a) shall be distributed to the capital improvement board or its designee. So long as there are any current or future obligations owed by the capital improvement board to the Indiana stadium and convention building authority created by IC 5-1-17 or

any state agency under a lease or another agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board or its designee shall deposit the additional revenue received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

(c) Notwithstanding the budget director's determination under subsection (a), after January 1, 2010, the capture of the additional eleven million dollars ($11,000,000) per year described in subsection (a) terminates on January 1 of the year following the first year in which no obligations of the capital improvement board described in subsection (b) remain outstanding.

As added by P.L.214-2005, SEC.69. Amended by P.L.120-2006, SEC.6; P.L.182-2009(ss), SEC.413.

IC 36-7-31-14.2

Marion County allocation of additional revenue to sports and convention facilities operating fund

Sec. 14.2. (a) This section applies to the part of the tax area in which a facility or complex of facilities described in section 10(a)(3) of this chapter is located. A reference to "tax area addition" in this section includes only the part of the tax area in which a facility or complex of facilities described in section 10(a)(3) of this chapter is located.

(b) A tax area change described in section 11(a)(2) of this chapter must be established by resolution. A resolution changing the tax area must provide for a request for the allocation of:

(1) covered taxes attributable to a taxable event in the tax area addition; or

(2) covered taxes from income earned in the tax area addition;

to the sports and convention facilities operating fund established by section 16(b) of this chapter. However, to the extent a covered tax has been pledged before January 1, 2009, and allocated under IC 36-10-9-11 to the capital improvement bond fund, that amount shall not be allocated to the sports and convention facilities operating fund.

(c) The allocation provision must apply only to the tax area addition.

(d) The resolution changing the tax area must designate each facility and each facility site for which the money to be distributed from the sports and convention facilities operating fund will be used.

(e) The budget director shall make an annual determination of whether at least one (1) of the following conditions is satisfied:

(1) The maximum additional tax rate for the innkeeper's tax under IC 6-9-8 was adopted after June 30, 2009, and before September 1, 2009, and was in effect on January 1 of the determination year.

(2) As of January 1 of the determination year:

(A) at least four million dollars ($4,000,000) per year is

being raised from the innkeeper's tax rate increase that was adopted under IC 6-9-8 after June 30, 2009, and before September 1, 2009; and

(B) the treasurer of state has invested in obligations issued by the capital improvement board under IC 5-13-10.5-18.

If the budget director determines that either of the conditions under subdivision (1) or (2) is satisfied, covered taxes attributable to the part of the tax area in which a facility or complex of facilities described in section 10(a)(3) of this chapter is located shall then be deposited in the sports and convention facilities operating fund established by section 16(b) of this chapter. For 2009, the budget director may use September 1, 2009, instead of January 1, 2009, to make a determination of whether to make deposits in the sports and convention facilities operating fund in 2009. However, the maximum total amount of covered taxes that may be deposited in the sports and convention facilities operating fund is eight million dollars ($8,000,000) during each year. To the extent a covered tax has been pledged before January 1, 2009, and allocated under IC 36-10-9-11 to the capital improvement bond fund, that amount shall not be allocated to or deposited in the sports and convention facilities operating fund.

(f) The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes from the tax area addition.

As added by P.L.182-2009(ss), SEC.414.

IC 36-7-31-15

Notice of adoption of allocation provision

Sec. 15. When the commission adopts an allocation provision, the commission shall notify the department by certified mail of the adoption of the provision and shall include with the notification a complete list of the following:

(1) Employers in the tax area.

(2) Street names and the range of street numbers of each street in the tax area.

The commission shall update the list before July 1 of each year.

As added by P.L.255-1997(ss), SEC.19.

IC 36-7-31-16

Professional sports development area fund; sports and convention facilities operating fund

Sec. 16. (a) A professional sports development area fund for the county is established. The fund shall be administered by the department. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) A sports and convention facilities operating fund for the county is established. The fund shall be administered by the department. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

As added by P.L.255-1997(ss), SEC.19. Amended by

P.L.182-2009(ss), SEC.415.

IC 36-7-31-17
Deposit of taxes in professional sports development area fund

Sec. 17. Covered taxes attributable to a taxing area established under section 14 of this chapter shall be deposited in the professional sports development area fund established by section 16(a) of this chapter for the county.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.182-2009(ss), SEC.416.

IC 36-7-31-18
Distribution of taxes from funds

Sec. 18. On or before the twentieth day of each month, all amounts held in the professional sports development area fund and in the sports and convention facilities operating fund for the county are appropriated for and shall be distributed to the capital improvement board.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.182-2009(ss), SEC.417.

IC 36-7-31-19
Notice of taxes to be distributed to capital improvements board

Sec. 19. The department shall notify the county auditor of the amount of taxes to be distributed to the capital improvement board.

As added by P.L.255-1997(ss), SEC.19.

IC 36-7-31-20
Warrants

Sec. 20. All distributions from the professional sports development area fund or the sports and convention facilities operating fund for the county shall be made by warrants issued by the auditor of state to the treasurer of state ordering those payments to the capital improvement board.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.182-2009(ss), SEC.418.

IC 36-7-31-21
Uses of money from funds

Sec. 21. (a) Except as provided in section 14.1 of this chapter, the capital improvement board may use money distributed from the professional sports development area fund established by section 16(a) of this chapter only to construct and equip a capital improvement that is used for a professional sporting event, including the financing or refinancing of a capital improvement or the payment of lease payments for a capital improvement.

(b) The capital improvement board or its designee shall deposit the revenue received from the sports and convention facilities operating fund established by section 16(b) of this chapter in a special fund, which may be used only for paying usual and

customary operating expenses with respect to the capital improvements that are owned, leased, or operated by the capital improvement board. The special fund may not be used for the payment of any current or future obligations owed by the capital improvement board:

(1) to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency under a lease or another agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26; or

(2) for the construction or equipping of a capital improvement that is used for a professional sporting event or convention, including the financing or refinancing of a capital improvement or the payment of lease payments for a capital improvement.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.214-2005, SEC.70; P.L.182-2009(ss), SEC.419.

IC 36-7-31-22
Repayments to funds

Sec. 22. The capital improvement board shall repay to the professional sports development area fund or the sports and convention facilities operating fund any amount that is distributed to the capital improvement board and used for:

(1) a purpose that is not described in section 21 of this chapter; or

(2) a facility or facility site other than the facility and facility site to which covered taxes are designated under the resolution described in section 14 or 14.2 of this chapter.

The department shall distribute the covered taxes repaid to the professional sports development area fund or the sports and convention facilities operating fund under this section proportionately to the funds and the political subdivisions that would have received the covered taxes if the covered taxes had not been allocated to the tax area under this chapter.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.182-2009(ss), SEC.420.

IC 36-7-31-23
Expiration of chapter

Sec. 23. This chapter expires December 31, 2040.

As added by P.L.255-1997(ss), SEC.19. Amended by P.L.214-2005, SEC.71.

IC 36-7-31.3

Chapter 31.3. Professional Sports Development Area

IC 36-7-31.3-1

Applicability of chapter

Sec. 1. Except as provided in section 8(b) of this chapter, this chapter applies only to a city or a county without a consolidated city that has a professional sports franchise playing the majority of its home games in a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11.

As added by P.L.255-1997(ss), SEC.20. Amended by P.L.178-2002, SEC.123.

IC 36-7-31.3-2

"Budget agency" defined

Sec. 2. As used in this chapter, "budget agency" means the budget agency established by IC 4-12-1.

As added by P.L.255-1997(ss), SEC.20.

IC 36-7-31.3-3

"Budget committee" defined

Sec. 3. As used in this chapter, "budget committee" has the meaning set forth in IC 4-12-1-3.

As added by P.L.255-1997(ss), SEC.20.

IC 36-7-31.3-4

"Covered taxes" defined

Sec. 4. As used in this chapter, "covered taxes" means the part of the following taxes attributable to the operation of a facility designated as part of a tax area under section 8 of this chapter:

(1) The state gross retail tax imposed under IC 6-2.5-2-1 or use tax imposed under IC 6-2.5-3-2.

(2) An adjusted gross income tax imposed under IC 6-3-2-1 on an individual.

(3) A county option income tax imposed under IC 6-3.5.

(4) Except in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), a food and beverage tax imposed under IC 6-9.

As added by P.L.255-1997(ss), SEC.20. Amended by P.L.178-2002, SEC.124.

IC 36-7-31.3-5

"Department" defined

Sec. 5. As used in this chapter, "department" refers to the department of state revenue.

As added by P.L.255-1997(ss), SEC.20.

IC 36-7-31.3-5.5

"Designating body" defined

Sec. 5.5. As used in this chapter, "designating body" means a:

(1) city legislative body; or

(2) county legislative body;

that may establish a tax area under this chapter.

As added by P.L.178-2002, SEC.125.

IC 36-7-31.3-6

"Tax area" defined

Sec. 6. As used in this chapter, "tax area" means a geographic area established as a professional sports and convention development area under section 10 of this chapter.

As added by P.L.255-1997(ss), SEC.20.

IC 36-7-31.3-7

"Taxpayer" defined

Sec. 7. As used in this chapter, "taxpayer" means a person that is liable for a covered tax.

As added by P.L.255-1997(ss), SEC.20.

IC 36-7-31.3-8

Designation of a facility as part of a professional sports and convention development area; expansion of area

Sec. 8. (a) A designating body may designate as part of a professional sports and convention development area any facility that is:

(1) owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used by a professional sports franchise for practice or competitive sporting events;

(2) owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used as one (1) of the following:

(A) A facility used principally for convention or tourism related events serving national or regional markets.

(B) An airport.

(C) A museum.

(D) A zoo.

(E) A facility used for public attractions of national significance.

(F) A performing arts venue.

(G) A county courthouse registered on the National Register of Historic Places; or

(3) a hotel.

Notwithstanding section 9 of this chapter or any other law, a designating body may by resolution approve the expansion of a professional sports and convention development area after June 30, 2009, to include a hotel designated by the designating body. A resolution for such an expansion must be reviewed by the budget committee and approved by the budget agency in the same manner

as a resolution establishing a professional sports and convention development area is reviewed and approved. A facility may not include a private golf course or related improvements. The tax area may include only facilities described in this section and any parcel of land on which a facility is located. An area may contain noncontiguous tracts of land within the city, county, or school corporation.

(b) Except for a tax area that is located in a city having a population of:

(1) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(2) more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400);

a tax area must include at least one (1) facility described in subsection (a)(1).

(c) A tax area may contain other facilities not owned by the designating body if:

(1) the facility is owned by a city, the county, a school corporation, or a board established under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11; and

(2) an agreement exists between the designating body and the owner of the facility specifying the distribution and uses of the covered taxes to be allocated under this chapter.

(d) This subsection applies to all tax areas located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000). The facilities located at an Indiana University-Purdue University regional campus are added to the tax area designated by the county. The maximum amount of covered taxes that may be captured in all tax areas located in the county is three million dollars ($3,000,000) per year, regardless of the designating body that established the tax area. The county option income taxes imposed under IC 6-3.5 that are captured must be counted first toward this maximum.

As added by P.L.255-1997(ss), SEC.20. Amended by P.L.178-2002, SEC.126; P.L.64-2004, SEC.35; P.L.1-2006, SEC.570; P.L.176-2009, SEC.25; P.L.182-2009(ss), SEC.510; P.L.119-2012, SEC.210.

IC 36-7-31.3-9

Establishment of area; time; findings; special taxing district

Sec. 9. (a) A tax area must be initially established by resolution:

(1) except as provided in subdivision (2) before July 1, 1999; or

(2) before January 1, 2013, in the case of:

(A) a second class city;

(B) the city of Marion; or

(C) the city of Westfield;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. Before May 15, 2005, a tax area established before January 1, 2005, may be changed or the terms governing the tax area revised in the same manner as the

establishment of the initial tax area. After May 14, 2005, a tax area established before January 1, 2005, may not be changed and the terms governing a tax area may not be revised. Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) Except for a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(B) more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400);

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

As added by P.L.255-1997(ss), SEC.20. Amended by P.L.174-2001, SEC.13; P.L.178-2002, SEC.127; P.L.64-2004, SEC.36; P.L.2-2005, SEC.130; P.L.214-2005, SEC.72; P.L.172-2011, SEC.157; P.L.119-2012, SEC.211.

IC 36-7-31.3-9.3

General assembly findings

Sec. 9.3. The general assembly finds that the city of Marion is subject to special circumstances that justify special legislation to

allow the city of Marion to establish a tax area under section 9 of this chapter, before January 1, 2005.
As added by P.L.220-2011, SEC.666.

IC 36-7-31.3-10 Version a
Resolution; allocation of taxes

Note: This version of section effective until 7-1-2012. See also following version of this section, effective 7-1-2012.

Sec. 10. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports and convention development area fund established for the city or county. The allocation provision must apply to the entire tax area. However, for all tax areas located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), the allocation each year must be as follows:

(1) The first two million six hundred thousand dollars ($2,600,000) shall be transferred to the county treasurer for deposit in the supplemental coliseum improvement fund.

(2) The remaining amount shall be transferred to the treasurer of the joint county-city capital improvement board in the county.

The resolution must provide the tax area terminates not later than December 31, 2027.

(b) In addition to subsection (a), all of the salary, wages, bonuses, and other compensation that are:

(1) paid during a taxable year to a professional athlete for professional athletic services;

(2) taxable in Indiana; and

(3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) For a tax area that is:

(1) not located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000); and

(2) not located in a city having a population of more than one hundred thousand (100,000) but less than one hundred ten thousand (110,000);

the total amount of state revenue captured by the tax area may not exceed five dollars ($5) per resident of the city or county per year for twenty (20) consecutive years.

(d) For a tax area that is located in a city having a population of more than one hundred thousand (100,000) but less than one hundred ten thousand (110,000), the total amount of state revenue captured by the tax area may not exceed six dollars and fifty cents ($6.50) per resident of the city per year for twenty (20) consecutive years.

(e) The resolution establishing the tax area must designate the

facility or proposed facility and the facility site for which the tax area is established.

(f) The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

As added by P.L.255-1997(ss), SEC.20. Amended by P.L.176-2009, SEC.26; P.L.182-2009(ss), SEC.511; P.L.119-2012, SEC.212.

IC 36-7-31.3-10 Version b

Resolution; allocation of taxes

Note: This version of section effective 7-1-2012. See also preceding version of this section, effective until 7-1-2012.

Sec. 10. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports and convention development area fund established for the city or county. The allocation provision must apply to the entire tax area. The following apply to Allen County:

(1) The fund required by this subsection is the coliseum professional sports and convention development area fund. This fund shall be administered by the Allen County Memorial Coliseum board of trustees.

(2) The allocation each year must be as follows:

(A) The first two million six hundred thousand dollars ($2,600,000) shall be transferred to the county treasurer for deposit in the coliseum professional sports and convention development area fund.

(B) The remaining amount shall be transferred to the treasurer of the joint county-city capital improvement board in the county.

The resolution must provide the tax area terminates not later than December 31, 2027.

(b) In addition to subsection (a), all of the salary, wages, bonuses, and other compensation that are:

(1) paid during a taxable year to a professional athlete for professional athletic services;

(2) taxable in Indiana; and

(3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) For a tax area that is:

(1) not located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000); and

(2) not located in a city having a population of more than one hundred thousand (100,000) but less than one hundred ten thousand (110,000);

the total amount of state revenue captured by the tax area may not exceed five dollars ($5) per resident of the city or county per year for

twenty (20) consecutive years.

(d) For a tax area that is located in a city having a population of more than one hundred thousand (100,000) but less than one hundred ten thousand (110,000), the total amount of state revenue captured by the tax area may not exceed six dollars and fifty cents ($6.50) per resident of the city per year for twenty (20) consecutive years.

(e) The resolution establishing the tax area must designate the facility or proposed facility and the facility site for which the tax area is established.

(f) The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

As added by P.L.255-1997(ss), SEC.20. Amended by P.L.176-2009, SEC.26; P.L.182-2009(ss), SEC.511; P.L.119-2012, SEC.212; P.L.137-2012, SEC.121.

IC 36-7-31.3-11

Review of resolution by budget committee; notice requirements; information to taxing units

Sec. 11. (a) Upon adoption of a resolution establishing a tax area under section 10 of this chapter, the designating body shall submit the resolution to the budget committee for review and recommendation to the budget agency.

(b) Upon adoption of a resolution changing the boundaries of a tax area under section 10 of this chapter, the commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(c) Upon completion of the actions required by subsection (b), the commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. The budget committee shall meet not later than sixty (60) days after receipt of a resolution and shall make a recommendation on the resolution to the budget agency.

As added by P.L.255-1997(ss), SEC.20. Amended by P.L.178-2002, SEC.128; P.L.199-2005, SEC.37.

IC 36-7-31.3-12

Approval of resolution by budget agency

Sec. 12. (a) The budget agency must approve the resolution before covered taxes may be allocated under section 10 of this chapter.

(b) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The cost of the facility and facility site specified under the resolution exceeds ten thousand dollars ($10,000).

(2) The capital improvement specified under the resolution is economically sound and will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the tax area established under this chapter.

(3) The political subdivisions affected by the capital improvement specified under the resolution have committed significant resources towards completion of the improvement.

(c) Revenues from the tax area may not be allocated until the budget agency approves the resolution.

As added by P.L.255-1997(ss), SEC.20.

IC 36-7-31.3-13

Notice of adoption of allocation provision

Sec. 13. When the designating body adopts an allocation provision, the county auditor shall notify the department by certified mail of the adoption of the provision and shall include with the notification a complete list of the following:

(1) Employers in the tax area.

(2) Street names and the range of street numbers of each street in the tax area.

The county auditor shall update the list before July 1 of each year.

As added by P.L.255-1997(ss), SEC.20. Amended by P.L.178-2002, SEC.129.

IC 36-7-31.3-14

Professional sports and convention development area fund

Sec. 14. If a tax area is established under section 10 of this chapter, a state fund known as the professional sports and convention development area fund is established for that tax area. The fund shall be administered by the department. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

As added by P.L.255-1997(ss), SEC.20.

IC 36-7-31.3-15

Deposit of taxes in fund

Sec. 15. Covered taxes attributable to a taxing area under section 10 of this chapter shall be deposited in the professional sports and convention development area fund.

As added by P.L.255-1997(ss), SEC.20.

IC 36-7-31.3-16

Distributions from fund

Sec. 16. On or before the twentieth day of each month, all amounts held in the professional sports and convention development area fund shall be distributed to the county treasurer.

As added by P.L.255-1997(ss), SEC.20.

IC 36-7-31.3-17
Notice of taxes to be distributed to county treasurer or party to agreement under IC 36-7-31.3-8(c)

Sec. 17. The department shall notify the county auditor of the amount of taxes to be distributed to the county treasurer. For tax areas described in section 8(c) of this chapter, the department shall notify the county auditor of the amount of taxes to be distributed to each party to the agreement. The notice must specify the distribution and uses of covered taxes to be allocated under this chapter.
As added by P.L.255-1997(ss), SEC.20. Amended by P.L.178-2002, SEC.130.

IC 36-7-31.3-18
Warrants

Sec. 18. All distributions from the professional sports and convention development area fund for the county shall be made by warrants issued by the auditor of state to the treasurer of state ordering those payments to the county treasurer.
As added by P.L.255-1997(ss), SEC.20.

IC 36-7-31.3-19
Use of funds

Sec. 19. The resolution establishing the tax area must designate the use of the funds. The funds are to be used only for the following:

(1) Except in a tax area in a city having a population of:
(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or
(B) more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400);
a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used by a professional sports franchise for practice or competitive sporting events. In a tax area to which this subdivision applies, funds may also be used for a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a)(2) of this chapter.

(2) In a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a) of this chapter.

(3) In a city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400),

a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a)(1) or 8(a)(2) of this chapter.

(4) The financing or refinancing of a capital improvement described in subdivision (1), (2), or (3) or the payment of lease payments for a capital improvement described in subdivision (1), (2), or (3).

As added by P.L.255-1997(ss), SEC.20. Amended by P.L.178-2002, SEC.131; P.L.64-2004, SEC.37; P.L.119-2012, SEC.213.

IC 36-7-31.3-20
Repayments to fund

Sec. 20. The designating body shall repay to the professional sports development area fund any amount that is distributed to the designating body and used for:

(1) a purpose that is not described in this chapter; or

(2) a facility or facility site other than the facility and facility site to which covered taxes are designated under the resolution described in section 10 of this chapter.

The department shall distribute the covered taxes repaid to the professional sports development area fund under this section proportionately to the funds and the political subdivisions that would have received the covered taxes if the covered taxes had not been allocated to the tax area under this chapter.

As added by P.L.255-1997(ss), SEC.20. Amended by P.L.178-2002, SEC.132.

IC 36-7-31.3-21
Expiration of chapter

Sec. 21. This chapter expires December 31, 2027.

As added by P.L.255-1997(ss), SEC.20.

IC 36-7-32

Chapter 32. Certified Technology Parks

IC 36-7-32-1

Units authorized to establish certified technology parks

Sec. 1. This chapter applies to all units having a department of redevelopment under IC 36-7-14 or a department of metropolitan development as the redevelopment commission of a consolidated city under IC 36-7-15.1.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-2

Application of definitions in IC 36-7

Sec. 2. The definitions in IC 36-7-14 and IC 36-7-15.1 apply throughout this chapter.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-3

Application of definitions in IC 6-1.1

Sec. 3. As used in this chapter, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessment date.

(2) Assessed value or assessed valuation.

(3) Taxing district.

(4) Taxing unit.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-4

"Base assessed value"

Sec. 4. As used in this chapter, "base assessed value" means:

(1) the net assessed value of all the taxable property located in a certified technology park as finally determined for the assessment date immediately preceding the effective date of the allocation provision of a resolution adopted under section 15 of this chapter; plus

(2) to the extent it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-5

"Business incubator"

Sec. 5. As used in this chapter, "business incubator" means real and personal property that:

(1) is located in a certified technology park;

(2) is subject to an agreement under section 12 of this chapter; and

(3) is developed for the primary purpose of attracting one (1) or

more owners or tenants who will engage in high technology activities.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-6
"Gross retail base period amount"

Sec. 6. As used in this chapter, "gross retail base period amount" means the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a certified technology park during the full state fiscal year that precedes the date on which the certified technology park was designated under section 11 of this chapter.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-6.5
"Gross retail incremental amount"

Sec. 6.5. As used in this chapter, "gross retail incremental amount" means the remainder of:

(1) the aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the territory comprising a certified technology park during a state fiscal year; minus

(2) the gross retail base period amount;

as determined by the department of state revenue.

As added by P.L.199-2005, SEC.38.

IC 36-7-32-7
"High technology activity"

Sec. 7. As used in this chapter, "high technology activity" means one (1) or more of the following:

(1) Advanced computing, which is any technology used in the design and development of any of the following:

(A) Computer hardware and software.

(B) Data communications.

(C) Information technologies.

(2) Advanced materials, which are materials with engineered properties created through the development of specialized process and synthesis technology.

(3) Biotechnology, which is any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product, improve plants or animals, or develop microorganisms for useful purposes. Biotechnology does not include human cloning or stem cell research with embryonic tissue.

(4) Electronic device technology, which is any technology that involves:

(A) microelectronics, semiconductors, or electronic equipment;

(B) instrumentation, radio frequency, microwave, and millimeter electronics;

(C) optical and optic electrical devices; or
(D) data and digital communications and imaging devices.
(5) Engineering or laboratory testing related to the development of a product.
(6) Technology that assists in the assessment or prevention of threats or damage to human health or the environment, including environmental cleanup technology, pollution prevention technology, or development of alternative energy sources.
(7) Medical device technology, which is any technology that involves medical equipment or products other than a pharmaceutical product that has therapeutic or diagnostic value and is regulated.
(8) Product research and development.
(9) Advanced vehicles technology, which is any technology that involves:
(A) electric vehicles, hybrid vehicles, or alternative fuel vehicles; or
(B) components used in the construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles.
As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-8
"Income tax base period amount"
Sec. 8. As used in this chapter, "income tax base period amount" means the aggregate amount of the following taxes paid by employees employed in the territory comprising a certified technology park with respect to wages and salary earned for work in the certified technology park for the state fiscal year that precedes the date on which the certified technology park was designated under section 11 of this chapter:
(1) The adjusted gross income tax.
(2) The county adjusted gross income tax.
(3) The county option income tax.
(4) The county economic development income tax.
As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-8.5
"Income tax incremental amount"
Sec. 8.5. As used in this chapter, "income tax incremental amount" means the remainder of:
(1) the total amount of state adjusted gross income taxes, county adjusted gross income tax, county option income taxes, and county economic development income taxes paid by employees employed in the territory comprising the certified technology park with respect to wages and salary earned for work in the territory comprising the certified technology park for a particular state fiscal year; minus
(2) the sum of the:
(A) income tax base period amount; and

(B) tax credits awarded by the economic development for a growing economy board under IC 6-3.1-13 to businesses operating in a certified technology park as the result of wages earned for work in the certified technology park for the state fiscal year;

as determined by the department of state revenue.

As added by P.L.199-2005, SEC.39.

IC 36-7-32-9

"Public facilities"

Sec. 9. As used in this chapter, subject to the approval of the Indiana economic development corporation under an agreement entered into under section 12 of this chapter, "public facilities" includes the following:

(1) A street, road, bridge, storm water or sanitary sewer, sewage treatment facility, facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, retention basin, pretreatment facility, waterway, waterline, water storage facility, rail line, electric, gas, telephone or other communications, or any other type of utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this subdivision must be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge must be continuously open to public access. A public facility must be located on public property or in a public, utility, or transportation easement or right-of-way.

(2) Land and other assets that are or may become eligible for depreciation for federal income tax purposes for a business incubator located in a certified technology park.

(3) Land and other assets that, if privately owned, would be eligible for depreciation for federal income tax purposes for laboratory facilities, research and development facilities, conference facilities, teleconference facilities, testing facilities, training facilities, or quality control facilities:

(A) that are or that support property whose primary purpose and use is or will be for a high technology activity;

(B) that are owned by a public entity; and

(C) that are located within a certified technology park.

As added by P.L.192-2002(ss), SEC.187. Amended by P.L.4-2005, SEC.142.

IC 36-7-32-10

Application; designation of area as certified technology park;

expansion across county lines

Sec. 10. (a) A unit may apply to the Indiana economic development corporation for designation of all or part of the territory within the jurisdiction of the unit's redevelopment commission as a certified technology park and to enter into an agreement governing the terms and conditions of the designation. The application must be in a form specified by the Indiana economic development corporation and must include information the corporation determines necessary to make the determinations required under section 11 of this chapter.

(b) This subsection applies only to a unit in which a certified technology park designated before January 1, 2005, is located. A unit may apply to the Indiana economic development corporation for permission to expand the unit's certified technology park to include territory that is adjacent to the unit's certified technology park but located in another county. The corporation shall grant the unit permission to expand the certified technology park if the unit and the redevelopment commission having jurisdiction over the adjacent territory approve the proposed expansion in a resolution. A certified copy of each resolution approving the proposed expansion must be attached to the application submitted under this subsection.

As added by P.L.192-2002(ss), SEC.187. Amended by P.L.4-2005, SEC.143; P.L.203-2005, SEC.12.

IC 36-7-32-11

Designation; Indiana economic development corporation; criteria

Sec. 11. (a) After receipt of an application under section 10 of this chapter, and subject to subsection (b), the Indiana economic development corporation may designate a certified technology park if the corporation determines that the application demonstrates a firm commitment from at least one (1) business engaged in a high technology activity creating a significant number of jobs and satisfies one (1) or more of the following additional criteria:

(1) A demonstration of significant support from an institution of higher education, a private research based institute, or a military research and development or testing facility on an active United States government military base or other military installation located within, or in the vicinity of, the proposed certified technology park, as evidenced by the following criteria:

(A) Grants of preferences for access to and commercialization of intellectual property.

(B) Access to laboratory and other facilities owned by or under the control of the postsecondary educational institution or private research based institute.

(C) Donations of services.

(D) Access to telecommunications facilities and other infrastructure.

(E) Financial commitments.

(F) Access to faculty, staff, and students.

(G) Opportunities for adjunct faculty and other types of staff

arrangements or affiliations.

(H) Other criteria considered appropriate by the Indiana economic development corporation.

(2) A demonstration of a significant commitment by the postsecondary educational institution, private research based institute, or military research and development or testing facility on an active United States government military base or other military installation to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(3) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(4) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(A) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(B) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(C) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(5) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(A) A commitment to new business formation.

(B) The clustering of businesses, technology, and research.

(C) The opportunity for and costs of development of properties under common ownership or control.

(D) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(E) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(6) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain property that is primarily used for, or will be primarily used for, a high technology activity or a business incubator.

(b) The Indiana economic development corporation may not approve an application that would result in a substantial reduction or

cessation of operations in another location in Indiana in order to relocate them within the certified technology park.

(c) A certified technology park designated under this section is subject to the review of the Indiana economic development corporation and must be recertified every four (4) years. The corporation shall develop procedures and the criteria to be used in the review required by this subsection. A certified technology park shall furnish to the corporation the following information to be used in the course of the review:

(1) Total employment and payroll levels for all businesses operating within the certified technology park.

(2) The nature and extent of any technology transfer activity occurring within the certified technology park.

(3) The nature and extent of any nontechnology businesses operating within the certified technology park.

(4) The use and outcomes of any state money made available to the certified technology park.

(5) An analysis of the certified technology park's overall contribution to the technology based economy in Indiana.

If a certified technology park is not recertified, the Indiana economic development corporation shall send a certified copy of a notice of the determination to the county auditor, the department of local government finance, and the department of state revenue.

(d) To the extent allowed under IC 5-14-3, the corporation shall maintain the confidentiality of any information that is:

(1) submitted as part of the review process under subsection (c); and

(2) marked as confidential;

by the certified technology park.

As added by P.L.192-2002(ss), SEC.187. Amended by P.L.81-2004, SEC.23; P.L.4-2005, SEC.144; P.L.2-2007, SEC.388; P.L.154-2007, SEC.1; P.L.3-2008, SEC.263; P.L.113-2010, SEC.138.

IC 36-7-32-12

Agreements; governing certified technology parks

Sec. 12. A redevelopment commission and the legislative body of the unit that established the redevelopment commission may enter into an agreement with the Indiana economic development corporation establishing the terms and conditions governing a certified technology park designated under section 11 of this chapter. Upon designation of the certified technology park under the terms of the agreement, the subsequent failure of any party to comply with the terms of the agreement may result in the termination or rescission of the designation of the area as a certified technology park. The agreement must include the following provisions:

(1) A description of the area to be included within the certified technology park.

(2) Covenants and restrictions, if any, upon all or a part of the properties contained within the certified technology park and terms of enforcement of any covenants or restrictions.

(3) The financial commitments of any party to the agreement and of any owner or developer of property within the certified technology park.
(4) The terms of any commitment required from a postsecondary educational institution or private research based institute for support of the operations and activities within the certified technology park.
(5) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default.
(6) The public facilities to be developed for the certified technology park and the costs of those public facilities, as approved by the Indiana economic development corporation.

As added by P.L.192-2002(ss), SEC.187. Amended by P.L.4-2005, SEC.145; P.L.2-2007, SEC.389; P.L.154-2007, SEC.2.

IC 36-7-32-13
Authority; sale price or rental value of public facilities below market value

Sec. 13. (a) If the Indiana economic development corporation determines that a sale price or rental value at below market rate will assist in increasing employment or private investment in a certified technology park, the redevelopment commission and the legislative body of the unit may determine the sale price or rental value for public facilities owned or developed by the redevelopment commission and the unit in the certified technology park at below market rate.

(b) If public facilities developed under an agreement entered into under this chapter are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies and rights to assure that the public facilities are used for high technology activities or as a business incubator. Legal and equitable remedies and rights may include penalties and actual or liquidated damages.

As added by P.L.192-2002(ss), SEC.187. Amended by P.L.4-2005, SEC.146.

IC 36-7-32-14
Marketing responsibilities; Indiana economic development corporation

Sec. 14. The Indiana economic development corporation shall market the certified technology park. The corporation and a redevelopment commission may contract with each other or any third party for these marketing services.

As added by P.L.192-2002(ss), SEC.187. Amended by P.L.4-2005, SEC.147.

IC 36-7-32-15
Designation as allocation area; remonstrance

Sec. 15. (a) Subject to the approval of the legislative body of the unit that established the redevelopment commission, the redevelopment commission may adopt a resolution designating a certified technology park as an allocation area for purposes of the allocation and distribution of property taxes.

(b) After adoption of the resolution under subsection (a), the redevelopment commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit that has authority to levy property taxes in the geographic area where the certified technology park is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the certified technology park, including the following:

(i) The estimated economic benefits and costs incurred by the certified technology park, as measured by increased employment and anticipated growth of real property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the certified technology park and must state that written remonstrances may be filed with the redevelopment commission until the time designated for the hearing. The notice must also name the place, date, and time when the redevelopment commission will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed allocation area and will determine the public utility and benefit of the proposed allocation area. The commission shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. All persons affected in any manner by the hearing, including all taxpayers within the taxing district of the redevelopment commission, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the redevelopment commission affecting the allocation area if the redevelopment commission gives the notice required by this section.

(c) At the hearing, which may be recessed and reconvened periodically, the redevelopment commission shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the redevelopment commission shall take final action determining the public utility and benefit of the proposed allocation area confirming, modifying and confirming, or rescinding the resolution. The final action taken by the redevelopment commission shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by section 16 of this chapter.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-16
Appeals; remonstrance

Sec. 16. (a) A person who files a written remonstrance with the redevelopment commission under section 15 of this chapter and who is aggrieved by the final action taken may, within ten (10) days after that final action, file with the office of the clerk of the circuit or superior court of the county a copy of the redevelopment commission's resolution and the person's remonstrance against the resolution, together with the person's bond as provided by IC 34-13-5-7.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of filing of the appeal. The court shall decide the appeal based on the record and evidence before the redevelopment commission, not by trial de novo, and may confirm the final action of the redevelopment commission or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-17
Allocation and distribution of property taxes

Sec. 17. (a) An allocation provision adopted under section 15 of this chapter must:

(1) apply to the entire certified technology park; and

(2) require that any property tax on taxable property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the certified technology park be allocated and distributed as provided in subsections (b) and (c).

(b) Except as otherwise provided in this section:

(1) the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the taxable property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated and, when collected, paid into the funds of the respective taxing units; and

(2) the excess of the proceeds of the property taxes imposed for the assessment date with respect to which the allocation and distribution is made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(c) Except as provided in subsection (d), all the property tax

proceeds that exceed those described in subsection (b) shall be allocated to the redevelopment commission for the certified technology park and, when collected, paid into the certified technology park fund established under section 23 of this chapter.

(d) Before July 15 of each year, the redevelopment commission shall do the following:

(1) Determine the amount, if any, by which the property tax proceeds to be deposited in the certified technology park fund will exceed the amount necessary for the purposes described in section 23 of this chapter.

(2) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the redevelopment commission, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(A) state the amount, if any, of excess tax proceeds that the redevelopment commission has determined may be allocated to the respective taxing units in the manner prescribed in subsection (c); or

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission. The redevelopment commission may not authorize an allocation of property tax proceeds under this subdivision if to do so would endanger the interests of the holders of bonds described in section 24 of this chapter.

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the certified technology park effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the certified technology park, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the taxable property as valued without regard to this section; or

(2) the base assessed value.

As added by P.L.192-2002(ss), SEC.187. Amended by P.L.146-2008, SEC.774; P.L.203-2011, SEC.21.

IC 36-7-32-18
Repealed

(*Repealed by P.L.146-2008, SEC.813.)*

IC 36-7-32-19 Version a
Rules and forms; adjustment of base assessed value

Note: This version of section effective until 1-1-2013. See also following version of this section, effective 1-1-2013.

Sec. 19. (a) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that the state board of accounts and department of local government finance consider appropriate for the implementation of an allocation area under this chapter.

(b) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the certified technology park fund under section 17 of this chapter. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the certified technology park fund under section 17 of this chapter.

As added by P.L.192-2002(ss), SEC.187. Amended by P.L.154-2006, SEC.81.

IC 36-7-32-19 Version b

Rules and forms; adjustment of base assessed value

Note: This version of section effective 1-1-2013. See also preceding version of this section, effective until 1-1-2013.

Sec. 19. (a) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that the state board of accounts and department of local government finance consider appropriate for the implementation of an allocation area under this chapter.

(b) After each general reassessment of real property in an area under IC 6-1.1-4-4 or reassessment under a reassessment plan prepared under IC 6-1.1-4-4.2, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the reassessment of the real property in the area on the property tax proceeds allocated to the certified technology park fund under section 17 of this chapter. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the certified technology park fund under section 17 of this chapter.

As added by P.L.192-2002(ss), SEC.187. Amended by P.L.154-2006, SEC.81; P.L.112-2012, SEC.61.

IC 36-7-32-20

Notification to department of state revenue; computation of gross retail base revenue

Sec. 20. (a) After entering into an agreement under section 12 of this chapter, the redevelopment commission shall send to the department of state revenue:

(1) a certified copy of the designation of the certified

technology park under section 11 of this chapter;

(2) a certified copy of the agreement entered into under section 12 of this chapter; and

(3) a complete list of the employers in the certified technology park and the street names and the range of street numbers of each street in the certified technology park.

The redevelopment commission shall update the list provided under subdivision (3) before July 1 of each year.

(b) Not later than sixty (60) days after receiving a copy of the designation of the certified technology park, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-21

Annual computation; income tax incremental amount; gross retail incremental amount

Sec. 21. Before the first business day in October of each year, the department of state revenue shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each certified technology park designated under this chapter.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-22

Incremental tax financing fund; deposits; distributions

Sec. 22. (a) The treasurer of state shall establish an incremental tax financing fund for each certified technology park designated under this chapter. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Subject to subsection (c), the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for a certified technology park under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the certified technology park, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the certified technology park.

(2) The aggregate amount of the following taxes paid by employees employed in the certified technology park with respect to wages earned for work in the certified technology park, until the amount deposited equals the income tax incremental amount:

(A) The adjusted gross income tax.

(B) The county adjusted gross income tax.

(C) The county option income tax.

(D) The county economic development income tax.

(c) Not more than a total of five million dollars ($5,000,000) may

be deposited in a particular incremental tax financing fund for a certified technology park over the life of the certified technology park.

(d) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a certified technology park shall be distributed to the redevelopment commission for deposit in the certified technology park fund established under section 23 of this chapter.

As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-23

Certified technology park fund; deposit of funds; uses

Sec. 23. (a) Each redevelopment commission that establishes a certified technology park under this chapter shall establish a certified technology park fund to receive:

(1) property tax proceeds allocated under section 17 of this chapter; and

(2) money distributed to the redevelopment commission under section 22 of this chapter.

(b) Money deposited in the certified technology park fund may be used by the redevelopment commission only for one (1) or more of the following purposes:

(1) Acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of public facilities.

(2) Operation of public facilities described in section 9(2) of this chapter.

(3) Payment of the principal of and interest on any obligations that are payable solely or in part from money deposited in the fund and that are incurred by the redevelopment commission for the purpose of financing or refinancing the development of public facilities in the certified technology park.

(4) Establishment, augmentation, or restoration of the debt service reserve for obligations described in subdivision (3).

(5) Payment of the principal of and interest on bonds issued by the unit to pay for public facilities in or serving the certified technology park.

(6) Payment of premiums on the redemption before maturity of bonds described in subdivision (3).

(7) Payment of amounts due under leases payable from money deposited in the fund.

(8) Reimbursement to the unit for expenditures made by it for public facilities in or serving the certified technology park.

(9) Payment of expenses incurred by the redevelopment commission for public facilities that are in the certified technology park or serving the certified technology park.

(10) For any purpose authorized by an agreement between redevelopment commissions entered into under section 26 of this chapter.

(c) The certified technology park fund may not be used for operating expenses of the redevelopment commission.
As added by P.L.192-2002(ss), SEC.187. Amended by P.L.203-2005, SEC.13; P.L.1-2006, SEC.571.

IC 36-7-32-24
Bonds

Sec. 24. (a) A redevelopment commission may issue bonds for the purpose of providing public facilities under this chapter.

(b) The bonds are payable solely from:

(1) property tax proceeds allocated to the certified technology park fund under section 17 of this chapter;

(2) money distributed to the redevelopment commission under section 22 of this chapter;

(3) other funds available to the redevelopment commission; or

(4) a combination of the methods in subdivisions (1) through (3).

(c) The bonds shall be authorized by a resolution of the redevelopment commission.

(d) The terms and form of the bonds shall be set out either in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within fifty (50) years.

(f) The redevelopment commission shall sell the bonds at public or private sale upon such terms as determined by the redevelopment commission.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of providing public facilities within a certified technology park, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the public facilities and all related buildings, facilities, structures, and improvements;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the public facilities suitable for use and operation;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction and for a period thereafter determined by the redevelopment commission, but not to exceed five (5) years;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, for, and interest on,

the bonds being refunded or refinanced.
As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-25
Declaration; public purpose

Sec. 25. The establishment of high technology activities and public facilities within a technology park serves a public purpose and is of benefit to the general welfare of a unit by encouraging investment, job creation and retention, and economic growth and diversity.
As added by P.L.192-2002(ss), SEC.187.

IC 36-7-32-26
Written agreement for joint economic development projects

Sec. 26. (a) Two (2) or more redevelopment commissions may enter into a written agreement under this section to jointly undertake economic development projects in the certified technology parks established by the redevelopment commissions that are parties to the agreement.

(b) A party to an agreement under this section may do one (1) or more of the following:

(1) Except as provided in subsection (c), grant one (1) or more of its powers to another party to the agreement.

(2) Exercise any power granted to it by a party to the agreement.

(3) Pledge any of its revenues, including taxes or allocated taxes under section 17 of this chapter, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

(c) A redevelopment commission may not grant to another redevelopment commission the power to tax or to establish an allocation area under this chapter.

(d) An action to challenge the validity of an agreement under this section must be brought not more than thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.
As added by P.L.203-2005, SEC.14.

IC 36-7-32-27
Terms of written agreement for joint economic development project

Sec. 27. An agreement described in section 26 of this chapter must provide for the following:

(1) The duration of the agreement.

(2) The purpose of the agreement.

(3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget for the joint undertaking.

(4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination of

the agreement.

(5) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking.

(6) Any other appropriate matters.

As added by P.L.203-2005, SEC.15.

IC 36-7-33

Chapter 33. State Institution Reuse Authority

IC 36-7-33-1

"Authority"

Sec. 1. As used in this chapter, "authority" refers to a state institution reuse authority established under this chapter.

As added by P.L.89-2004, SEC.1.

IC 36-7-33-2

"Property"

Sec. 2. As used in this chapter, "property" refers to real property that was used by a state institution.

As added by P.L.89-2004, SEC.1.

IC 36-7-33-3

"State institution"

Sec. 3. As used in this chapter, "state institution" has the meaning set forth in IC 12-7-2-184.

As added by P.L.89-2004, SEC.1.

IC 36-7-33-4

Establishment of authority to develop, manage, and plan for use of property transferred to municipality

Sec. 4. The legislative body of a municipality may adopt an ordinance to establish an authority to develop, manage, and plan for the use of property transferred by the state to the municipality.

As added by P.L.89-2004, SEC.1.

IC 36-7-33-5

Ordinance; required provisions

Sec. 5. An ordinance adopted under this chapter must provide for the following:

(1) A board to govern the authority. The ordinance must provide for the following details regarding the board:

(A) The number of members.

(B) The manner of the appointment of the members.

(C) The term of office of board members. The term of office of a board member may not exceed four (4) years.

(D) The rules for the board's governance.

(2) The authority's and the board's powers and duties. The ordinance may not provide that the authority or the board has a power or duty that the municipality itself does not have.

As added by P.L.89-2004, SEC.1.

IC 36-7-33-6

Powers and duties of authority

Sec. 6. Subject to section 5 of this chapter, an authority and the authority's board have the powers and duties set forth in the ordinance that establishes the authority.

As added by P.L.89-2004, SEC.1.

IC 36-7-34

Chapter 34. Qualified Military Base Enhancement Area

IC 36-7-34-1

"Area"

Sec. 1. "Area" refers to a qualified military base enhancement area established by this chapter.

As added by P.L.203-2005, SEC.16.

IC 36-7-34-2

"Technology park"

Sec. 2. As used in this chapter, "technology park" refers to a certified technology park established under IC 36-7-32.

As added by P.L.203-2005, SEC.16.

IC 36-7-34-3

"Qualified military base"

Sec. 3. "Qualified military base" means a United States government military installation that:

(1) has an area of at least sixty thousand (60,000) acres; and

(2) is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

As added by P.L.203-2005, SEC.16.

IC 36-7-34-4

Establishment of qualified military base enhancement areas

Sec. 4. A qualified military base enhancement area is established for each of the following:

(1) A technology park located within a radius of five (5) miles of a qualified military base. The geographic area of a qualified military base enhancement area established under this subdivision is the geographic area of the technology park.

(2) A county in which all or part of a qualified military base is located. The geographic area of a qualified military base enhancement area established under this subdivision is the geographic area of the county other than any area in which a technology park described in subdivision (1) is located.

As added by P.L.203-2005, SEC.16. Amended by P.L.180-2006, SEC.8.

IC 36-7-34-5

Duties of Indiana economic development corporation

Sec. 5. The Indiana economic development corporation shall do the following:

(1) Coordinate area development activities.

(2) Serve as a catalyst for area development.

(3) Promote each area to outside groups and individuals.

(4) Establish a formal line of communication with businesses in each area.

(5) Act as a liaison between businesses and local governments

for any development activity that may affect each area.

(6) Act as a liaison between each area and residents of nearby communities.

As added by P.L.203-2005, SEC.16. Amended by P.L.1-2006, SEC.572.

IC 36-7-35

Chapter 35. Property Maintenance Areas

IC 36-7-35-1

"Landlord" defined

Sec. 1. As used in this chapter, "landlord" has the meaning set forth in IC 32-31-3-3.

As added by P.L.144-2008, SEC.47.

IC 36-7-35-2

"Maintenance activity" defined

Sec. 2. As used in this chapter, "maintenance activity" means the remodeling, repair, or improvement of property as defined by a municipality in a PMA ordinance adopted under section 9 of this chapter.

As added by P.L.144-2008, SEC.47.

IC 36-7-35-3

"PMA certification" defined

Sec. 3. As used in this chapter, "PMA certification" means a certification provided under section 9 of this chapter for qualified expenditures made on property in a property maintenance area.

As added by P.L.144-2008, SEC.47.

IC 36-7-35-4

"PMA ordinance" defined

Sec. 4. As used in this chapter, "PMA ordinance" means an ordinance adopted by the fiscal body of a municipality under section 9 of this chapter.

As added by P.L.144-2008, SEC.47.

IC 36-7-35-5

"Property" defined

Sec. 5. (a) As used in this chapter, "property" means a building or structure:

(1) assessed as real property under IC 6-1.1-4; and

(2) listed in a PMA ordinance.

(b) The term does not include land.

As added by P.L.144-2008, SEC.47.

IC 36-7-35-6

"Property maintenance area" defined

Sec. 6. As used in this chapter, "property maintenance area" means an area established by a municipality under section 9 of this chapter.

As added by P.L.144-2008, SEC.47.

IC 36-7-35-7

"Qualified expenditure" defined

Sec. 7. As used in this chapter, "qualified expenditure" means an

expenditure made by a taxpayer for maintenance activities that qualify the taxpayer for a credit under IC 6-3.1-32.5 as determined under a PMA ordinance.
As added by P.L.144-2008, SEC.47.

IC 36-7-35-8
"Residentially distressed area" defined

Sec. 8. As used in this chapter, "residentially distressed area" means an area:

(1) that has a significant number of:
(A) dwellings (as defined in IC 6-1.1-12-37) within the area that are:
(i) not permanently occupied;
(ii) subject to an order issued under IC 36-7-9; or
(iii) evidencing significant building deficiencies; or
(B) vacant parcels of real property (as defined by IC 6-1.1-1-15); or
(2) that has experienced a net loss in the number of dwellings (as defined in IC 6-1.1-12-37).

As added by P.L.144-2008, SEC.47. Amended by P.L.1-2009, SEC.168.

IC 36-7-35-9
PMA ordinance; limitations on area; certification of qualified expenditures; grants to individuals

Sec. 9. (a) The fiscal body of a municipality located in a county may adopt an ordinance establishing a property maintenance area to provide certification of qualified expenditures on property in the property maintenance area. The ordinance shall be referred to as a PMA ordinance. The boundaries of a property maintenance area may not exceed five percent (5%) of the total land area of the municipality. The property maintenance area established under this section must be either:

(1) a residentially distressed area; or
(2) an area:
(A) that contains the types of property listed or defined in the PMA ordinance; and
(B) where the median assessed value of each type of property under clause (A) within the property maintenance area does not exceed the median assessed value for that type of property throughout the municipality.

(b) A municipality that adopts a PMA ordinance may provide grants to individuals who receive a PMA certification under this chapter. The amount of a grant provided under this subsection may not exceed the lesser of:

(1) fifty percent (50%) of the qualified expenditures certified in the PMA certification; or
(2) one thousand five hundred dollars ($1,500).

As added by P.L.144-2008, SEC.47.

IC 36-7-35-10
Period PMA ordinance is effective; required information in PMA ordinance

Sec. 10. A PMA ordinance adopted under section 9 of this chapter must be in effect for at least one (1) year and not more than ten (10) years and must include the following:

(1) The geographic boundaries of the property maintenance area.

(2) A list or definition of:

(A) the types of property; and

(B) the maintenance activities;

that may entitle a taxpayer to a credit under IC 6-3.1-32.5.

(3) The eligibility qualifications for a contractor to perform maintenance activities within the property maintenance area.

(4) The criteria for a landlord to be eligible for a PMA certification.

(5) The amount of the qualified expenditures that may be certified under this chapter.

As added by P.L.144-2008, SEC.47.

IC 36-7-35-11
Permissible inclusions in list or definition of maintenance activities

Sec. 11. The list or definition of maintenance activities determined by the municipality under section 10(2) of this chapter may include installing, repairing, or upgrading:

(1) roofing;

(2) siding;

(3) a furnace;

(4) a window or windows;

(5) paint;

(6) a foundation;

(7) electrical wiring; or

(8) plumbing.

As added by P.L.144-2008, SEC.47.

IC 36-7-35-12
Requirements for eligibility qualifications

Sec. 12. The eligibility qualifications established under section 10(3) of this chapter:

(1) may not prohibit or disallow certification of qualified expenditures made by the owner of property for maintenance activities performed by the owner on the property if all other requirements and qualifications are satisfied for obtaining a PMA certification under this chapter; and

(2) may require a contractor to submit to the fiscal body of the municipality:

(A) proof that the contractor holds a valid contractor's license;

(B) any complaints filed against the contractor with a better business bureau or a federal, state, or local unit of

government; and

(C) financial statements or business plans of the contractor.

As added by P.L.144-2008, SEC.47.

IC 36-7-35-13

Requirements for landlord eligibility for PMA certification

Sec. 13. The criteria established under section 10(4) of this chapter must require a landlord to:

(1) report any violations relating to any health or housing codes applicable to any property in which the landlord has an interest;

(2) submit a plan, before receiving a PMA certification under this chapter, to correct all violations reported under subdivision (1); and

(3) repay to the municipality the amount of any grants awarded under this chapter, if the landlord does not correct all violations reported under subdivision (1) within a reasonable time, as determined by the municipality.

As added by P.L.144-2008, SEC.47.

IC 36-7-35-14

Eligibility requirements for PMA certification

Sec. 14. If a person:

(1) makes a qualified expenditure on the person's property in a property maintenance area; and

(2) meets all the other requirements set forth in the PMA ordinance adopted by the municipality where the person's property is located;

the person is entitled to a PMA certification under this chapter.

As added by P.L.144-2008, SEC.47.

IC 36-7-36

Chapter 36. Abatement of Vacant Structures and Abandoned Structures

IC 36-7-36-1

"Abandoned structure"

Sec. 1. As used in this chapter, "abandoned structure" means any of the following:

(1) Commercial real property or a vacant structure on commercial real property that is used or was previously used for industrial or commercial purposes, and:

(A) that the owner of the property or structure has declared in writing to be abandoned; or

(B) for which the owner of the property or structure has been given a written order by an enforcement authority to rehabilitate or demolish, and the owner:

(i) has not applied for a permit to rehabilitate or demolish the property or structure; or

(ii) applied for and was granted a permit, but rehabilitation or demolition work has not commenced on the property or structure within thirty (30) days after the date the permit was granted.

(2) Real property that has not been used for a legal purpose for at least six (6) consecutive months and:

(A) in the judgment of an enforcement authority, is in need of completion, rehabilitation, or repair, and completion, rehabilitation, or repair work has not taken place on the property for at least six (6) consecutive months;

(B) on which at least one (1) installment of property taxes is delinquent; or

(C) that has been declared a public nuisance by a hearing authority.

(3) Real property that has been declared in writing to be abandoned by the owner, including an estate or a trust that possesses the property.

(4) Vacant real property on which a municipal lien has remained unpaid for at least one (1) year.

(5) Real estate that a court has determined to be abandoned under IC 32-30-10.6.

As added by P.L.88-2009, SEC.15. Amended by P.L.102-2012, SEC.5.

IC 36-7-36-2

"Enforcement authority"

Sec. 2. As used in this chapter, "enforcement authority" has the meaning set forth in IC 36-7-9-2.

As added by P.L.88-2009, SEC.15.

IC 36-7-36-3

"Hearing authority"

Sec. 3. As used in this chapter, "hearing authority" has the meaning set forth in IC 36-7-9-2.
As added by P.L.88-2009, SEC.15.

IC 36-7-36-4
"Owner"
Sec. 4. As used in this chapter, "owner" means a person that holds a substantial interest in property in the form of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser.
As added by P.L.88-2009, SEC.15.

IC 36-7-36-5
"Vacant real property"
Sec. 5. As used in this chapter, "vacant real property" means real property that is not being occupied by an owner, tenant, or others authorized by the owner.
As added by P.L.88-2009, SEC.15.

IC 36-7-36-6
"Vacant structure"
Sec. 6. As used in this chapter, "vacant structure" means a structure or building that is not being occupied by an owner, tenant, or others authorized by the owner.
As added by P.L.88-2009, SEC.15.

IC 36-7-36-7
Adoption of this chapter; rules and procedures
Sec. 7. The legislative body of a municipality or county:
(1) may adopt this chapter by ordinance; and
(2) if the legislative body adopts this chapter by ordinance, shall adopt rules and procedures for its enforcement.
As added by P.L.88-2009, SEC.15.

IC 36-7-36-8
Administration and enforcement of this chapter by enforcement authority; court costs and attorney's fees
Sec. 8. (a) An enforcement authority may administer and enforce this chapter in conjunction with any enforcement or civil action under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-1-6, or IC 36-7-9.
(b) Under all enforcement and civil actions designated under subsection (a), the enforcement authority is entitled to recover court costs and attorney's fees.
As added by P.L.88-2009, SEC.15.

IC 36-7-36-9
Notice and order by enforcement authority to owner of vacant or abandoned structure; ordered action
Sec. 9. If an enforcement authority determines that a vacant structure or an abandoned structure exists, an abatement notice and order may be sent to the owner that directs the owner to:

(1) abate the vacant structure or abandoned structure by cleaning and securing or boarding up the vacant structure or abandoned structure and the premises upon which it is located; and

(2) erect fences, barriers, berms, or other suitable means to discourage:

(A) access to the vacant structure or abandoned structure; and

(B) illegal dumping or littering on the premises upon which the vacant structure or abandoned structure exists.

As added by P.L.88-2009, SEC.15.

IC 36-7-36-10

Civil penalties on owners of structures left vacant or abandoned for specified periods; exceptions; limit on penalty amount

Sec. 10. (a) An owner of a property that remains a vacant structure or an abandoned structure for at least ninety (90) consecutive calendar days may be liable for a civil penalty in the amount of five hundred dollars ($500) per vacant structure or abandoned structure, not to exceed five thousand dollars ($5,000) per structure per year, unless:

(1) documentation has been filed and approved by the enforcement authority that indicates the owner's intent to eliminate the vacant structure or abandoned structure status of the property;

(2) the owner is current on all property taxes and special assessments; and

(3) at least one (1) of the following applies:

(A) The structure is the subject of a valid building permit for repair or rehabilitation and the owner is proceeding diligently and in good faith to complete the repair or rehabilitation of the structure as defined in the enforcement order.

(B) The structure is:

(i) maintained in compliance with this chapter; and

(ii) actively being offered for sale, lease, or rent.

(C) The owner can demonstrate that the owner made a diligent and good faith effort to implement actions approved by the enforcement authority.

(b) If the structure continues to remain a vacant structure beyond the initial ninety (90) days described in subsection (a) and the owner does not meet any of the exceptions set forth in this section, the enforcement authority may continue to assess penalties each year on each structure in the following amounts:

(1) One thousand dollars ($1,000) for the second ninety (90) calendar day period each structure remains a vacant structure or an abandoned structure.

(2) One thousand five hundred dollars ($1,500) for the third ninety (90) calendar day period each structure remains a vacant structure or an abandoned structure.

(3) Two thousand dollars ($2,000) for the fourth and each subsequent ninety (90) calendar day period thereafter each structure remains a vacant structure or an abandoned structure.

A civil penalty under this subsection may not exceed five thousand dollars ($5,000) per structure per year.

As added by P.L.88-2009, SEC.15.

IC 36-7.5

ARTICLE 7.5. NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

IC 36-7.5-0.1

Chapter 0.1. Findings

IC 36-7.5-0.1-1

General assembly findings

Sec. 1. The general assembly finds the following:

(1) The eligible counties face unique and distinct challenges and opportunities related to transportation and economic development that are different in scope and type than those faced by other units of local government in Indiana.

(2) A unique approach is required to fully take advantage of the economic development potential of the Chicago, South Shore, and South Bend Railway and the Gary/Chicago International Airport and the Lake Michigan shoreline.

(3) The powers and responsibilities provided to the development authority are appropriate and necessary to carry out the public purposes of encouraging economic development and further facilitating the provision of air, rail, and bus transportation services, projects, and facilities, shoreline development projects, and economic development projects in the eligible counties.

As added by P.L.220-2011, SEC.667.

IC 36-7.5-1
Chapter 1. Definitions

IC 36-7.5-1-1
Application of definitions
Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.
As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-2
"Airport authority"
Sec. 2. "Airport authority" refers to an airport authority established under IC 8-22-3 in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-3
"Airport authority project"
Sec. 3. "Airport authority project" means a project that can be financed with the proceeds of bonds issued by an airport authority under IC 8-22-3.
As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-4
"Airport development authority"
Sec. 4. "Airport development authority" refers to an airport development authority established under IC 8-22-3.7 in a city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).
As added by P.L.214-2005, SEC.73. Amended by P.L.119-2012, SEC.214.

IC 36-7.5-1-5
"Bonds"
Sec. 5. "Bonds" means bonds, notes, or other evidences of indebtedness issued by the development authority.
As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-6
"Commuter transportation district"
Sec. 6. "Commuter transportation district" refers to a commuter transportation district that:
(1) is established under IC 8-5-15; and
(2) has among its purposes the maintenance, operation, and improvement of passenger service over the Chicago, South Shore, and South Bend Railroad and any extension of that railroad.
As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-7
"Commuter transportation district project"

Sec. 7. "Commuter transportation district project" means a project that can be financed with the proceeds of bonds issued by a commuter transportation district under IC 8-5-15.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-8
"Development authority"

Sec. 8. "Development authority" refers to the northwest Indiana regional development authority established by IC 36-7.5-2-1.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-9
"Development board"

Sec. 9. "Development board" refers to the governing body appointed under IC 36-7.5-2-3 for a development authority.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-10
"Economic development project"

Sec. 10. "Economic development project" means the following:

(1) An economic development project described in IC 6-3.5-7-13.1(c).

(2) A dredging, sediment removal, or channel improvement project.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-11
"Eligible county"

Sec. 11. "Eligible county" refers to the following counties:

(1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) A county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000).

(3) A county having a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000), if:

(A) the fiscal body of the county has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the development authority; and

(B) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.49; P.L.119-2012, SEC.215.

IC 36-7.5-1-11.3

"Eligible municipality"

Sec. 11.3. "Eligible municipality" refers to a municipality that has become a member of the development authority under IC 36-7.5-2-3(i).

As added by P.L.182-2009(ss), SEC.421.

IC 36-7.5-1-12

"Eligible political subdivision"

Sec. 12. "Eligible political subdivision" means the following:

(1) An airport authority.

(2) A commuter transportation district.

(3) A regional bus authority under IC 36-9-3-2(c).

(4) A regional transportation authority established under IC 36-9-3-2.

(5) The Lake Michigan marina and shoreline development commission under IC 36-7-13.5.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.50; P.L.197-2011, SEC.146.

IC 36-7.5-1-12.4

"Lake Michigan marina and shoreline development commission"

Sec. 12.4. "Lake Michigan marina and shoreline development commission" means the commission established by IC 36-7-13.5-2.

As added by P.L.197-2011, SEC.147.

IC 36-7.5-1-12.5

"Lake Michigan marina and shoreline development commission project"

Sec. 12.5. "Lake Michigan marina and shoreline development commission project" means a project that can be financed with the proceeds of bonds issued by the Lake Michigan marina and shoreline development commission.

As added by P.L.197-2011, SEC.148.

IC 36-7.5-1-13

"Project"

Sec. 13. "Project" means an airport authority project, a commuter transportation district project, an economic development project, a regional bus authority project, a regional transportation authority project, or a Lake Michigan marina and shoreline development commission project.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.51; P.L.197-2011, SEC.149.

IC 36-7.5-1-14

"Regional bus authority"

Sec. 14. "Regional bus authority" means a regional transportation authority operating as a regional bus authority under IC 36-9-3-2(c).

As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-15
"Regional bus authority project"

Sec. 15. "Regional bus authority project" means a project that can be financed with the proceeds of bonds issued by a regional bus authority under IC 36-9-3.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-1-15.3
"Regional transportation authority"

Sec. 15.3. "Regional transportation authority" means a regional transportation authority established under IC 36-9-3-2.

As added by P.L.47-2006, SEC.52.

IC 36-7.5-1-15.6
"Regional transportation authority project"

Sec. 15.6. "Regional transportation authority project" means a project that can be financed with the proceeds of bonds issued by a regional transportation authority under IC 36-9-3.

As added by P.L.47-2006, SEC.53.

IC 36-7.5-1-16
Repealed

(*Repealed by P.L.197-2011, SEC.153.)*

IC 36-7.5-1-17
Repealed

(*Repealed by P.L.197-2011, SEC.153.)*

IC 36-7.5-2

Chapter 2. Development Authority and Board

IC 36-7.5-2-1

Establishment

Sec. 1. The northwest Indiana regional development authority is established as a separate body corporate and politic to carry out the purposes of this article by:

(1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article;

(2) funding and developing the Gary/Chicago International Airport expansion and other airport authority projects, commuter transportation district and other rail projects and services, regional bus authority projects and services, regional transportation authority projects and services, Lake Michigan marina and shoreline development projects and activities, and economic development projects in northwestern Indiana; and

(3) assisting with the funding of infrastructure needed to sustain development of an intermodal facility in northwestern Indiana.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.54; P.L.197-2011, SEC.150.

IC 36-7.5-2-2

Power in eligible counties and eligible municipalities

Sec. 2. The development authority may carry out its powers and duties under this article in the following:

(1) An eligible county.

(2) An eligible municipality.

As added by P.L.214-2005, SEC.73. Amended by P.L.182-2009(ss), SEC.422.

IC 36-7.5-2-3

Development board; members

Sec. 3. (a) The development authority is governed by the development board appointed under this section.

(b) Except as provided in subsections (e), (f), and (h), the development board is composed of the following seven (7) members:

(1) Two (2) members appointed by the governor. One (1) of the members appointed by the governor under this subdivision must be an individual nominated under subsection (d). The members appointed by the governor under this subdivision serve at the pleasure of the governor.

(2) The following members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) One (1) member appointed by the mayor of the largest city in the county in which a riverboat is located.

(B) One (1) member appointed by the mayor of the second largest city in the county in which a riverboat is located.

(C) One (1) member appointed by the mayor of the third largest city in the county in which a riverboat is located.

(D) One (1) member appointed jointly by the county executive and the county fiscal body. A member appointed under this clause may not reside in a city described in clause (A), (B), or (C).

(3) One (1) member appointed jointly by the county executive and county fiscal body of a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000).

(c) A member appointed to the development board must have knowledge and at least five (5) years professional work experience in at least one (1) of the following:

(1) Rail transportation or air transportation.

(2) Regional economic development.

(3) Business or finance.

(d) The mayor of the largest city in a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000) shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's initial appointments under subsection (b)(1) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's appointments under subsection (b)(1) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) individuals from among whom the governor shall make an appointment under subsection (b)(1) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(e) A county having a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000) shall be an eligible county participating in the development authority if the fiscal body of the county adopts an ordinance before September 15, 2006, providing that the county is joining the development authority and the fiscal body of a city that is located in the county and that has a population of more than thirty-one thousand (31,000) but less than thirty-one thousand five hundred (31,500) adopts an ordinance before September 15, 2006, providing that the city is joining the development authority. Notwithstanding subsection (b), if ordinances are adopted under this subsection and the county becomes an eligible county participating in the development authority:

(1) the development board shall be composed of nine (9) members rather than seven (7) members; and

(2) the additional two (2) members shall be appointed in the following manner:

(A) One (1) additional member shall be appointed by the governor and shall serve at the pleasure of the governor. The

member appointed under this clause must be an individual nominated under subsection (f).

(B) One (1) additional member shall be appointed jointly by the county executive and county fiscal body.

(f) This subsection applies only if the county described in subsection (e) is an eligible county participating in the development authority. The mayor of the largest city in the county described in subsection (e) shall nominate three (3) residents of the county for appointment to the development board. The governor's initial appointment under subsection (e)(2)(A) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county described in subsection (e) shall nominate three (3) residents of the county for appointment to the development board. The governor's second appointment under subsection (e)(2)(A) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) individuals from among whom the governor shall make an appointment under subsection (e)(2)(A) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(g) An individual or entity required to make an appointment under subsection (b) or nominations under subsection (d) must make the initial appointment before September 1, 2005, or the initial nomination before August 15, 2005. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2005, or the initial nominations required under subsection (d) before September 1, 2005, the governor shall instead make the initial appointment.

(h) Subsection (i) applies only to municipalities located in a county that:

(1) has a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000); and

(2) was a member of the development authority on January 1, 2009, and subsequently ceases to be a member of the development authority.

(i) If the fiscal bodies of at least two (2) municipalities subject to this subsection adopt ordinances to become members of the development authority, those municipalities shall become members of the development authority. If two (2) or more municipalities become members of the development authority under this subsection, the fiscal bodies of the municipalities that become members of the development authority shall jointly appoint one (1) member of the development board who shall serve in place of the member described in subsection (b)(3). A municipality that becomes a member of the development authority under this subsection is considered an eligible municipality for purposes of this article.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.55; P.L.1-2007, SEC.241; P.L.182-2009(ss), SEC.423; P.L.119-2012, SEC.216.

IC 36-7.5-2-4
Development board; terms of members; vacancy; oath; compensation

Sec. 4. (a) Except as provided in subsection (b) for the initial appointments to the development board, a member appointed to the development board serves a four (4) year term. However, a member serves at the pleasure of the appointing authority. A member may be reappointed to subsequent terms.

(b) The terms of the initial members appointed to the development board are as follows:

(1) The initial member appointed by the governor who is not nominated under section 3(d) or 3(f) of this chapter shall serve a term of four (4) years.

(2) The initial member appointed by the governor who is nominated under section 3(d) of this chapter shall serve a term of two (2) years. If a member is appointed under section 3(e)(2)(A) of this chapter, the initial member who is appointed under that provision shall serve a term of two (2) years.

(3) The initial member appointed under section 3(b)(2)(D) of this chapter shall serve a term of three (3) years.

(4) The initial member appointed under section 3(b)(3) of this chapter shall serve a term of three (3) years.

(5) The initial members appointed under section 3(b)(2)(A) through 3(b)(2)(C) of this chapter shall serve a term of two (2) years.

(6) If a member is appointed under section 3(e)(2)(B) of this chapter, the initial member appointed under that provision shall serve a term of three (3) years.

(c) If a vacancy occurs on the development board, the appointing authority that made the original appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) Each member appointed to the development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(e) A member appointed to the development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.56.

IC 36-7.5-2-5
Chair; officers

Sec. 5. (a) The member appointed by the governor under section 3(b)(1) of this chapter but not nominated under section 3(d) or 3(f) of this chapter shall serve as chair of the development board until January 2013. At the election under subsection (b) in 2013 and each

year thereafter, the chair shall be elected from among the members of the development board.

(b) In January of each year, the development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

(1) After December 31, 2012, a chair.

(2) A vice chair.

(3) A secretary-treasurer.

(c) Not more than two (2) members from any particular county may serve as an officer described in subsection (a) or elected under subsection (b). The affirmative vote of at least five (5) members of the development board is necessary to elect an officer under subsection (b). However, if the county described in section 3(e) of this chapter is an eligible county participating in the development authority, the affirmative vote of at least six (6) members of the development board is necessary to elect an officer under subsection (b).

(d) An officer elected under subsection (b) serves from the date of the officer's election until the officer's successor is elected and qualified.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.57.

IC 36-7.5-2-6

Meetings; quorum; affirmative votes

Sec. 6. (a) The development board shall meet at least quarterly.

(b) The chair of the development board or any two (2) members of the development board may call a special meeting of the development board.

(c) Five (5) members of the development board constitute a quorum. However, if the county described in section 3(e) of this chapter is an eligible county participating in the development authority, six (6) members of the development board constitute a quorum.

(d) The affirmative votes of at least five (5) members of the development board are necessary to authorize any action of the development authority. However, if the county described in section 3(e) of this chapter is an eligible county participating in the development authority, the affirmative votes of at least six (6) members of the development board are necessary to authorize any action of the development authority.

(e) Notwithstanding any other provision of this article, the minimum number of affirmative votes required under subsection (d) to take any of the following actions must include the affirmative vote of the member appointed by the governor who is not nominated under section 3(d) or 3(f) of this chapter:

(1) Making loans, loan guarantees, or grants or providing any other funding or financial assistance for projects.

(2) Acquiring or condemning property.

(3) Entering into contracts.

(4) Employing an executive director or any consultants or technical experts.

(5) Issuing bonds or entering into a lease of a project.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.58.

IC 36-7.5-2-7

Bylaws and rules

Sec. 7. The development board may adopt the bylaws and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-2-8

Common construction wage, public purchasing, and public works project laws apply

Sec. 8. (a) The development authority must comply with IC 5-16-7 (common construction wage), IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations. An eligible political subdivision that receives a loan, a grant, or other financial assistance from the development authority or enters into a lease with the development authority must comply with applicable federal, state, and local public purchasing and bidding law and regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of an eligible political subdivision may:

(1) assign or sell a lease for property to the development authority; or

(2) enter into a lease for property with the development authority;

at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by the authority, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-2-9
Annual financial audit

Sec. 9. The office of management and budget shall contract with a certified public accountant for an annual financial audit of the development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to the development authority. The certified public accountant shall present an audit report not later than four (4) months after the end of the development authority's fiscal year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period. The development authority shall pay the cost of the annual financial audit. In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of the development authority. The development authority shall pay the cost of any audit by the state board of accounts.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-3

Chapter 3. Development Authority Powers and Duties

IC 36-7.5-3-1

Duties

Sec. 1. The development authority shall do the following:

(1) Assist in the coordination of local efforts concerning projects.

(2) Assist a commuter transportation district, an airport authority, the Lake Michigan marina and shoreline development commission, a regional transportation authority, and a regional bus authority in coordinating regional transportation and economic development efforts.

(3) Fund projects as provided in this article.

(4) Fund bus services (including fixed route services and flexible or demand-responsive services) and projects related to bus services and bus terminals, stations, or facilities.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.59; P.L.197-2011, SEC.151.

IC 36-7.5-3-2

Powers

Sec. 2. (a) The development authority may do any of the following:

(1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county or eligible municipality.

(2) Lease land or a project to an eligible political subdivision.

(3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.

(4) Acquire land or all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.

(5) Acquire all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(6) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:

(A) A commuter transportation district.

(B) An airport authority or airport development authority.

(C) The Lake Michigan marina and shoreline development commission.

(D) A regional bus authority. A loan, loan guarantee, grant, or other financial assistance under this clause may be used by a regional bus authority for acquiring, improving, operating, maintaining, financing, and supporting the following:

(i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.

(ii) Bus terminals, stations, or facilities or other regional bus authority projects.

(E) A regional transportation authority.

(7) Provide funding to assist a railroad that is providing commuter transportation services in an eligible county or eligible municipality.

(8) Provide funding to assist an airport authority located in an eligible county or eligible municipality in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(9) Provide funding to assist in the development of an intermodal facility to facilitate the interchange and movement of freight.

(10) Provide funding to assist the Lake Michigan marina and shoreline development commission in carrying out the purposes of IC 36-7-13.5.

(11) Provide funding for economic development projects in an eligible county or eligible municipality.

(12) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property located in an eligible county or eligible municipality.

(13) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(14) Make or enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article.

(15) Sue, be sued, plead, and be impleaded.

(16) Design, order, contract for, and construct, reconstruct, and renovate a project or improvements to a project.

(17) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(18) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(19) Use the development authority's funds to match federal

grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(20) Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.60; P.L.182-2009(ss), SEC.424; P.L.197-2011, SEC.152.

IC 36-7.5-3-3

Reports

Sec. 3. The development authority shall before November 1 of each year issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding state fiscal year. The report to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-3-4

Development plan

Sec. 4. (a) The development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

(1) The proposed projects to be undertaken or financed by the development authority.

(2) The following information for each project included under subdivision (1):

(A) Timeline and budget.

(B) The return on investment.

(C) The projected or expected need for an ongoing subsidy.

(D) Any projected or expected federal matching funds.

(b) The development authority shall before January 1, 2008, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-4

Chapter 4. Financing; Issuance of Bonds; Leases

IC 36-7.5-4-1

Development authority fund; accounts; debt service

Sec. 1. (a) The development board shall establish and administer a development authority fund.

(b) The development authority fund consists of the following:

(1) Riverboat admissions tax revenue, riverboat wagering tax revenue, or riverboat incentive payments received by a city or county described in IC 36-7.5-2-3(b) and transferred by the county or city to the fund.

(2) County economic development income tax revenue received under IC 6-3.5-7 by a county or city and transferred by the county or city to the fund.

(3) Amounts distributed under IC 8-15-2-14.7.

(4) Food and beverage tax revenue deposited in the fund under IC 6-9-36-8.

(5) Funds received from the federal government.

(6) Appropriations to the fund by the general assembly.

(7) Other local revenue appropriated to the fund by a political subdivision.

(8) Gifts, donations, and grants to the fund.

(c) The development authority shall establish a development authority fund. The development board shall establish and administer a general account, a lease rental account, and such other accounts in the fund as are necessary or appropriate to carry out the powers and duties of the development authority. Except as otherwise provided by law or agreement with holders of any obligations of the development authority, all money transferred to the development authority fund under subsection (b)(1), (b)(2), and (b)(4) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by an eligible political subdivision and the development authority under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the treasurer of the development authority to the respective counties and cities that contributed the money to the development authority.

(d) If the amount of money transferred to the development authority fund under subsection (b)(1), (b)(2), and (b)(4) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to:

(1) one and twenty-five hundredths (1.25); multiplied by

(2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

all or a portion of the excess may instead be deposited in the general

account.

(e) Except as otherwise provided by law or agreement with the holders of obligations of the development authority, all other money and revenues of the development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(f) The development authority fund shall be administered by the development authority.

(g) Money in the development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

As added by P.L.214-2005, SEC.73. Amended by P.L.182-2009(ss), SEC.425.

IC 36-7.5-4-2

Revenue transfers to fund

Sec. 2. (a) Except as provided in subsection (b), beginning in 2006 the fiscal officer of each city and county described in IC 36-7.5-2-3(b) shall each transfer three million five hundred thousand dollars ($3,500,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter. However, if a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000) ceases to be a member of the development authority and two (2) or more municipalities in the county have become members of the development authority as authorized by IC 36-7.5-2-3(i), the transfer of county economic development income tax transferred under IC 6-3.5-7-13.1(b)(4) is the contribution of the municipalities in the county that have become members of the development authority.

(b) This subsection applies only if:

(1) the fiscal body of the county described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the development authority;

(2) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority; and

(3) the county described in IC 36-7.5-2-3(e) is an eligible county participating in the development authority.

Beginning in 2007, the fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer two million six hundred twenty-five thousand dollars ($2,625,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter. Beginning in 2007, the fiscal officer of the city described in IC 36-7.5-2-3(e) shall transfer eight hundred seventy-five thousand dollars ($875,000) each year to the

development authority for deposit in the development authority fund established under section 1 of this chapter.

(c) The following apply to the transfers required by subsections (a) and (b):

(1) Except for transfers of money described in subdivision (4)(D), the transfers shall be made without appropriation by the city or county fiscal body or approval by any other entity.

(2) Except as provided in subdivision (3), after December 31, 2005, each fiscal officer shall transfer eight hundred seventy-five thousand dollars ($875,000) to the development authority fund before the last business day of January, April, July, and October of each year. Food and beverage tax revenue deposited in the fund under IC 6-9-36-8 is in addition to the transfers required by this section.

(3) After December 31, 2006, the fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer six hundred fifty-six thousand two hundred fifty dollars ($656,250) to the development authority fund before the last business day of January, April, July, and October of each year. The county is not required to make any payments or transfers to the development authority covering any time before January 1, 2007. The fiscal officer of a city described in IC 36-7.5-2-3(e) shall transfer two hundred eighteen thousand seven hundred fifty dollars ($218,750) to the development authority fund before the last business day of January, April, July, and October of each year. The city is not required to make any payments or transfers to the development authority covering any time before January 1, 2007.

(4) The transfers shall be made from one (1) or more of the following:

(A) Riverboat admissions tax revenue received by the city or county, riverboat wagering tax revenue received by the city or county, or riverboat incentive payments received from a riverboat licensee by the city or county.

(B) Any county economic development income tax revenue received under IC 6-3.5-7 by the city or county.

(C) Any other local revenue other than property tax revenue received by the city or county.

(D) In the case of a county described in IC 36-7.5-2-3(e) or a city described in IC 36-7.5-2-3(e), any money from the major moves construction fund that is distributed to the county or city under IC 8-14-16.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.61; P.L.182-2009(ss), SEC.426; P.L.119-2012, SEC.217.

IC 36-7.5-4-3
Bond issues

Sec. 3. (a) Subject to subsection (h), the development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or

(3) funding or refunding bonds issued under this chapter or IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law.

(b) The bonds are payable solely from:

(1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and

(2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.

(c) The bonds shall be authorized by a resolution of the development board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds only to the Indiana finance authority established by IC 4-4-11-4 upon the terms determined by the development board and the Indiana finance authority.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

(h) The development authority may not issue bonds under this article unless the development authority first finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in

whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.
As added by P.L.214-2005, SEC.73. Amended by P.L.1-2006, SEC.573.

IC 36-7.5-4-4
Bonding; complete authority

Sec. 4. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.
As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-5
Bonding; security; trust indenture

Sec. 5. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;

(3) set forth the rights and remedies of bondholders and trustees; and

(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.
As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-6
Bond refunding; leases

Sec. 6. (a) Bonds issued under IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law may be refunded as provided in this section.

(b) An eligible political subdivision may:

(1) lease all or a portion of land or a project or projects to the development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision,

conditioned upon the development authority assuming bonds issued under IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law and issuing its bonds to refund those bonds; and

(2) sell all or a portion of land or a project or projects to the development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-7

Leases; findings

Sec. 7. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from the development authority to an eligible political subdivision:

(1) may not have a term exceeding forty (40) years;

(2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;

(3) may contain provisions:

(A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and

(B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a project;

(7) may provide that the eligible political subdivision shall agree to:

(A) pay any taxes and assessments on the project;

(B) maintain insurance on the project for the benefit of the development authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the development authority from any funds legally available to the eligible political subdivision before the commencement of the lease

to secure the performance of the eligible political subdivision's obligations under the lease; and

(8) shall provide that the lease rental payments by the eligible political subdivision shall be made from the development authority fund established by section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:

(A) net revenues of the project;

(B) any other funds available to the eligible political subdivision; or

(C) both sources described in clauses (A) and (B).

As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-8

Leases; complete authority

Sec. 8. This chapter contains full and complete authority for leases between the development authority and an eligible political subdivision. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development authority or the eligible political subdivision or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-9

Plans; approval

Sec. 9. If the lease provides for a project or improvements to a project to be constructed by the development authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-10

Agreements; common wall; easements; licenses

Sec. 10. The development authority and an eligible political subdivision may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the project is located.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-11

Leases or sale of projects or land to authority

Sec. 11. (a) An eligible political subdivision may lease for a nominal lease rental, or sell to the development authority, one (1) or more projects or portions of a project or land upon which a project is located or is to be constructed.

(b) Any lease of all or a portion of a project by an eligible political subdivision to the development authority must be for a term

equal to the term of the lease of that project back to the eligible political subdivision.

(c) An eligible political subdivision may sell property to the development authority for the amount the eligible political subdivision determines to be in the best interest of the eligible political subdivision. The development authority may pay that amount from the proceeds of bonds of the development authority.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-12

Option to purchase property

Sec. 12. If an eligible political subdivision exercises its option to purchase leased property, the eligible political subdivision may issue its bonds as authorized by statute.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-13

Tax exemption

Sec. 13. (a) All:

(1) property owned by the development authority;

(2) revenues of the development authority; and

(3) bonds issued by the development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All securities issued under this chapter are exempt from the registration requirements of IC 23-19 and other securities registration statutes.

As added by P.L.214-2005, SEC.73. Amended by P.L.27-2007, SEC.35.

IC 36-7.5-4-14

Bonds; legal investments

Sec. 14. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associates, credit unions, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-15

Bonds; contesting validity

Sec. 15. An action to contest the validity of bonds to be issued

under this chapter may not be brought after the time limitations set forth in IC 5-1-14-13.
As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-16
Transfers; failure to make; duty of state treasurer

Sec. 16. (a) This section applies if:

(1) a city or county described in IC 36-7.5-2-3 fails to make a transfer or a part of a transfer required by section 2 of this chapter; and

(2) the development authority has bonds or other debt or lease obligations outstanding.

(b) The treasurer of state shall do the following:

(1) Deduct from amounts otherwise payable to the city or town under IC 4-33-12 or IC 4-33-13 an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the city or county failed to make.

(2) Pay the amount deducted under subdivision (1) to the development authority.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-4-17
Covenant with holders

Sec. 17. (a) If there are bonds outstanding that have been issued under this article and are not secured by a lease, or if there are leases in effect under this article, the general assembly also covenants that it will not reduce the amount required to be transferred from the counties and cities to the development authority under section 2 of this chapter below an amount that would produce one and twenty-five hundredths (1.25) multiplied by the total of the highest annual debt service on the bonds to their final maturity plus the highest annual lease payments on the leases to their final termination date.

(b) The general assembly also covenants that it will not:

(1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this chapter; or

(2) in any way impair the rights of owners of bonds of the development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter;

except as otherwise set forth in subsection (a).
As added by P.L.214-2005, SEC.73.

IC 36-7.6

ARTICLE 7.6. REGIONAL DEVELOPMENT AUTHORITIES

IC 36-7.6-1

Chapter 1. Definitions

IC 36-7.6-1-1

Application of definitions

Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-2

"Airport authority"

Sec. 2. "Airport authority" refers to an airport authority established under IC 8-22-3.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-3

"Airport authority project"

Sec. 3. "Airport authority project" means a project that can be financed with the proceeds of bonds issued by an airport authority under IC 8-22-3.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-4

"Bonds"

Sec. 4. "Bonds" means, except as otherwise provided, bonds, notes, or other evidences of indebtedness issued by a development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-5

"Commuter transportation district"

Sec. 5. "Commuter transportation district" refers to a commuter transportation district established under IC 8-5-15.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-6

"Commuter transportation district project"

Sec. 6. "Commuter transportation district project" means a project that can be financed with the proceeds of bonds issued by a commuter transportation district under IC 8-5-15.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-7

"Economic growth region"

Sec. 7. "Economic growth region" refers to an economic growth region designated by the department of workforce development.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-8
"Development authority"

Sec. 8. "Development authority" refers to a regional development authority established under IC 36-7.6-2-3.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-9
"Development board"

Sec. 9. "Development board" refers to the governing body of a development authority appointed under IC 36-7.6-2-3.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-10
"Economic development project"

Sec. 10. "Economic development project" means an economic development project described in IC 6-3.5-7-13.1(c).
As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-11
"Eligible political subdivision"

Sec. 11. "Eligible political subdivision" means any of the following:

(1) A county.
(2) A municipality.
(3) An airport authority.
(4) A commuter transportation district.
(5) A regional transportation authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-12
"Project"

Sec. 12. "Project" means an airport authority project, a commuter transportation district project, an economic development project, a regional transportation authority project, an intermodal transportation project, or a regional trail or greenway project.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-13
"Regional transportation authority"

Sec. 13. "Regional transportation authority" means a regional transportation authority established under IC 36-9-3.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-14
"Regional transportation authority project"

Sec. 14. "Regional transportation authority project" means a project that can be financed with the proceeds of bonds issued by a regional transportation authority under IC 36-9-3.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2

Chapter 2. Development Authority and Board

IC 36-7.6-2-1

Establishment of development authorities

Sec. 1. (a) Development authorities may be established under this chapter in the economic growth regions of Indiana.

(b) The provisions of section 3 of this chapter govern the establishment of a development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-2

Body corporate and politic; development authority activities

Sec. 2. A development authority established under this chapter is a separate body corporate and politic that shall carry out the purposes of this article by:

(1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; and

(2) funding and developing:

(A) airport authority projects;

(B) commuter transportation district and other rail projects and services;

(C) regional transportation authority projects and services;

(D) economic development projects;

(E) intermodal transportation projects; and

(F) regional trail or greenway projects;

that are of regional importance.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-3

Units that may establish a development authority; contiguity requirements

Sec. 3. (a) Subject to the provisions of this article, regional development authorities may be established under subsection (b), (c), or (d).

(b) A development authority may be established by two (2) or more counties that are located in the same economic growth region.

(c) A development authority may be established by:

(1) two (2) or more counties that are located in the same economic growth region; and

(2) one (1) or more counties that:

(A) are not located in the same economic growth region as the counties described in subdivision (1); and

(B) are adjacent to the economic growth region containing the counties described in subdivision (1).

(d) A development authority may be established by:

(1) one (1) or more counties; and

(2) one (1) or more second class cities that:

(A) are not located in the county or counties described in

subdivision (1); and

(B) are located in the same economic growth region as the county or counties described in subdivision (1).

(e) A county or second class city may participate in the establishment of a development authority under this section and become a member of the development authority only if the fiscal body of the county or second class city adopts an ordinance authorizing the county or second class city to participate in the establishment of the development authority.

(f) A county may be a member of a development authority only if the county is contiguous to at least one (1) other county that is a member of the development authority. A second class city may be a member of a development authority only if the county in which the second class city is located is contiguous to at least one (1) other county that is a member of the development authority.

(g) Notwithstanding any other provision, if a county becomes a member of a development authority, each municipality in the county also becomes a member of the development authority.

(h) Not more than two (2) development authorities may be established in a particular economic growth region. For purposes of this subsection, a development authority is considered to be established in a particular economic growth region if a county or municipality located in the economic growth region is a member of a development authority.

(i) A county or municipality may be a member of only one (1) development authority.

(j) A county or municipality that is a member of the northwest Indiana regional development authority under IC 36-7.5 may not be a member of a development authority under this article.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-4

Joining an existing development authority

Sec. 4. (a) A county or second class city that:

(1) is not a member of a development authority; and

(2) was eligible to participate in the establishment of a particular development authority established under this article;

may join that development authority under this section.

(b) A county or second class city described in subsection (a) may join a development authority under this section only if:

(1) the fiscal body of the county or second class city adopts an ordinance authorizing the county or second class city to become a member of the development authority; and

(2) after the fiscal body adopts an ordinance under subdivision (1), the development board of the development authority adopts a resolution authorizing the county or second class city to become a member of the development authority.

(c) A county or second class city becomes a member of a development authority on January 1 of the year following the year in which the development board adopts a resolution under subsection

(b)(2) authorizing the county or second class city to become a member of the development authority.

(d) The executive of a county or second class city that becomes a member of a development authority under this section is entitled to appoint a member to the development board under section 7 of this chapter.

(e) A county or second class city may not join a development authority under this section if joining the development authority would violate the requirement in section 3(h) of this chapter that not more than two (2) development authorities may be established in a particular economic growth region.

(f) If a county joins a development authority under this section, each municipality in the county also becomes a member of the development authority.

As added by P.L.232-2007, SEC.7. Amended by P.L.3-2008, SEC.265.

IC 36-7.6-2-5

Minimum length of participation; withdrawal

Sec. 5. (a) This section applies to the following:

(1) A county that participates in the establishment of a development authority under section 3 of this chapter or that joins a development authority under section 4 of this chapter.

(2) A second class city that participates in the establishment of a development authority under section 3(d) of this chapter or that joins a development authority under section 4 of this chapter.

(b) A county or second class city described in subsection (a) shall be a member of the development authority for five (5) years after the date the county or second class city becomes a member of the development authority.

(c) At least twelve (12) months and not more than eighteen (18) months before the end of a five (5) year period under subsection (b), the fiscal body of the county or second class city described in subsection (a) must adopt a resolution that:

(1) commits the county or second class city to an additional five (5) years as a member of the development authority, beginning at the end of the current five (5) year period; or

(2) withdraws the county or second class city from membership in the development authority not earlier than the end of the current five (5) year period.

(d) The fiscal body of a county or second class city described in subsection (a) must adopt a resolution under subsection (c) during each five (5) year period in which the county or second class city is a member of the development authority.

(e) A county or second class city described in subsection (a) may withdraw from a development authority as provided in this section without the approval of the development board.

(f) If at the end of a five (5) year period a county described in subsection (a) does not withdraw from the development authority

under this section and remains a member of the development authority, the municipalities in the county may not withdraw from the development authority and remain members of the development authority.

(g) If at the end of a five (5) year period a county described in subsection (a) withdraws from the development authority under this section, the municipalities in the county are also withdrawn from the development authority on the effective date of the county's withdrawal.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-6

Liability for unpaid transfers after withdrawal

Sec. 6. A county or municipality that withdraws from a development authority under section 5 of this chapter is liable to the development authority for any unpaid transfers under IC 36-7.6-4-2 that become due before the withdrawal of the county or municipality from the development authority is effective.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-7

Development board; members

Sec. 7. (a) A development authority is governed by a development board appointed under this section.

(b) A development board is composed of the following members:

(1) One (1) member appointed by the executive of each county that is a member of the development authority.

(2) One (1) member appointed by the executive of each second class city that is a member of the development authority.

(3) If the development authority receives or will receive an appropriation, a grant, or a distribution of money from the state, one (1) or more members appointed by the governor under section 8 of this chapter, if approved by the development board.

(c) A member appointed to the development board must have knowledge of and at least five (5) years professional work experience in at least one (1) of the following:

(1) Rail transportation or air transportation.

(2) Regional economic development.

(3) Business or finance.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-8

Addition of member appointed by the governor

Sec. 8. (a) If a development authority receives or will receive an appropriation, a grant, or a distribution of money from the state, the development board may adopt a resolution to add to the development board one (1) or more members appointed by the governor.

(b) If a development board adopts a resolution under this section, the governor shall appoint to the development board the number of members specified in the resolution.

(c) A member appointed by the governor under this section must meet the knowledge and professional work experience requirements of section 7(c) of this chapter.

(d) If the governor appoints a member to a development board under this section, the governor retains the authority to appoint a member to the development board regardless of whether the state continues to appropriate, grant, or distribute money to the development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-9

Terms; reappointment; oath; per diem

Sec. 9. (a) A member appointed to a development board serves a four (4) year term. However, a member serves at the pleasure of the appointing authority. A member may be reappointed to subsequent terms.

(b) If a vacancy occurs on a development board, the appointing authority that made the initial appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(c) Each member appointed to a development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(d) A member appointed to a development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-10

Officers

Sec. 10. (a) In January of each year, a development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

(1) A chair.

(2) A vice chair.

(3) A secretary-treasurer.

(b) The affirmative vote of at least a majority of the appointed members of a development board is necessary to elect an officer under subsection (a).

(c) An officer elected under subsection (a) serves from the date of the officer's election until the officer's successor is elected and qualified.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-11

Quarterly meetings; calling meetings; quorum; authorization of

action

Sec. 11. (a) A development board shall meet at least quarterly.

(b) The chair of a development board or any two (2) members of a development board may call a special meeting of the development board.

(c) A majority of the appointed members of a development board constitutes a quorum.

(d) The affirmative votes of at least a majority of the appointed members of a development board are necessary to authorize any action of the development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-12

Bylaws and rules

Sec. 12. A development board may adopt the bylaws and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-13

Common construction wage, public purchasing, and public works project laws apply

Sec. 13. (a) A development authority shall comply with IC 5-16-7 (common construction wage), IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations. An eligible political subdivision that receives a loan, a grant, or other financial assistance from a development authority or enters into a lease with a development authority must comply with applicable federal, state, and local public purchasing and bidding laws and regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of an eligible political subdivision may:

(1) assign or sell a lease for property to a development authority; or

(2) enter into a lease for property with a development authority;

at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or a sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by a development authority, the development authority shall set a goal for participation by minority business enterprises and women's business enterprises. The goals must be consistent with:

(1) the participation goals established by the counties and municipalities that are members of the development authority; and

(2) the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-14

Annual financial audit

Sec. 14. (a) The office of management and budget shall contract with a certified public accountant for an annual financial audit of each development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to any development authority.

(b) The certified public accountant shall present an audit report not later than four (4) months after the end of each calendar year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period.

(c) A development authority shall pay the cost of the annual financial audit under subsection (a). In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of a development authority. A development authority shall pay the cost of any audit by the state board of accounts.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-15

Local advisory committees

Sec. 15. Each county or municipality that is member of a development authority may appoint a local advisory committee to advise the county or municipality on issues related to the development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-3

Chapter 3. Development Authority Powers and Duties

IC 36-7.6-3-1

Duties

Sec. 1. A development authority shall do the following:

(1) Assist in the coordination of local efforts concerning projects that are of regional importance.

(2) Assist a county, a municipality, a commuter transportation district, an airport authority, and a regional transportation authority in coordinating regional transportation and economic development efforts.

(3) Fund projects that are of regional importance, as provided in this article.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-3-2

Powers

Sec. 2. (a) A development authority may do any of the following:

(1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects that are of regional importance.

(2) Lease land or a project to an eligible political subdivision.

(3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.

(4) Construct or reconstruct highways, roads, and bridges.

(5) Acquire land or all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.

(6) Acquire all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(7) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:

(A) A commuter transportation district.

(B) An airport authority.

(C) A regional transportation authority. A loan, a loan guarantee, a grant, or other financial assistance under this clause may be used by a regional transportation authority for acquiring, improving, operating, maintaining, financing, and supporting the following:

(i) Bus services (including fixed route services and

flexible or demand-responsive services) that are a component of a public transportation system.

(ii) Bus terminals, stations, or facilities or other regional bus authority projects.

(D) A county.

(E) A municipality.

(8) Provide funding to assist a railroad that is providing commuter transportation services in a county containing territory included in the development authority.

(9) Provide funding to assist an airport authority located in a county containing territory included in the development authority in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(10) Provide funding for intermodal transportation projects and facilities.

(11) Provide funding for regional trails and greenways.

(12) Provide funding for economic development projects.

(13) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property.

(14) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(15) Make or enter into all contracts and agreements necessary or incidental to the performance of the development authority's duties and the execution of the development authority's powers under this article.

(16) Sue, be sued, plead, and be impleaded.

(17) Design, order, contract for, construct, reconstruct, and renovate a project or improvements to a project.

(18) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(19) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(20) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(21) Except as prohibited by law, take any action necessary to carry out this article.

(b) Projects funded by a development authority must be of regional importance.

(c) If a development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes

of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-3-3

Agreements for joint actions

Sec. 3. A development authority may enter into an agreement with another development authority or any other entity to:

(1) jointly equip, own, lease, and finance projects and facilities; or

(2) otherwise carry out the purposes of the development authority;

in any location.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-3-4

Reports

Sec. 4. A development authority shall before April 1 of each year issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding calendar year. The report to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-3-5

Development plan

Sec. 5. (a) A development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

(1) The proposed projects to be undertaken or financed by the development authority.

(2) The following information for each project included under subdivision (1):

(A) Timeline and budget.

(B) The return on investment.

(C) The projected or expected need for an ongoing subsidy.

(D) Any projected or expected federal matching funds.

(b) The development authority shall, not later than January 1 of

the second year following the year in which the development authority is established, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-4

Chapter 4. Financing; Issuance of Bonds; Leases

IC 36-7.6-4-1

Development authority fund; accounts; debt service

Sec. 1. (a) A development board shall establish and administer a development authority fund.

(b) A development authority fund consists of the following:

(1) Amounts transferred under section 2 of this chapter by each county and municipality that is a member of the development authority.

(2) Appropriations, grants, or other distributions made to the fund by the state.

(3) Money received from the federal government.

(4) Gifts, contributions, donations, and private grants made to the fund.

(c) On the date a development authority issues bonds for any purpose under this article, which are secured in whole or in part by the development authority fund, the development board shall establish and administer two (2) accounts within the development authority fund. The accounts must be the general account and the lease rental account. After the accounts are established, all money transferred to the development authority fund under subsection (b)(1) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by the eligible political subdivision and the development authority under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the secretary-treasurer of the development authority to the unit that contributed the money to the development authority.

(d) Notwithstanding subsection (c), if the amount of all money transferred to a development authority fund under subsection (b)(1) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to the product of:

(1) one and twenty-five hundredths (1.25); multiplied by

(2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

then all or a part of the excess may instead be deposited in the general account.

(e) All other money and revenue of a development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(f) A development authority fund shall be administered by the development authority that established the development authority fund.

(g) Money in a development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-2

Revenue transfers to fund

Sec. 2. (a) Beginning January 1 of the year following the year in which a development authority is established, the fiscal officer of each county and each municipality that is a member of the development authority shall transfer the amount determined under subsection (b) to the development authority for deposit in the development authority fund.

(b) The amount of the transfer required each year by subsection (a) from each county and each municipality is equal to the following:

(1) Except as provided in subdivision (2), the amount that would be distributed to the county or the municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of five-hundredths of one percent (0.05%) in the county.

(2) In the case of a county or municipality that becomes a member of a development authority after June 30, 2011, and before July 1, 2013, the amount that would be distributed to the county or municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of twenty-five thousandths of one percent (0.025%) in the county.

(c) Notwithstanding subsection (b), if the additional county economic development income tax under IC 6-3.5-7-28 is in effect in a county, the obligations of the county and each municipality in the county under this section are satisfied by the transfer to the development fund of all county economic development income tax revenue derived from the additional tax and deposited in the county regional development authority fund.

(d) The following apply to the transfers required by this section:

(1) The transfers shall be made without appropriation by the fiscal body of the county or the fiscal body of the municipality.

(2) Except as provided in subdivision (3), the fiscal officer of each county and each municipality that is a member of the development authority shall transfer twenty-five percent (25%) of the total transfers due for the year before the last business day of January, April, July, and October of each year.

(3) County economic development income tax revenue derived from the additional county economic development income tax under IC 6-3.5-7-28 must be transferred to the development fund not more than thirty (30) days after being deposited in the

county regional development fund.

(4) This subdivision does not apply to a county in which the additional county economic development income tax under IC 6-3.5-7-28 has been imposed or to any municipality in the county. The transfers required by this section may be made from any local revenue (other than property tax revenue) of the county or municipality, including excise tax revenue, income tax revenue, local option tax revenue, riverboat tax revenue, distributions, incentive payments, or money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16.

As added by P.L.232-2007, SEC.7. Amended by P.L.172-2011, SEC.158.

IC 36-7.6-4-3

Bond issues

Sec. 3. (a) Subject to subsection (h), a development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or

(3) funding or refunding bonds issued under this chapter, IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law.

(b) The bonds are payable solely from:

(1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and

(2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.

(c) The bonds must be authorized by a resolution of the development board of the development authority that issues the bonds.

(d) The terms and form of the bonds must either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within forty (40) years.

(f) A development board shall sell the bonds only to the Indiana bond bank established by IC 5-1.5-2-1 upon the terms determined by the development board and the Indiana bond bank.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;
(4) architectural, engineering, consultant, and attorney's fees;
(5) incidental expenses in connection with the issuance and sale of bonds;
(6) reserves for principal and interest;
(7) interest during construction;
(8) financial advisory fees;
(9) insurance during construction;
(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.

(h) A development authority may not issue bonds under this article unless the development authority first finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-4
Bonding; complete authority

Sec. 4. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by a development board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-5
Bonding; security; trust indenture

Sec. 5. (a) A development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank in Indiana that has trust powers.

(b) The trust indenture may:
(1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;
(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;
(3) set forth the rights and remedies of bondholders and trustees; and

(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-6

Bond refunding; leases

Sec. 6. (a) Bonds issued under IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law may be refunded as provided in this section.

(b) An eligible political subdivision may:

(1) lease all or a part of land or a project or projects to a development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision, conditioned upon the development authority assuming bonds issued under IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law and issuing its bonds to refund those bonds; and

(2) sell all or a part of land or a project or projects to a development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-7

Leases; findings

Sec. 7. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from a development authority to an eligible political subdivision:

(1) may not have a term exceeding forty (40) years;

(2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;

(3) may contain provisions:

(A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and

(B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;

(4) may contain an option to renew the lease for the same or a shorter term on the conditions provided in the lease;

(5) must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;
(6) may be entered into before acquisition or construction of a project;
(7) may provide that the eligible political subdivision shall agree to:
(A) pay any taxes and assessments on the project;
(B) maintain insurance on the project for the benefit of the development authority;
(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and
(D) pay a deposit or series of deposits to the development authority from any funds available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and
(8) must provide that the lease rental payments by the eligible political subdivision shall be made from the development authority fund established under section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:
(A) net revenues of the project;
(B) any other funds available to the eligible political subdivision; or
(C) both sources described in clauses (A) and (B).
As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-8
Leases; complete authority
Sec. 8. This chapter contains full and complete authority for leases between a development authority and an eligible political subdivision. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by a development authority or the eligible political subdivision or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-9
Plan approval
Sec. 9. If the lease provides for a project or improvements to a project to be constructed by a development authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-10
Agreements; common wall; easements; licenses

Sec. 10. A development authority and an eligible political subdivision may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the project is located.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-11
Leases or sale of projects or land to development authorities

Sec. 11. (a) An eligible political subdivision may lease for a nominal lease rental, or sell to a development authority, one (1) or more projects or parts of a project or land on which a project is located or is to be constructed.

(b) Any lease of all or a part of a project by an eligible political subdivision to a development authority must be for a term equal to the term of the lease of that project back to the eligible political subdivision.

(c) An eligible political subdivision may sell property to a development authority for the amount the eligible political subdivision determines to be in the best interest of the eligible political subdivision. The development authority may pay that amount from the proceeds of bonds of the development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-12
Option to purchase property

Sec. 12. If an eligible political subdivision exercises its option to purchase leased property, the eligible political subdivision may issue its bonds as authorized by statute.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-13
Tax exemption

Sec. 13. (a) All:

(1) property owned by a development authority;

(2) revenue of a development authority; and

(3) bonds issued by a development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All securities issued under this chapter are exempt from the registration requirements of IC 23-19 and other securities registration statutes.

As added by P.L.232-2007, SEC.7. Amended by P.L.1-2009,

SEC.169.

IC 36-7.6-4-14
Bonds; legal investments

Sec. 14. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associates, credit unions, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-15
Bonds; contesting validity

Sec. 15. An action to contest the validity of bonds to be issued under this chapter may not be brought after the time limitations set forth in IC 5-1-14-13.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-16
Transfers; failure to make transfer; duty of state treasurer

Sec. 16. (a) This section applies if:

(1) a county or municipality that is a member of a development authority fails to make a transfer or a part of a transfer required by section 2 of this chapter; and

(2) the development authority has bonds or other debt or lease obligations outstanding.

(b) The treasurer of state shall do the following:

(1) Withhold an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the county or municipality failed to make from money in the possession of the state that would otherwise be available for distribution to the county or municipality under any other law.

(2) Pay the amount withheld under subdivision (1) to the development authority.

As added by P.L.232-2007, SEC.7. Amended by P.L.146-2008, SEC.775.

IC 36-7.6-4-17
Covenants

Sec. 17. (a) If there are bonds outstanding that have been issued under this article by a development authority and are not secured by a lease, or if there are leases in effect under this article, the general assembly covenants that it will not reduce the amount required to be transferred under section 2 of this chapter from a county or municipality that is a member of a development authority to the development authority below an amount that would produce one and twenty-five hundredths (1.25) multiplied by the total of the highest

annual debt service on the bonds to their final maturity plus the highest annual lease payments on the leases to their final termination date.

(b) The general assembly also covenants that it will not:

(1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this chapter; or

(2) in any way impair the rights of owners of bonds of a development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter;

except as otherwise set forth in subsection (a).

As added by P.L.232-2007, SEC.7.

IC 36-8

ARTICLE 8. PUBLIC SAFETY

IC 36-8-1

Chapter 1. Definitions

IC 36-8-1-1

Application of chapter

Sec. 1. The definitions in IC 36-1-2 and in this chapter apply throughout this article.

As added by Acts 1980, P.L.211, SEC.3. Amended by Acts 1981, P.L.309, SEC.40.

IC 36-8-1-2

"1925 fund"

Sec. 2. "1925 fund" refers to a police pension fund established under IC 36-8-6.

As added by Acts 1981, P.L.309, SEC.41.

IC 36-8-1-3

"1937 fund"

Sec. 3. "1937 fund" refers to a firefighters' pension fund established under IC 36-8-7.

As added by Acts 1981, P.L.309, SEC.42.

IC 36-8-1-4

"1953 fund"

Sec. 4. "1953 fund" refers to the police pension fund established under IC 36-8-7.5.

As added by Acts 1981, P.L.309, SEC.43. Amended by Acts 1982, P.L.77, SEC.10.

IC 36-8-1-5

"1977 fund"

Sec. 5. "1977 fund" refers to the police officers' and firefighters' pension and disability fund established under IC 36-8-8.

As added by Acts 1981, P.L.309, SEC.44.

IC 36-8-1-6

Repealed

(*Repealed by P.L.329-1985, SEC.26.)*

IC 36-8-1-7

"Local board"

Sec. 7. "Local board" means the board of trustees of a 1925, 1937, or 1953 fund.

As added by Acts 1981, P.L.309, SEC.46.

IC 36-8-1-8

"Member of the fire department"

Sec. 8. "Member of the fire department" means the fire chief or a firefighter appointed to the department.
As added by Acts 1981, P.L.309, SEC.47.

IC 36-8-1-9
"Member of the police department"

Sec. 9. (a) Except as provided in subsection (b), "member of the police department" means the police chief or a police officer appointed to the department.

(b) "Member of the police department", for purposes of IC 36-8-4-7, does not include the police chief hired under a waiver under IC 36-8-4-6.5(c).
As added by Acts 1981, P.L.309, SEC.48. Amended by P.L.148-1992, SEC.1.

IC 36-8-1-10
"Public way"

Sec. 10. "Public way" includes highway, street, avenue, boulevard, road, land, or alley.
As added by Acts 1981, P.L.309, SEC.49.

IC 36-8-1-11
"Salary of a first class patrolman or first class firefighter"; longevity increases

Sec. 11. (a) "Salary of a first class patrolman or first class firefighter" means the base salary of a patrolman or firefighter plus all longevity increases, if provided by the employer, for service of twenty (20) years or less but does not include remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off.

(b) With respect to the 1925, 1937, and 1953 funds, "salary of a first class patrolman or firefighter" may include longevity increases for more than twenty (20) years of service at the option of the employer but only if these longevity increases had taken effect before January 1, 1983.
As added by Acts 1981, P.L.309, SEC.50. Amended by P.L.359-1983, SEC.1.

IC 36-8-1-12
"Upper level policymaking position"

Sec. 12. "Upper level policymaking position" refers to the position held by the police chief or fire chief and to each position held by the members of the police department or fire department in:

(1) the next rank and pay grade immediately below the chief, if the authorized size of the department is:

(A) more than ten (10) but less than fifty-one (51) members, in the case of a police department; or

(B) more than ten (10) but less than two hundred one (201) members, in the case of a fire department; or

(2) the next two (2) ranks and pay grades immediately below the chief, if the authorized size of the department is:

(A) more than fifty (50) members, in the case of a police department; or

(B) more than two hundred (200) members, in the case of a fire department.

As added by Acts 1981, P.L.309, SEC.51.

IC 36-8-1-13

"Americans with Disabilities Act"

Sec. 13. "Americans with Disabilities Act" means the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and all applicable regulations and amendments, if any, related to the Act.

As added by P.L.4-1992, SEC.21.

IC 36-8-2

Chapter 2. General Powers Concerning Public Safety

IC 36-8-2-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-2

Police and law enforcement system

Sec. 2. A unit may establish, maintain, and operate a police and law enforcement system to preserve public peace and order and may provide facilities and equipment for that system.

As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-3

Firefighting and fire prevention system

Sec. 3. A unit may establish, maintain, and operate a firefighting and fire prevention system and may provide facilities and equipment for that system.

As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-4

Regulation of dangerous conduct or property

Sec. 4. A unit may regulate conduct, or use or possession of property, that might endanger the public health, safety, or welfare.

As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-5

Medical care, health, and community services; hospitals

Sec. 5. A unit may provide medical care or other health and community services to persons and may impose restrictions upon persons or animals that might cause other persons or animals to be injured or contract diseases. A unit may also establish, aid, maintain, and operate hospitals.

As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-6

Animals; capture and destruction; shelters

Sec. 6. A unit may capture and destroy animals if necessary and may establish, maintain, and operate animal shelters.

As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-7

Regulation of business use of watercourse

Sec. 7. A unit may regulate any business use of a watercourse.

As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-8

Regulation of introduction of substance, odor, or sound in air

Sec. 8. A unit may regulate the introduction of any substance or odor into the air, or any generation of sound.
As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-9
Regulation of public gatherings
Sec. 9. A unit may regulate public gatherings, such as shows, demonstrations, fairs, conventions, sporting events, and exhibitions.
As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-10
Regulation of businesses and professions
Sec. 10. A unit may regulate the operation of businesses, crafts, professions, and occupations.
As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-11
Regulation of solicitations
Sec. 11. A unit may regulate solicitation by persons offering goods or services to the public or solicitation for charitable causes.
As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-2-12
Weights and measures standards control system
Sec. 12. A unit may establish, maintain, and operate a weights and measures standards control system. However, a unit may not establish fees for inspections or tests relating to weights and measures.
As added by Acts 1980, P.L.211, SEC.3. Amended by P.L.171-1985, SEC.2.

IC 36-8-2-13
Extraterritorial powers
Sec. 13. A municipality may exercise powers granted by sections 4, 5, and 6 of this chapter in areas within four (4) miles outside its corporate boundaries.
As added by Acts 1980, P.L.211, SEC.3.

IC 36-8-3

Chapter 3. Safety Boards; Disciplinary Procedures

IC 36-8-3-1

Application of chapter

Sec. 1. This chapter applies to second and third class cities. It also applies to other units, where specifically indicated.

As added by Acts 1981, P.L.309, SEC.52. Amended by Acts 1981, P.L.44, SEC.55.

IC 36-8-3-2

Powers and duties of safety boards

Sec. 2. (a) The safety board of a city shall administer the police and fire departments of the city, except as provided by any statute or ordinance referred to in section 5 of this chapter.

(b) The safety board has exclusive control over all matters and property relating to the following:

(1) Police department.

(2) Fire department, fire alarms, and fire escapes.

(3) Animal shelters.

(4) Inspection of buildings.

(c) The safety board may purchase the equipment and supplies and make the repairs needed in the department of public safety.

(d) The safety board may:

(1) adopt rules for the government and discipline of the police and fire departments; and

(2) adopt general and special orders to the police and fire departments through the chiefs of the departments.

As added by Acts 1981, P.L.309, SEC.52. Amended by Acts 1982, P.L.33, SEC.35.

IC 36-8-3-3

Organization of safety boards; appointment of police officers, firefighters, and other officials

Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing the member to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

(1) the members and other employees of the police department other than those in an upper level policymaking position;

(2) the members and other employees of the fire department other than those in an upper level policymaking position;

(3) a market master; and

(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body not later than November 1 of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey the city executive's orders and directions, notwithstanding any law or rule to the contrary.

As added by Acts 1981, P.L.309, SEC.52. Amended by Acts 1981, P.L.315, SEC.1; Acts 1982, P.L.33, SEC.36; P.L.35-1999, SEC.7; P.L.125-2001, SEC.6; P.L.173-2003, SEC.31; P.L.169-2006, SEC.78; P.L.33-2010, SEC.2; P.L.118-2012, SEC.2.

IC 36-8-3-4

Police officers and firefighters; discipline, demotion, and dismissal; hearings; appeals; administrative leave

Sec. 4. (a) This section also applies to all towns and townships that have full-time, paid police or fire departments. For purposes of this section, the appropriate appointing authority of a town or township is considered the safety board of a town or township. In a town with a board of metropolitan police commissioners, that board is considered the safety board of the town for police department purposes.

(b) Except as provided in subsection (m), a member of the police or fire department holds office or grade until the member is dismissed or demoted by the safety board. Except as provided in subsection (n), a member may be disciplined by demotion, dismissal, reprimand, forfeiture, or suspension upon either:

(1) conviction in any court of any crime; or

(2) a finding and decision of the safety board that the member has been or is guilty of any one (1) or more of the following:

(A) Neglect of duty.

(B) A violation of rules.

(C) Neglect or disobedience of orders.

(D) Incapacity.

(E) Absence without leave.
(F) Immoral conduct.
(G) Conduct injurious to the public peace or welfare.
(H) Conduct unbecoming an officer.
(I) Another breach of discipline.

The safety board may not consider the political affiliation of the member in making a decision under this section. If a member is suspended or placed on administrative leave under this subsection, the member is entitled to the member's allowances for insurance benefits to which the member was entitled before being suspended or placed on administrative leave. In addition, the local unit may provide the member's allowances for any other fringe benefits to which the member was entitled before being suspended or placed on administrative leave.

(c) Before a member of a police or fire department may be suspended in excess of five (5) days without pay, demoted, or dismissed, the safety board shall offer the member an opportunity for a hearing. If a member desires a hearing, the member must request the hearing not more than five (5) days after the notice of the suspension, demotion, or dismissal. Written notice shall be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The hearing conducted under this subsection shall be held not more than thirty (30) days after the hearing is requested by the member, unless a later date is mutually agreed upon by the parties. The notice must state:

(1) the time and place of the hearing;
(2) the charges against the member;
(3) the specific conduct that comprises the charges;
(4) that the member is entitled to be represented by counsel;
(5) that the member is entitled to call and cross-examine witnesses;
(6) that the member is entitled to require the production of evidence; and
(7) that the member is entitled to have subpoenas issued, served, and executed in the county where the unit is located.

If the corporation counsel or city attorney is a member of the safety board of a city, the counsel or attorney may not participate as a safety board member in a disciplinary hearing concerning a member of either department. The safety board shall determine if a member of the police or fire department who is suspended in excess of five (5) days shall continue to receive the member's salary during the suspension.

(d) Upon an investigation into the conduct of a member of the police or fire department, or upon the trial of a charge preferred against a member of either department, the safety board may compel the attendance of witnesses, examine them under oath, and require the production of books, papers, and other evidence at a meeting of the board. For this purpose, the board may issue subpoenas and have them served and executed in any part of the county where the unit is

located. If a witness refuses to testify or to produce books or papers in the witness's possession or under the witness's control, IC 36-4-6-21 controls to the extent applicable. The proper court may compel compliance with the order by attachment, commitment, or other punishment.

(e) The reasons for the suspension, demotion, or dismissal of a member of the police or fire department shall be entered as specific findings of fact upon the records of the safety board. A member who is suspended for a period exceeding five (5) days, demoted, or dismissed may appeal the decision to the circuit or superior court of the county in which the unit is located. However, a member may not appeal any other decision.

(f) An appeal under subsection (e) must be taken by filing in court, within thirty (30) days after the date the decision is rendered, a verified complaint stating in concise manner the general nature of the charges against the member, the decision of the safety board, and a demand for the relief asserted by the member. A bond must also be filed that guarantees the appeal will be prosecuted to a final determination and that the plaintiff will pay all costs adjudged against the plaintiff. The bond must be approved as bonds for costs are approved in other cases. The unit must be named as the sole defendant, and the plaintiff shall have a summons issued as in other cases against the unit. Neither the safety board nor the members of it may be made parties defendant to the complaint, but all are bound by service upon the unit and the judgment rendered by the court.

(g) In an appeal under subsection (e), no pleading is required by the unit to the complaint, but the allegations are considered denied. The unit may file a motion to dismiss the appeal for failure to perfect it within the time and in the manner required by this section. If more than one (1) person was included in the same charges and in the same decision of dismissal by the safety board, then one (1) or more of the persons may join as plaintiffs in the same complaint, but only the persons that appeal from the decision are affected by it. The decision of the safety board is final and conclusive upon all persons not appealing. The decision appealed from is not stayed or affected pending the final determination of the appeal, but remains in effect unless modified or reversed by the final judgment of the court.

(h) A decision of the safety board is considered prima facie correct, and the burden of proof is on the party appealing. All appeals shall be tried by the court. The appeal shall be heard de novo only upon any new issues related to the charges upon which the decision of the safety board was made. The charges are considered to be denied by the accused person. Within ten (10) days after the service of summons the safety board shall file in court a complete transcript of all papers, entries, and other parts of the record relating to the particular case. Inspection of these documents by the person affected, or by the person's agent, must be permitted by the safety board before the appeal is filed, if requested. Each party may produce evidence relevant to the issues that it desires, and the court shall review the record and decision of the safety board upon appeal.

(i) The court shall make specific findings and state the conclusions of law upon which its decision is made. If the court finds that the decision of the safety board appealed from should in all things be affirmed, its judgment should state that, and judgment for costs shall be rendered against the party appealing. If the court finds that the decision of the safety board appealed from should not be affirmed in all things, then the court shall make a general finding, setting out sufficient facts to show the nature of the proceeding and the court's decision on it. The court shall either:

(1) reverse the decision of the safety board; or

(2) order the decision of the safety board to be modified.

(j) The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify and file a copy of the final judgment of the court to the safety board, which shall conform its decisions and records to the order and judgment of the court. If the decision is reversed or modified, then the safety board shall pay to the party entitled to it any salary or wages withheld from the party pending the appeal and to which the party is entitled under the judgment of the court.

(k) Either party shall be allowed a change of venue from the court or a change of judge in the same manner as such changes are allowed in civil cases. The Indiana Rules of Trial Procedure govern in all matters of procedure upon the appeal that are not otherwise provided for by this section.

(l) An appeal takes precedence over other pending litigation and shall be tried and determined by the court as soon as practical.

(m) Except as provided in IC 36-5-2-13, the executive may reduce in grade any member of the police or fire department who holds an upper level policy making position. The reduction in grade may be made without adhering to the requirements of subsections (b) through (l). However, a member may not be reduced in grade to a rank below that which the member held before the member's appointment to the upper level policy making position.

(n) If the member is subject to criminal charges, the board may place the member on administrative leave until the disposition of the criminal charges in the trial court. Any other action by the board is stayed until the disposition of the criminal charges in the trial court. An administrative leave under this subsection may be with or without pay, as determined by the board. If the member is placed on leave without pay, the board, in its discretion, may award back pay if the member is exonerated in the criminal matter.

As added by Acts 1981, P.L.309, SEC.52. Amended by Acts 1981, P.L.315, SEC.2; P.L.104-1983, SEC.5; P.L.58-1989, SEC.3; P.L.265-1993, SEC.1; P.L.234-1996, SEC.1; P.L.34-1999, SEC.5.

IC 36-8-3-4.1

Certain towns and townships; reprimand or temporary suspension of members without prior hearing; review by safety board

Sec. 4.1. (a) This section also applies to all towns and townships that have full-time, paid police or fire departments. For purposes of

this section, the appropriate appointing authority of a town or township is considered the safety board of a town or township. In a town with a board of metropolitan police commissioners, that board is considered the safety board of the town.

(b) In addition to the disciplinary powers of the safety board, the chief of the department may, without a hearing, reprimand or suspend without pay a member, including a police radio or signal alarm operator or a fire alarm operator, for a maximum of five (5) working days. For the purposes of this section, eight (8) hours of paid time constitutes one (1) working day. If a chief reprimands a member in writing or suspends a member, the chief shall, within forty-eight (48) hours, notify the board in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended under this section may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the board review the reprimand or suspension and either uphold or reverse the chief's decision. At its discretion, the board may hold a hearing during this review. If the board holds a hearing, written notice must be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must contain the information listed under section 4(c) of this chapter. If the decision is reversed, the member who was suspended is entitled to any wages withheld as a result of the suspension.

As added by Acts 1981, P.L.183, SEC.22. Amended by P.L.265-1993, SEC.2.

IC 36-8-3-4.3

Suspension or termination of EMS personnel; right to hearing and appeal

Sec. 4.3. (a) This section also applies to a town or township that has at least one (1) certified employee of a full-time, paid fire or police department, without regard to whether:

(1) the employee is an appointed police officer or firefighter; or

(2) under section 5 of this chapter, the police or fire department is exempt from sections 3, 4, and 4.1 of this chapter.

(b) As used in this section, "certified employee" means an individual who, as a condition of employment, holds a valid certification issued under IC 16-31-3 by the Indiana emergency medical services commission established by IC 16-31-2-1.

(c) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.

(d) If a medical director takes any of the following actions against a certified employee, the medical director shall provide to the certified employee and to the chief of the certified employee's department a written explanation of the reasons for the action taken by the medical director:

(1) The medical director refuses or fails to supervise or

otherwise provide medical control and direction to the certified employee.

(2) The medical director refuses or fails to attest to the competency of the certified employee to perform emergency medical services.

(3) The medical director suspends the certified employee from performing emergency medical services.

(e) Before a police or fire department takes any employment related action against a certified employee as the result of a medical director's action described in subsection (d), the certified employee is entitled to a hearing and appeal concerning the medical director's action as provided in section 4 of this chapter.

(f) If the medical director's action that is the subject of an appeal under subsection (e) is based on a health care decision made by the certified employee in performing emergency medical services, the safety board conducting the hearing shall consult with an independent medical expert to determine whether the certified employee followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

(1) must be a physician trained in emergency medical services; and

(2) may not be affiliated with the same hospital as the medical director.

As added by P.L.13-2010, SEC.1.

IC 36-8-3-5

Merit boards and commissions; exemption from statutory procedure

Sec. 5. Except as provided in section 4.3 of this chapter, sections 3, 4, and 4.1 of this chapter do not apply to a police or fire department having a board or commission established by statute or ordinance to establish or administer policies based on merit for the appointment, promotion, demotion, and dismissal of members of the department, unless the establishing law specifically incorporates one (1) or more of those sections.

As added by Acts 1981, P.L.309, SEC.52. Amended by Acts 1981, P.L.183, SEC.23; Acts 1982, P.L.33, SEC.37; P.L.13-2010, SEC.2.

IC 36-8-3-6

Police officers; powers and duties

Sec. 6. (a) This section applies to:

(1) all municipalities; and

(2) a county having a consolidated city.

(b) A warrant of search or arrest, issued by any judge, may be executed in the municipality by:

(1) any municipal police officer; or

(2) a member of the consolidated law enforcement department established under IC 36-3-1-5.1;

subject to the laws governing arrest and bail.

(c) The police officers of a municipality or a member of the consolidated law enforcement department shall:

(1) serve all process within the municipality or the consolidated city issuing from the city or town court;

(2) arrest, without process, all persons who within view violate statutes, take them before the court having jurisdiction of the offense, and retain them in custody until the cause of the arrest has been investigated;

(3) enforce municipal ordinances in accordance with IC 36-1-6;

(4) suppress all breaches of the peace within their knowledge and may call to their aid the power of the municipality or the consolidated city and pursue and commit to jail persons guilty of crimes;

(5) serve all process issued by:

(A) the legislative body of the municipality or the consolidated city;

(B) any committee of the legislative body of the municipality or the consolidated city; or

(C) any of the executive departments of the municipality or the consolidated city;

(6) serve the city or town court and assist the bailiff in preserving order in the court; and

(7) convey prisoners to and from the county jail or station houses of the municipality or the consolidated city for arraignment or trial in the city or town court or to the place of imprisonment under sentence of the court.

As added by Acts 1981, P.L.309, SEC.52. Amended by Acts 1982, P.L.33, SEC.38; P.L.227-2005, SEC.37.

IC 36-8-3-7

Police officers and firefighters; special duty; school security police

Sec. 7. (a) The safety board may detail regular police officers or firefighters, or appoint and swear an additional number of special police officers or firefighters, to do special duty within the city. Regular police officers and firefighters serving special duty shall be paid the same rate per diem for this service as is paid to members of the department in their regular employment. The board may determine the compensation of persons serving special duty in all other cases.

(b) Unless the safety board designates otherwise, the special police officers are subject to the police chief and the special firefighters are subject to the fire chief. If they are employees of departments other than the police or fire department, they shall obey the rules of their respective departments and conform to its discipline and orders to the extent these do not conflict with the orders of the safety board. A person other than a regular police officer or firefighter may not wear a uniform the design of which is not easily distinguishable from or which conforms with respect to the color or design of the state police or a sheriff's patrol of the county in which the city is located or the police or fire department of the city. Special

police officers and firefighters, during the term of their appointment, have those powers, privileges, and duties assigned to them by the safety board. They have these powers, privileges, and duties only while fulfilling the specific responsibilities for which the appointment is made. Persons other than regular police officers and firefighters appointed under this section may be removed by the safety board at any time without notice and without assigning any cause.

(c) The powers and duties of officers appointed to serve as security police for school corporations include:

(1) the protection of school personnel while on school business, including school children, employees, and members of the governing body of the school corporation; and

(2) the protection of all school corporation property.

(d) Auxiliary firefighters directly connected with and created to augment the regular fire departments may wear a uniform the design of which is established by the safety board. Persons so appointed may be removed at any time by the board, without notice and without assigning any cause.

(e) In time of emergency the safety board may also detail members from the police or fire department for the use of any other department of the city government.

As added by Acts 1981, P.L.309, SEC.52. Amended by P.L.360-1983, SEC.1.

IC 36-8-3-8

Police department; civilian personnel; merit system

Sec. 8. (a) The safety board may employ civilian technical and clerical personnel to work with the police department as civilian radio operators, radio technicians, chemical technicians, laboratory technicians, and other civilian technical personnel and clerical personnel that are required. The safety board shall fix the salary to be paid to the civilian technical and clerical personnel subject to the budgetary procedures applicable to the department of public safety. The civilian technical and clerical personnel are not eligible to be members of any police pension fund.

(b) The safety board may establish a merit system for civilian personnel appointed under subsection (a). However, in establishing a system the safety board shall consult with the state personnel board concerning the form and content of the merit system.

As added by Acts 1981, P.L.309, SEC.52.

IC 36-8-3-9

Oaths; depositions

Sec. 9. The safety board, police chief, and fire chief may administer oaths to a person summoned in a proceeding authorized by this chapter and may take depositions under the rules or orders of the board.

As added by Acts 1981, P.L.309, SEC.52.

IC 36-8-3-10
Police departments, chiefs, and captains; powers and duties

Sec. 10. (a) The police department shall, within the city:

(1) preserve peace;
(2) prevent offenses;
(3) detect and arrest criminals;
(4) suppress riots, mobs, and insurrections;
(5) disperse unlawful and dangerous assemblages and assemblages that obstruct the free passage of public streets, sidewalks, parks, and places;
(6) protect the rights of persons and property;
(7) guard the public health;
(8) preserve order at elections and public meetings;
(9) direct the movement of vehicles in public ways or public places;
(10) remove all nuisances in public parks or public ways;
(11) provide proper police assistance at fires;
(12) assist, advise, and protect strangers and travelers in public ways or at transportation facilities;
(13) carefully observe and inspect all places of business under license, or required to have them; and
(14) enforce and prevent the violation of all laws in force in the city.

(b) The police chief and each captain, in the captain's precinct or district, may supervise and inspect all pawnbrokers, vendors, junkshop keepers, cartmen, expressmen, dealers in secondhand merchandise, intelligence offices, architectural salvage material dealers (as defined in IC 24-4-16-3), and auctions. Any member of the department may be authorized by the chief in writing to exercise the same powers.

As added by Acts 1981, P.L.309, SEC.52. Amended by P.L.63-2008, SEC.6.

IC 36-8-3-11
Repealed

(*Repealed by P.L.148-1995, SEC.8.)*

IC 36-8-3-12
Board members, police officers, and firefighters; elective and appointive office

Sec. 12. Subject to IC 3-5-9, members of the safety board and members of any township, town, or city (including a consolidated city) police department, fire department, or volunteer fire department (as defined by IC 36-8-12-2) may:

(1) be candidates for elective office and serve in that office if elected;
(2) be appointed to any office and serve in that office if appointed; and
(3) as long as they are not in uniform and not on duty, solicit votes and campaign funds and challenge voters for the office for

which they are candidates.
As added by Acts 1981, P.L.309, SEC.52. Amended by P.L.376-1985, SEC.1; P.L.347-1987, SEC.1; P.L.1-1999, SEC.83; P.L.135-2012, SEC.10.

IC 36-8-3-13
Adoption of rules regulating performance bonds
Sec. 13. The safety board may, subject to city ordinances, adopt rules regulating the giving of bond by an appointee or class of appointees in the department for faithful performance of official duty.
As added by Acts 1981, P.L.309, SEC.52.

IC 36-8-3-14
Police and firefighters' insurance funds; creation, management, and distribution
Sec. 14. (a) This section does not apply to second class cities.
(b) The safety board may draft an ordinance and submit it to the legislative body for the creation, management, and distribution of a police insurance fund or a firefighters' insurance fund, including a provision for retaining a certain percentage of each appointee's salary for the creation of the fund. The ordinance must prescribe the conditions of investment and who is entitled to the benefits.
As added by Acts 1981, P.L.309, SEC.52.

IC 36-8-3-15
Police officers and firefighters; exemption from militia service
Sec. 15. (a) This section also applies to all members of a fire department organized by a town.
(b) Members of the police and fire departments are exempt from service in the militia, except in case of war, invasion, or insurrection.
As added by Acts 1981, P.L.309, SEC.52. Amended by P.L.4-1998, SEC.14.

IC 36-8-3-16
Destruction of burning buildings; recovery of damages
Sec. 16. If a building in the city is on fire, or if a building adjacent to it is liable to take or convey fire to other buildings and cause great destruction of property, the fire chief, or his assistant acting as chief with the concurrence of the executive or of the safety board, may take down, blow up, or destroy the building or buildings. An action may not be maintained against a person for this action, but the owner of such a building may, in a civil action, recover damages from the city for its destruction.
As added by Acts 1981, P.L.309, SEC.52.

IC 36-8-3-17
Repealed
(*Repealed by P.L.104-1983, SEC.7.)*

IC 36-8-3-18
Humane officers; appointment; powers and duties

Sec. 18. A humane officer shall be appointed in every city from among the members of the police department. The humane officer shall detect and arrest persons violating humane statutes. He is entitled to the same pay as other police officers of the city and is subject to the control and discipline of the police department. If there is an incorporated humane society in the city, the humane officer shall attend the stated and special meetings of the society and shall report to it, at least once a month, on all matters relating to his duties under law for the previous month. If a humane statute or ordinance has, to his knowledge, been violated, he shall, if directed by the president of the humane society, file his affidavits before a court charging the person violating the law with the violation.
As added by Acts 1981, P.L.309, SEC.52.

IC 36-8-3-19
Police matrons; appointment; powers and duties; accommodations; compensation; qualifications

Sec. 19. (a) The safety board may appoint a police matron, including assistants that are necessary. The matron shall receive, search, and properly care for, at the jail or station house, all female prisoners who are arrested and detained in custody in the city. The matron is not a member of the police department of the city, but has all the authority delegated to a police officer. The matron is subject to rules that are prescribed for her by the safety board or by ordinance and may be removed by the board for good cause shown.

(b) The matron shall be given proper accommodations for herself and for all prisoners under her control. She is the jailer in charge of the woman's department of the station house or jail and may summon a police officer or other person to her aid when aid is required. The matron and her assistant or assistants shall be paid the compensation or salaries that are set for other employees of the police department. The matron, or her assistant, shall attend all courts when female prisoners are to be tried and shall take charge of all female prisoners while they are awaiting trial or transfer to or from a place of detention.

(c) The matron must be at least twenty-one (21) years of age, fully qualified, and of good moral character.
As added by Acts 1981, P.L.309, SEC.52. Amended by Acts 1981, P.L.315, SEC.3.

IC 36-8-3-20
Police reserve officers

Sec. 20. (a) This section applies to counties and towns as well as cities.

(b) A unit may provide by ordinance for any number of police reserve officers.

(c) Police reserve officers shall be appointed by the same authority that appoints regular members of the department.

(d) Police reserve officers may be designated by another name specified by ordinance.

(e) Police reserve officers may not be members of the regular police department but have all of the same police powers as regular members, except as limited by the rules of the department. Each department may adopt rules to limit the authority of police reserve officers.

(f) To the extent that money is appropriated for a purpose listed in this subsection, police reserve officers may receive any of the following:

(1) A uniform allowance.

(2) Compensation for time lost from other employment because of court appearances.

(3) Insurance for life, accident, and sickness coverage.

(4) In the case of county police reserve officers, compensation for lake patrol duties that the county sheriff assigns and approves for compensation.

(g) Police reserve officers are not eligible to participate in any pension program provided for regular members of the department.

(h) A police reserve officer may not be appointed until he has completed the training and probationary period specified by rules of the department.

(i) A police reserve officer appointed by the department after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the police reserve officer successfully completes a pre-basic course under IC 5-2-1-9(f).

(j) A police reserve officer may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

(k) A police reserve officer carrying out lake patrol duties under this chapter is immune from liability under IC 34-30-12, notwithstanding the payment of compensation to the officer.

As added by Acts 1981, P.L.309, SEC.52. Amended by P.L.30-1992, SEC.6; P.L.72-1992, SEC.3; P.L.57-1995, SEC.10; P.L.1-1998, SEC.212.

IC 36-8-3-21

Police or fire department members; membership in 1977 fund required

Sec. 21. (a) Except as provided in subsection (b), this section applies to all units.

(b) This subsection does not apply to the appointment of a fire chief under a waiver under IC 36-8-4-6(c) or the appointment of a police chief under a waiver under IC 36-8-4-6.5(c). An individual

may not be employed by a unit after May 31, 1985, as a member of the unit's fire department or as a member of the unit's police department unless the individual meets the conditions for membership in the 1977 fund.

(c) Notwithstanding IC 36-8-1-9, the executive of the unit may request that the 1977 fund accept the following individuals in the 1977 fund under IC 36-8-8-7(h):

(1) A fire chief appointed under a waiver under IC 36-8-4-6(c).

(2) A police chief appointed under a waiver under IC 36-8-4-6.5(c).

As added by P.L.342-1985, SEC.1. Amended by P.L.148-1992, SEC.2; P.L.213-1995, SEC.3.

IC 36-8-3.2

Chapter 3.2. Employment Standards for Public Safety Officers

IC 36-8-3.2-1

Application of chapter

Sec. 1. This chapter applies to the following:

(1) Full-time, fully paid firefighters hired or rehired after July 1, 1989.

(2) Full-time police officers hired or rehired after January 25, 1992.

As added by P.L.394-1987(ss), SEC.1. Amended by P.L.4-1992, SEC.22.

IC 36-8-3.2-1.5

Administration of chapter

Sec. 1.5. This chapter shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

As added by P.L.4-1992, SEC.23.

IC 36-8-3.2-2

Certification of applicants

Sec. 2. A person who is an applicant to become a firefighter or police officer must, before being hired, be certified by the local board to the board of trustees of the Indiana public retirement system as having passed the minimum agility and aptitude tests outlined in this chapter.

As added by P.L.394-1987(ss), SEC.1. Amended by P.L.4-1992, SEC.24; P.L.35-2012, SEC.108.

IC 36-8-3.2-3

Physical agility and aptitude tests; adoption of standards; review

Sec. 3. (a) The appointing authority shall adopt standards for firefighters establishing a physical agility test that:

(1) does not discriminate on the basis of sex;

(2) reflects the essential functions of the job; and

(3) at a minimum includes testing the following:

(A) Fear of heights (acrophobia).

(B) Fear of confinement (claustrophobia).

(C) Muscular strength.

(D) Muscular endurance.

(E) Cardiovascular endurance.

(F) Musculoskeletal flexibility.

(b) The appointing authority shall also adopt standards for firefighters establishing a general aptitude test.

(c) The standards required by this section must be presented to the board of firefighting personnel standards and education established by IC 22-12-3-1 for review.

As added by P.L.394-1987(ss), SEC.1. Amended by P.L.4-1992,

SEC.25.

IC 36-8-3.2-3.5
Physical agility test; standards; general aptitude test; review

Sec. 3.5. (a) The appointing authority shall adopt standards for police officers establishing a physical agility test that:

(1) does not discriminate on the basis of sex;
(2) reflects the essential functions of the job; and
(3) at a minimum includes testing the following:
(A) Muscular strength.
(B) Muscular endurance.
(C) Cardiovascular endurance.
(D) Musculoskeletal flexibility.

(b) The appointing authority may also adopt standards for police officers establishing a general aptitude test.

(c) The standards required by this section must be presented to the law enforcement training board established under IC 5-2-1-3 for review.

As added by P.L.4-1992, SEC.26.

IC 36-8-3.2-4
Administration of tests

Sec. 4. The appointing authority or its designee shall administer the agility and aptitude tests to applicants and shall certify the results to the local board before extending an offer of employment.

As added by P.L.394-1987(ss), SEC.1. Amended by P.L.4-1992, SEC.27.

IC 36-8-3.2-5
Physical agility test; additional requirement

Sec. 5. The physical agility test established under section 3 or 3.5 of this chapter is in addition to the physical examination required under IC 36-8-3.5-12, IC 36-8-4-7, or IC 36-8-8-19.

As added by P.L.394-1987(ss), SEC.1. Amended by P.L.4-1992, SEC.28.

IC 36-8-3.2-6
Additional standards

Sec. 6. An appointing authority may establish additional standards as a condition of employment. Any standards established under this section are in addition to the standards required by IC 36-8-8-19 and the standards identified in section 3 or 3.5 of this chapter.

As added by P.L.4-1992, SEC.29.

IC 36-8-3.5

Chapter 3.5. Police and Fire Merit Systems

IC 36-8-3.5-1

Application of chapter; retention of existing systems; establishment of new system

Sec. 1. (a) This chapter applies to each municipality or township that has a full-time paid police or fire department. A municipality may exercise the power of establishing a merit system for its police or fire department under this chapter or by ordinance adopted under IC 36-1-4-14. A township may exercise the power of establishing a merit system for its fire department under this chapter or by resolution under IC 36-1-4-14. This chapter does not affect merit systems established:

(1) by ordinance under IC 36-1-4-14, except as provided by subsection (e) and section 19.3 of this chapter;

(2) by resolution under IC 36-1-4-14, except as provided by subsection (f) and section 19.3 of this chapter; or

(3) by a prior statute, except as provided by subsection (b) and section 19.3 of this chapter.

(b) If a city had a merit system for its police or fire department under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2, IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29, IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain that system by ordinance of the city legislative body passed before January 1, 1983. The ordinance must initially incorporate all the provisions of the prior statute but may be amended by the legislative body after December 31, 1984. The ordinance retaining the system must be amended, if necessary, to include a provision under which the commission (or governing board of the merit system) has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must:

(1) be a person of good moral character; and

(2) except for a member of a fire department having a merit system established under IC 19-1-37.5, not be an active member of a police or fire department or agency.

(c) After December 31, 1984, the legislative body also may repeal the ordinance described in subsection (b), but the legislative body shall in the repealing ordinance concurrently establish a new merit system under section 3 of this chapter. (This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend the ordinance under subsection (b).) After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(d) If a city had a merit system for its police or fire department under a prior statute but fails to retain that system under subsection (b), the city legislative body shall, before July 1, 1983, pass an

ordinance to establish a new merit system under section 3 of this chapter. If the new merit system is approved as provided by section 4 of this chapter, it takes effect as provided by that section. However, if the new merit system is rejected under section 4 of this chapter, within thirty (30) days the city legislative body shall adopt an ordinance to retain the prior merit system. The prior merit system remains in effect until the new merit system takes effect, after which time all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(e) An ordinance adopted under IC 36-1-4-14 to establish a police or fire merit system must include a provision under which the commission, or governing board of the merit system, has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must be a person of good moral character who is not an active member of a police or fire department or agency. If an ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the ordinance must be amended to include this requirement.

(f) This chapter does not prevent a township or other unit that has adopted a merit system under section 3 of this chapter from later amending or deleting any provisions of the merit system contained in this chapter. However, the merit system must include a provision under which the commission has at least one-third (1/3) of its members elected by the active members of the department, as set forth in section 8 of this chapter and a provision that incorporates the requirements of section 6(a) of this chapter. This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend under this subsection.

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.189-1988, SEC.7; P.L.310-1989, SEC.1; P.L.3-1990, SEC.128; P.L.180-2002, SEC.1; P.L.1-2003, SEC.100; P.L.13-2010, SEC.3.

IC 36-8-3.5-2
Definitions

Sec. 2. As used in this chapter:

"Commission" refers to the merit commission for a merit system established under this chapter.

"Department" refers to the police or fire department of a unit.

As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-3
Establishment; separate systems

Sec. 3. (a) The legislative body of a unit (other than a township) may, by ordinance, establish a merit system under this chapter for the police or fire department of the unit. The legislative body of a township may, by resolution, establish a merit system under this chapter for the township's fire department. Before the merit system takes effect, however, the system must be approved by a majority of the active members of the department in a referendum.

(b) The legislative body shall specify in the adopting ordinance or resolution which of the provisions of this chapter that are left to its discretion are being adopted.

(c) If a merit system is established under this chapter for each department of a unit, each department has a separate merit system.

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.180-2002, SEC.2.

IC 36-8-3.5-4

Approval or rejection of system by members; notice; voting; subsequent proposals

Sec. 4. (a) Within sixty (60) days after the adoption of an ordinance or resolution establishing a merit system, the safety board shall give at least three (3) weeks' notice to all active members of the department that a meeting will be held to approve or reject the merit system. The notice shall be given by posting it in prominent places in all stations of the department. The notice must designate the time, place, and purpose of the meeting.

(b) A copy of the ordinance or resolution shall be distributed to each active member of the department at least one (1) week before the date of the meeting.

(c) Only active members of the department may attend the meeting, and at the meeting one (1) of them shall be selected as chairman. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the safety board and shall be posted in accordance with subsection (a).

(d) If a majority of the active members of the department vote to approve the merit system, the merit system takes effect on January 1 following the vote. Appointments to the merit commission shall be made by March 1 following that January 1.

(e) If a majority of the active members of the department vote to reject the merit system, another proposal may not be put to a vote within one (1) year after the day the meeting is held.

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.180-2002, SEC.3.

IC 36-8-3.5-5

Request to establish system; referendum; legislative action

Sec. 5. (a) A majority of the active members of the department, by referendum under section 4 of this chapter, may request the unit's legislative body to establish a merit system for the department. The legislative body shall vote on the request within sixty (60) days after it is filed with the clerk of the legislative body of a county or a municipality or the executive of a township.

(b) If the legislative body votes to grant the request, the legislative body shall adopt an ordinance or resolution establishing a merit system under this chapter. A copy of the ordinance or resolution shall be distributed to each active member of the department, and another referendum under section 4 of this chapter is required before the merit system takes effect.

(c) If the legislative body votes to deny the request, the request may not be resubmitted to the legislative body for one (1) year. Before the request may be resubmitted, another referendum under section 4 of this chapter must be held.
As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.180-2002, SEC.4.

IC 36-8-3.5-6
Merit commission; establishment; appointment of members; qualifications; oath

Sec. 6. (a) A merit commission consisting of five (5) commissioners shall be established for each department of a unit having a merit system. The commissioners are:

(1) two (2) persons, who must be of different political parties, appointed by the unit's executive;
(2) one (1) person appointed by the unit's legislative body; and
(3) two (2) persons, who must be of different political parties, elected by the active members of the department.

Notwithstanding IC 36-1-8-10, political affiliation shall be determined through the voters' registration records of the three (3) most recent primary elections.

(b) Each commissioner must have been a legal resident of the unit for three (3) consecutive years immediately preceding the commissioner's term and must be a person of good moral character. The legislative body may, upon the recommendation of the safety board, determine a per diem to be paid to each commissioner for each day of actual service for the commission. A commissioner must be at least twenty-one (21) years of age. A commissioner may not be an active member of a police or fire department or agency and not more than two (2) of the commissioners may be past members of a police or fire department or agency. In addition, a person may not serve on the commission if the person receives any remuneration as salary from the unit.

(c) Each commissioner shall take an oath of office to conscientiously discharge the commissioner's duties. A signed copy of the oath shall be filed with the safety board.
As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.185-1988, SEC.4.

IC 36-8-3.5-7
Commissioners; terms; tenure

Sec. 7. (a) The term of a commissioner is four (4) years. However, one (1) of the executive's initial selections and one (1) of the department's initial selections are for terms of two (2) years.

(b) A vacancy on the commission shall be filled within thirty (30) days by the appointing or electing authority. The selection is for the remainder of the unexpired term.

(c) A commissioner serves at the pleasure of the appointing or electing authority and may be removed at any time. In the case of a commissioner elected by the department, the safety board shall call

a meeting of the active members of the department under the procedures specified in section 4 of this chapter if a recall petition signed by a majority of the active members is submitted to the board.
As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-8
Elections; meeting; notice

Sec. 8. (a) An election to be made by the active members of the department shall be made at a meeting called specifically for that purpose by the safety board. The board shall give at least three (3) weeks' notice of the meeting to all active members of the department by posting the notice in prominent locations in stations of the department. The notice shall also be read during shift roll calls. The notice must designate the time, place, and purpose of the meeting.

(b) Only active members of the department may attend the meeting, and at the meeting one (1) of them shall be selected as chairman. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the safety board and shall be posted in accordance with subsection (a).
As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-9
Rules governing commission; transaction of business; selection of officers; records; budget

Sec. 9. (a) Within thirty (30) days after the commission is selected, the commission shall adopt rules to govern the commission, including the time and place of regular monthly meetings and special meetings that are necessary to transact the business of the commission. A majority of the commissioners constitutes a quorum, and a majority vote of all the commissioners is necessary to transact the business of the commission. Each year the commissioners shall select from among their number a president, vice president, and secretary. The commission shall keep a permanent record of its proceedings.

(b) The commission shall submit a proposed annual budget to the unit as other budgets of the unit are submitted. The legislative body shall include in its budget an amount sufficient for the necessary expenses of the commission.
As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-10
Rules; adoption; notice and hearing

Sec. 10. (a) Within ninety (90) days after the commission is selected, the commission shall adopt rules governing:

(1) the selection and appointment of persons to be employed as members of the department, subject to applicable pension statutes;

(2) promotions and demotions of members of the department; and

(3) disciplinary action or dismissal of members of the

department.

(b) Before the rules required by this chapter are adopted by the commission, the commission must hold a public hearing to consider the adoption of the proposed rules. At least ten (10) days before the public hearing, the commission must have a notice of the hearing published in accordance with IC 5-3-1. The notice must state the time and place of the hearing and give briefly the subject matter of the proposed rules.

(c) At least ten (10) days before the hearing, one (1) copy of the proposed rules must be placed on file in the office of the:

(1) clerk of a county, city, or town; or

(2) executive of a township;

for inspection by residents of the unit.

(d) At least ten (10) days before the hearing, three (3) copies of the proposed rules must be forwarded to the chief of the department and retained on file in the chief's office for inspection at all times by members of the department.

(e) At the hearing, any interested person of the unit and any member of the department must be afforded an opportunity to present both oral and written evidence on any matter relating to the adoption of the proposed rules. The commission shall give due consideration to this evidence in making its final decision concerning the adoption of the proposed rules.

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.180-2002, SEC.5.

IC 36-8-3.5-11

Department members; tenure; chief; appointment and qualifications

Sec. 11. (a) The commission may appoint and remove members of the department, except for a member in an upper level policymaking position. The executive of the unit shall appoint and may remove a member in an upper level policymaking position.

(b) The chief of a fire department shall be selected from the members of the department, and he must have at least five (5) years service in the department before his appointment. These requirements may be waived by a majority vote of the unit's legislative body upon request of the unit's executive. However, the chief must still have at least five (5) years service in a full-time, paid fire department or agency.

(c) To be appointed chief or deputy chief of a police department, an applicant must meet the qualifications in IC 36-8-4-6.5.

(d) The removal of a member from an upper level policymaking position is removal from rank only and not from the department. When the member is removed, he shall be appointed by the commission to the rank in the department that he held at the time of his upper level appointment or to any rank to which he had been promoted during his tenure in the upper level position. If such a rank is not open in either case, the member is entitled to the pay of that rank and shall be promoted to that rank as soon as an opening is

available.
As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.348-1987, SEC.1.

IC 36-8-3.5-12
Department members; appointment; qualifications; application; general aptitude test; ratings; eligibility list; vacancies; physical agility test; probation

Sec. 12. (a) To be appointed to the department, an applicant must be:

(1) a citizen of the United States;
(2) a high school graduate or equivalent; and
(3) at least twenty-one (21) years of age, but under thirty-six (36) years of age.

However, the age requirements do not apply to a person who has been previously employed as a member of the department.

(b) A person may not be appointed, reappointed, or reinstated if he has a felony conviction on his record.

(c) Applications for appointment or reappointment to the department must be filed with the commission. The applicant must produce satisfactory proof of the date and place of his birth.

(d) Applicants for appointment or reappointment to the department must pass the general aptitude test required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5. The general aptitude test shall:

(1) reflect the essential functions of the job;
(2) be conducted according to procedures adopted by the commission; and
(3) be administered in a manner that reasonably accommodates the needs of applicants with a disability.

The results of the general aptitude test shall be filed with the commission. If the commission finds that the applicant lacks the proper qualifications, it shall reject the applicant.

(e) The applicants shall then be rated on the selection criteria and testing methods adopted by the commission, which may include mental alertness, character, habits, and reputation. The commission shall adopt rules for grading the applicants, including the establishment of a passing score. The commission shall place the names of applicants with passing scores on an eligibility list by the order of their scores and shall certify the list to the safety board.

(f) If an applicant for original appointment reaches his thirty-sixth birthday, his name shall be removed from the eligibility list. Applicants remain on the list for two (2) years from the date of certification. After two (2) years a person may reapply as an applicant.

(g) When a vacancy occurs in the department, the commission, upon a written request of the chief of the department, shall administer the physical agility test under IC 36-8-3.2-3 or IC 36-8-3.2-3.5 to the applicant having the highest score on the eligibility list. If the appointed applicant successfully completes the physical agility test, the applicant shall then be enrolled as a member

of the department to fill the vacancy if:

(1) the applicant is still of good character; and

(2) the applicant passes the required examinations identified in IC 36-8-3.2-6 and IC 36-8-8-19.

(h) All appointments are probationary for a period not to exceed one (1) year. If the commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity of the probationary member is not satisfactory, the commission shall notify him in writing that he is being reprimanded, that he is being suspended, or that he will not receive a permanent appointment. If a member is notified that he will not receive a permanent appointment, his employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed.

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.4-1992, SEC.30; P.L.99-2007, SEC.214.

IC 36-8-3.5-13

Promotions; rules; requisites; eligibility list

Sec. 13. (a) Rules governing promotions must provide that the following factors be considered in rating a member of the department for a promotion:

(1) The score received by the member on a written competitive examination.

(2) The score received by the member on an oral competitive interview.

(3) The performance record of the member in the department.

(4) The member's length of service.

The commission shall determine the weight to be given to each of the factors. However, neither a member's length of service nor the score received on the oral interview may comprise more than twenty percent (20%) each of the rating.

(b) Promotions to a rank must be from the next lower rank. In addition, the member being promoted must have served at the lower rank for a period determined by the commission.

(c) Only members who are qualified in rank and length of service may be given the competitive examinations and placed on an eligibility list. The eligibility list for a position consists of members who have been placed on the list in order of their cumulative score on all rating factors. The eligibility list shall be maintained for two (2) years from the date of certification, after which time the list shall be retired and a new list established. The retired list shall be kept for five (5) years and then destroyed.

As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-14

Promotions; competitive examinations; procedures

Revisor's Note: The version of IC 36-8-3.5-14 appearing in the 1993 Edition of the Indiana Code was printed incorrectly. Use the following version of IC 36-8-3.5-14.

Sec. 14. (a) Before a written competitive examination may be held to fill a current or expected vacancy in the ranks, the members eligible to take the examination must be notified of the written materials from which the questions will be taken. The commission may employ instructors, purchase materials, and make other expenditures to provide information for applicants for promotion examinations.

(b) The identity of a member taking the written examination shall be withheld from the person or persons grading the examination, and all written examinations are confidential. The commission shall notify each member in writing of the score that the member received on the examination. The score received by a member on the written examination becomes a part of the permanent file of the member, and the member is entitled to access to this file for examination at any time.

(c) The examination papers shall be kept under the commission's supervision. A member who is aggrieved with the score received on the written examination may appeal to the commission for review of the score. The appeal must be filed within ten (10) days after notice of the score has been sent to him. He may review the questions incorrectly answered by him and challenge the answer considered correct by the examiner. The commission shall either affirm the score or correct the score according to the findings of a review. The examination papers shall be retired after the two (2) year period during which the eligibility list is valid. The retired papers shall be kept for five (5) years and then destroyed.

As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-15

Performance ratings; rules; appeal

Sec. 15. (a) The commission shall adopt rules for determining a performance rating. The rules must require that a performance rating be made at least once every six (6) months for each member of the department, including probationary members. The rating shall be made by one (1) or more of the member's superiors, as defined in the commission's rules. Probationary members shall be rated in the same manner as other members of the department. The ratings shall be submitted to the chief of the department and kept on file in his office under his supervision. The chief shall notify each member in writing of the rating that the member received.

(b) A member who is aggrieved with the performance rating given to him by his superior may appeal to the commission for a review of the rating. The appeal must be filed within ten (10) days after notice of the rating has been sent to him. The commission shall either affirm or correct the rating.

As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-16

Promotions; certification of eligible members; probation; procedures

Sec. 16. (a) When a vacancy in rank occurs, the commission shall certify to the chief of the department the three (3) members with the highest scores on the eligibility list for that particular rank. Within six (6) months the commission, upon the recommendation of the chief, shall promote one (1) of those members to fill the vacant position.

(b) All promotions are probationary for a period not to exceed one (1) year. At the end of the period, a probationary member's superior shall review the member's performance and recommend to the commission that:

(1) the promotion be made permanent; or

(2) the promotion be revoked.

(c) The commission shall prepare a rating chart for the superior's use in making the report. The commission shall review the report and decide what action should be taken. The probationary member is entitled to appear before the commission and be heard on any matter detrimental to him in his superior's report. He is also entitled to be represented by counsel or another representative of his choice. If the promotion is finally revoked the member may not be returned to a rank lower than that he held before the probationary promotion.

(d) Actions by the commission other than making the promotion permanent may be appealed within thirty (30) days to the circuit or superior court of the county, with the unit being named as the sole defendant.

As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-17

Disciplinary actions; grounds; hearing; notice; requisites; procedures; appeal

Sec. 17. (a) The commission may take the following disciplinary actions against a regular member of the department:

(1) Suspension with or without pay.

(2) Demotion.

(3) Dismissal.

If a member is suspended under this subsection, the member is entitled to the member's remuneration and allowances for insurance benefits to which the member was entitled before the suspension. In addition, the local unit may provide the member's allowances for any other fringe benefits to which the member was entitled before the suspension. The commission shall determine if a member of the department who is suspended in excess of five (5) days shall continue to receive the member's salary during suspension.

(b) A member may be disciplined by the commission if:

(1) the member is convicted of a crime; or

(2) the commission finds the member guilty of a breach of discipline, including:

(A) neglect of duty;

(B) violation of commission rules;

(C) neglect or disobedience of orders;

(D) continuing incapacity;

(E) absence without leave;
(F) immoral conduct;
(G) conduct injurious to the public peace or welfare;
(H) conduct unbecoming a member; or
(I) furnishing information to an applicant for appointment or promotion that gives that person an advantage over another applicant.

(c) If the chief of the department, after an investigation within the department, prefers charges against a member of the department for an alleged breach of discipline under subsection (b), including any civilian complaint of an alleged breach of discipline under subsection (b)(2)(F), (b)(2)(G), or (b)(2)(H), a hearing shall be conducted upon the request of the member. If a hearing is requested within five (5) days of the chief preferring charges, the parties may by agreement designate a hearing officer who is qualified by education, training, or experience. If the parties do not agree within this five (5) day period, the commission may hold the hearing or designate a person or board to conduct the hearing, as provided in the commission's rules. The designated person or board must be qualified by education, training, or experience to conduct such a hearing and may not hold an upper level policy making position. The hearing conducted under this subsection shall be held within thirty (30) days after it is requested by the member.

(d) Written notice of the hearing shall be served upon the accused member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must state:

(1) the time and place of the hearing;
(2) the charges against the member;
(3) the specific conduct that comprises the charges;
(4) that the member is entitled to be represented by counsel or another representative of the member's choice;
(5) that the member is entitled to call and cross-examine witnesses;
(6) that the member is entitled to require the production of evidence; and
(7) that the member is entitled to have subpoenas issued, served, and executed.

(e) The commission may:

(1) compel the attendance of witnesses by issuing subpoenas;
(2) examine witnesses under oath; and
(3) order the production of books, papers, and other evidence by issuing subpoenas.

(f) If a witness refuses to appear at a hearing of the commission after having received written notice requiring the witness's attendance, or refuses to produce evidence that the commission requests by written notice, the commission may file an affidavit in the circuit court of the county setting forth the facts of the refusal. Upon the filing of the affidavit, a summons shall be issued from the circuit court and served by the sheriff of the county requiring the

appearance of the witness or the production of information or evidence to the commission.

(g) Disobedience of a summons constitutes contempt of the circuit court from which the summons has been issued. Expenses related to the filing of an affidavit and the issuance and service of a summons shall be charged to the witness against whom the summons has been issued, unless the circuit court finds that the action of the witness was taken in good faith and with reasonable cause. In that case, and in any case in which an affidavit has been filed without the issuance of a summons, the expenses shall be charged to the commission.

(h) A decision to discipline a member may be made only if the preponderance of the evidence presented at the hearing indicates such a course of action.

(i) A member who is aggrieved by the decision of a person or board designated to conduct a disciplinary hearing under subsection (c) may appeal to the commission within ten (10) days of the decision. The commission shall on appeal review the record and either affirm, modify, or reverse the decision on the basis of the record and such oral or written testimony that the commission determines, including additional or newly discovered evidence.

(j) The commission, or the designated person or board, shall keep a record of the proceedings in cases of suspension, demotion, or dismissal. The commission shall give a free copy of the transcript to the member upon request if an appeal is filed.

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.58-1989, SEC.4; P.L.265-1993, SEC.3.

IC 36-8-3.5-18

Appeal to court; suspension or dismissal; precedence

Sec. 18. (a) A member who is aggrieved by a decision of the commission to suspend him for a period greater than ten (10) calendar days, demote him, or dismiss him may appeal to the circuit or superior court of the county in which the unit is located.

(b) The appeal shall be made according to the Indiana rules of trial procedure with the following exceptions:

(1) The verified appeal must be filed within thirty (30) days after the date of the board's decision.

(2) The unit shall be named as the sole defendant.

(3) The unit is assumed to have denied the allegations without filing a responsive pleading.

(4) The plaintiff must file a bond at the time of filing the complaint conditioned on the plaintiff prosecuting the appeal to a final determination and paying the court costs incurred in the appeal.

(5) Within thirty (30) days after the service of summons the commission shall file in court a complete transcript of all papers, entries, and other parts of the record relating to the case.

(c) The appeal takes precedence over other litigation pending before the court.

As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-19
Summary disciplinary actions; reprimand or suspension

Sec. 19. (a) In addition to the disciplinary powers of the commission, the chief of the department, may, without a hearing, reprimand or suspend without pay a member, including a police radio or signal alarm operator or a fire alarm operator, for a maximum of five (5) working days. For the purposes of this subsection, eight (8) hours of paid time constitutes one (1) working day.

(b) If a chief reprimands a member in writing or suspends a member, he shall, within forty-eight (48) hours, notify the commission in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended under this section may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the commission review the reprimand or suspension and either uphold or reverse the chief's decision. At its discretion, the commission may hold a hearing during this review. If the board holds a hearing, written notice must be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must contain the information listed under section 17(d) of this chapter. If the decision is reversed, the individual who was suspended is entitled to any wages withheld as a result of the suspension.

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.265-1993, SEC.4.

IC 36-8-3.5-19.3
Suspension or termination of EMS personnel; right to hearing and appeal

Sec. 19.3. (a) This section applies to a department that has at least one (1) certified employee, without regard to whether:

(1) the employee is an appointed police officer or firefighter; or

(2) the department has a merit system to which this chapter does not otherwise apply as provided under section 1 of this chapter.

(b) As used in this section, "certified employee" means an individual who, as a condition of employment, holds a valid certification issued under IC 16-31-3 by the Indiana emergency medical services commission established by IC 16-31-2-1.

(c) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.

(d) If a medical director takes any of the following actions against a certified employee, the medical director shall provide to the certified employee and to the chief of the certified employee's department a written explanation of the reasons for the action taken by the medical director:

(1) The medical director refuses or fails to supervise or otherwise provide medical control and direction to the certified employee.

(2) The medical director refuses or fails to attest to the

competency of the certified employee to perform emergency medical services.

(3) The medical director suspends the certified employee from performing emergency medical services.

(e) Before a department takes any employment related action as the result of a medical director's action described in subsection (d) against a certified employee, the certified employee is entitled to a hearing and appeal concerning the medical director's action as provided in sections 17 and 18 of this chapter.

(f) If the medical director's action that is the subject of an appeal under subsection (e) is based on a health care decision made by the certified employee in performing emergency medical services, the commission conducting the hearing shall consult with an independent medical expert to determine whether the certified employee followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

(1) must be a physician trained in emergency medical services; and

(2) may not be affiliated with the same hospital as the medical director.

As added by P.L.13-2010, SEC.4.

IC 36-8-3.5-20
Retirement age

Sec. 20. A member of the department shall retire from the department when the member reaches the member's seventieth birthday. However, a member of the department who is seventy (70) years of age or older at the time the ordinance or resolution establishing the merit system takes effect may serve until the end of the calendar year.

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.38-1986, SEC.2; P.L.180-2002, SEC.6.

IC 36-8-3.5-21
Temporary leave of absence; seniority; reinstatement

Sec. 21. (a) If it is necessary for the safety board to reduce the number of members of the department, the reduction shall be made by granting a temporary leave of absence, without pay or financial obligation to the unit, to the appropriate number of members. The last member appointed shall be put on leave first, with other members also put on leave in reverse hiring order, until the desired level is achieved.

(b) If the department is increased in number again, the members of the department who have been granted leaves of absence under this section shall be reinstated before an applicant on the eligibility list is appointed to the department. The reinstatements begin with the last member granted a leave.

(c) A member on leave of absence shall keep the commission advised of his current address. A member shall be informed of his

reinstatement by written notice. Within ten (10) calendar days after a member receives notice of reinstatement, he must advise the commission that he accepts reinstatement and will be able to commence employment on the date specified in the notice. All reinstatement rights granted to a member terminate upon his failure to accept reinstatement within that period.
As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-22
Rules; printing; copies to department members; effective date

Sec. 22. The department shall print all rules of the commission and furnish a copy to each member of the department. Amendments to the rules take effect thirty (30) days after their adoption if copies have been furnished to all members of the department within that period. Otherwise, they do not take effect until copies are furnished to all members of the department.
As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-23
Offense; furnishing information to applicants

Sec. 23. A commissioner who knowingly furnishes information to an applicant for original appointment or to a member eligible for promotion that gives that person an advantage over another person commits a Class D felony.
As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-4

Chapter 4. Police and Fire Employment Policies in Cities

IC 36-8-4-1

Application of chapter

Sec. 1. This chapter applies to all cities.

As added by Acts 1981, P.L.309, SEC.53.

IC 36-8-4-2

Residence requirements

Sec. 2. (a) Members of the police and fire departments must reside in Indiana within:

(1) the county in which the city is located; or

(2) a county that is contiguous to the county in which the city is located.

(b) In a consolidated city, a member who was residing outside the county on January 1, 1975, is exempt from subsection (a).

(c) A city with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the city's police or fire department to comply with the following:

(1) Reside within the county in which the city is located.

(2) Have adequate means of transportation into the city.

(3) Maintain in the member's residence telephone service with the city.

(d) This subsection applies to a city that:

(1) has a population of less than seven thousand five hundred (7,500); and

(2) adopted an ordinance to establish the requirements described in this subsection before September 1, 1984.

A city may require, in addition to the requirements of subsection (c), that a member of the police or fire department reside within the city until the member has served in the department for five (5) years.

(e) An ordinance adopted under subsection (c) or described in subsection (d)(2) may not require a member of a city's police or fire department to reside within the county in which the city is located if the member resides outside the county on the date the ordinance is adopted.

As added by Acts 1981, P.L.309, SEC.53. Amended by Acts 1981, P.L.44, SEC.56; P.L.198-1984, SEC.1; P.L.266-1993, SEC.1; P.L.164-1995, SEC.21; P.L.235-1996, SEC.1; P.L.230-1997, SEC.1; P.L.65-2008, SEC.1.

IC 36-8-4-3

Use of departmental vehicles

Sec. 3. Members of the police and fire departments may not use vehicles owned or maintained by their department outside the county in which the city is located except during the performance of official duties or as provided for by department regulation.

As added by Acts 1981, P.L.309, SEC.53. Amended by P.L.199-1984, SEC.1.

IC 36-8-4-4

Provision of uniforms and equipment; cash allowance

Revisor's Note: IC 36-8-4-4, as added by Acts 1981, P.L.309, SEC.53 (which was effective 9-1-1981 until 7-1-2009), was printed incorrectly in the 1993 Edition of the Indiana Code but was correctly printed in the 1994 Supplement to the Indiana Code and subsequent Supplements and Editions of the Indiana Code.

Sec. 4. (a) A city shall provide the active members of the police and fire departments with all uniforms, clothing, arms, and equipment necessary to perform their duties. Except as provided in section 4.5 of this chapter, after one (1) year of regular service in either department, a member may be required by the city to furnish and maintain all of the active member's uniforms, clothing, arms, and equipment upon payment to the member by the city of an annual cash allowance of at least two hundred dollars ($200). The city may credit the uniform allowance to each member against the active member's purchases during the calendar year and provide for the payment of any cash balance remaining at the end of the calendar year.

(b) All uniforms, clothing, arms, and equipment provided by the city under this section remain the property of the city. The city may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the city. Any property lost or destroyed through the carelessness or neglect of an active member shall be charged against the active member and the value deducted from the active member's pay.

As added by Acts 1981, P.L.309, SEC.53. Amended by P.L.8-2009, SEC.1.

IC 36-8-4-4.5

Body armor for active members of police departments

Sec. 4.5. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).

(b) A city shall provide an active member of the police department of the city with body armor for the torso. The city shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the police department of a city shall not be required to maintain the body armor for the torso furnished under this section from any annual cash allowance paid to the member under section 4(a) of this chapter.

(d) Body armor for the torso provided by a city under this section remains the property of the city. The city may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the city.

As added by P.L.8-2009, SEC.2. Amended by P.L.34-2010, SEC.6.

IC 36-8-4-5

Care of police officers and firefighters injured or contracting illnesses as a result of performance of duties

Sec. 5. (a) A city shall pay for the care of a police officer or

firefighter who suffers an injury while performing the person's duty or contracts illness caused by the performance of the person's duty, including an injury or illness that results in a disability or death presumed incurred in the line of duty under IC 5-10-13. This care includes:

(1) medical and surgical care;

(2) medicines and laboratory, curative, and palliative agents and means;

(3) X-ray, diagnostic, and therapeutic service, including during the recovery period; and

(4) hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(b) Expenditures required by subsection (a) shall be paid from the general fund of the city.

(c) A city that has paid for the care of a police officer or firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the police officer or firefighter has a cause of action for an injury sustained because of or an illness caused by the third party. The city's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the police officer or firefighter against the third party.

As added by Acts 1981, P.L.309, SEC.53. Amended by P.L.169-1994, SEC.1; P.L.185-2002, SEC.4.

IC 36-8-4-6

Promotions

Sec. 6. (a) This section applies only to:

(1) police departments in second and third class cities having a population of ten thousand (10,000) or more; and

(2) fire departments in second and third class cities;

that are not governed by a merit system prescribed by statute or ordinance.

(b) Promotion of police officers or firefighters must be from the active personnel of the department.

(c) A person appointed fire chief must have had at least five (5) years of continuous service with the department immediately before his appointment. However, this requirement may be waived by a majority vote of the city legislative body upon request of the city executive, although the person must still have at least five (5) years service with a full-time, paid fire department or agency.

(d) A person appointed to a rank other than police or fire chief or deputy police chief must have had at least two (2) years of continuous service with the department immediately before his appointment.

As added by Acts 1981, P.L.309, SEC.53. Amended by Acts 1981, P.L.315, SEC.4; P.L.348-1987, SEC.2.

IC 36-8-4-6.5

Police chiefs or deputy police chiefs; requirements

Sec. 6.5. (a) This section applies to the appointment of a police chief or deputy police chief in all cities.

(b) An applicant must meet the following requirements:

(1) Have five (5) years of service as a police officer with a full-time, paid police department or agency.

(2) Be a citizen of the United States.

(3) Be a high school graduate or equivalent.

(4) Be at least twenty-one (21) years of age.

(5) Be free of mental illness.

(6) Be physically fit.

(7) Have successfully completed the minimum basic training requirements established by the law enforcement training board under IC 5-2-1, or have continuous service with the same department to which the applicant was appointed as a law enforcement officer before July 6, 1972.

(c) In addition to the requirements of subsection (b), an applicant for appointment as police chief or deputy police chief must have at least five (5) years of continuous service with the police department of that city immediately before the appointment. This requirement may be waived by the city executive.

As added by P.L.348-1987, SEC.3. Amended by P.L.148-1992, SEC.3; P.L.68-1996, SEC.8.

IC 36-8-4-7

Age limitations; aptitude, physical agility, and physical examinations

Sec. 7. (a) A person may not be appointed as a member of the police department or fire department after the person has reached thirty-six (36) years of age. A person may be reappointed as a member of the department only if the person is a former member or a retired member not yet receiving retirement benefits of the 1925, 1937, 1953, or 1977 fund and can complete twenty (20) years of service before reaching sixty (60) years of age.

(b) This section does not apply to a fire chief appointed under a waiver under section 6(c) of this chapter or a police chief appointed under a waiver under section 6.5(c) of this chapter.

(c) A person must pass the aptitude, physical agility, and physical examination required by the local board of the fund and by IC 36-8-8-19 to be appointed or reappointed as a member of the department.

(d) A fire chief appointed under a waiver under section 6(c) of this chapter or police chief appointed under a waiver under section 6.5(c) of this chapter who is receiving, or is entitled to receive, benefits from the 1925, 1937, 1953, or 1977 fund may receive those benefits while serving as chief, subject to all normal requirements for receipt of a benefit, including a separation from service.

As added by Acts 1981, P.L.309, SEC.53. Amended by Acts 1981, P.L.315, SEC.5; P.L.38-1986, SEC.3; P.L.55-1987, SEC.3; P.L.4-1992, SEC.31; P.L.213-1995, SEC.4; P.L.246-2001, SEC.13.

IC 36-8-4-8
Police officers; maximum work week; compensation for additional time

Sec. 8. (a) A member of the police department may not be required, except in case of a public emergency as determined by the city executive, to work more than six (6) days of eight (8) hours each in one (1) week, or more than an average of forty-eight (48) hours per week in one (1) year.

(b) If a member of the police department is requested or required to appear in court or to perform another service, and the time served does not fall within the limits of his normal eight (8) hour shift, then the member may be compensated for the additional time at a rate to be fixed by ordinance.

(c) This section does not apply to the police chief, chief of detectives, superintendent of the department, or matron of the department.

As added by Acts 1981, P.L.309, SEC.53.

IC 36-8-4-9
Firefighters; hours of work

Sec. 9. (a) A member of a regularly organized and paid fire department may not be required to work more than an average of fifty-six (56) hours per week. However, if on September 1, 1985, a fire department was using sixty-three (63) hours as the maximum average number of hours a member could work a week, the department may continue to use that figure as the standard. A member may not be on duty more than twenty-four (24) consecutive hours and must be off duty at least twenty-four (24) consecutive hours out of any forty-eight (48) hour period. Each member is entitled to an additional twenty-four (24) consecutive hours off duty in every eight (8) day period.

(b) Notwithstanding subsection (a), in case of emergency, or if the personnel of the fire department has been reduced below its regular strength because members are serving in the armed forces of the United States, the chief of the fire department, the assistant chief, or other officer in charge may assign a member of the fire department to continuous duty during the emergency.

As added by Acts 1981, P.L.309, SEC.53. Amended by P.L.343-1985, SEC.1.

IC 36-8-4-10
Public safety officers; preference for employment

Sec. 10. (a) Subject to subsection (c), the board or persons having the authority to employ members of the fire or police department shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or
(C) county police officer;
who died in the line of duty (as defined in IC 5-10-10-2).

(b) Subject to subsection (c), the board or person having the authority to employ members of a fire or police department may give a preference for employment to any of the following:

(1) A police officer or firefighter laid off by another city under section 11 of this chapter.
(2) A county police officer laid off by a sheriff's department under IC 36-8-10-11.1.
(3) A person who:
(A) was employed full-time or part-time by a township to provide fire protection and emergency services; and
(B) has been laid off by the township.

(c) A person described in subsection (a) or (b) may not receive a preference for employment unless the person:

(1) applies; and
(2) meets all employment requirements prescribed:
(A) by law, including physical and age requirements; and
(B) by the fire or police department.

As added by Acts 1981, P.L.309, SEC.53. Amended by P.L.95-2003, SEC.1; P.L.110-2010, SEC.35.

IC 36-8-4-11
Layoffs; reinstatement

Sec. 11. (a) If it is necessary for the safety board to reduce the number of members of the police or fire department by layoff for financial reasons, the last member appointed must be the first to be laid off, with other members also laid off in reverse hiring order, until the desired level is achieved.

(b) If the department is increased in number again, the members of the department who have been laid off under this section shall be reinstated before any new member is appointed to the department. The reinstatements begin with the last member laid off.

(c) A member who is laid off shall keep the appointing authority advised of the member's current address. A member shall be informed of the member's reinstatement by written notice sent by certified mail to the member's last known address. Within twenty (20) calendar days after notice of reinstatement is sent to a member, the member must advise the hiring body that the member accepts reinstatement and will be able to commence employment on the date specified in the notice. All reinstatement rights granted to a member terminate upon the member's failure to accept reinstatement within that twenty (20) day period or five (5) years after the day on which a member's layoff begins.

As added by P.L.361-1983, SEC.1. Amended by P.L.344-1985, SEC.1; P.L.56-2010, SEC.1.

IC 36-8-4-12
Probationary appointments

Sec. 12. The safety board may provide that all appointments to the police or fire department are probationary for a period not to exceed one (1) year. If the safety board finds, upon the recommendation of the chief of the department during the probationary period, that the conduct or capacity of a member is not satisfactory, the safety board shall notify the member in writing that he is being suspended or that he will not receive a permanent appointment. If a member is notified that he will not receive a permanent appointment, his employment immediately ceases. Otherwise, at the expiration of the probationary period, the member is considered regularly employed.
As added by P.L.361-1983, SEC.2.

IC 36-8-4.3

Chapter 4.3. Police and Fire Employment Policies in Special Service Districts

IC 36-8-4.3-1

Application of chapter

Sec. 1. This chapter applies to a police or fire special service district created by IC 36-3-1-6.

As added by P.L.150-2002, SEC.1.

IC 36-8-4.3-2

Payment of line of duty health care expenses of police and firefighters

Sec. 2. (a) A special service district shall pay for the care of:

(1) a full-time, paid police officer who:

(A) suffers an injury; or

(B) contracts an illness;

during the performance of the officer's duty; or

(2) a full-time, paid firefighter who:

(A) suffers an injury; or

(B) contracts an illness;

during the performance of the firefighter's duty.

(b) The special service district shall pay for the following expenses incurred by a police officer or firefighter described in subsection (a):

(1) Medical and surgical care.

(2) Medicines and laboratory, curative, and palliative agents and means.

(3) X-ray, diagnostic, and therapeutic service, including during the recovery period.

(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the general fund of the special service district.

(d) A special service district that has paid for the care of a police officer or firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the police officer or firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The special service district's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the police officer or firefighter against the third party.

As added by P.L.150-2002, SEC.1.

IC 36-8-4.5
Chapter 4.5. Town Police and Fire Employment Policies

IC 36-8-4.5-1
Application
Sec. 1. This chapter applies to the following:
(1) A member of a town police department under IC 36-5-7 or IC 36-8-9.
(2) A member of a town fire department.
As added by P.L.65-2008, SEC.2.

IC 36-8-4.5-2
Chapter inapplicable to volunteer fire department
Sec. 2. This chapter does not apply to a volunteer fire department under IC 36-8-12.
As added by P.L.65-2008, SEC.2.

IC 36-8-4.5-3
"Member of a town fire department"
Sec. 3. As used in this chapter, "member of a town fire department" does not include a volunteer firefighter under IC 36-8-12-2.
As added by P.L.65-2008, SEC.2.

IC 36-8-4.5-4
Residency in county or contiguous county
Sec. 4. A member of a town police or fire department must reside in Indiana within:
(1) the county in which the town is located; or
(2) a county that is contiguous to the county in which the town is located.
As added by P.L.65-2008, SEC.2.

IC 36-8-4.5-5
Town with population of less than 7,500; ordinance requiring residence within town or certain distance of town
Sec. 5. A town with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the town police or fire department to satisfy all of the following:
(1) Reside within:
(A) the county in which the town is located; or
(B) a distance from the town stated in the ordinance.
(2) Have adequate means of transportation into the town.
(3) Maintain in the member's residence telephone service with the town.
As added by P.L.65-2008, SEC.2.

IC 36-8-4.5-6
Town with population of less than 7,500; ordinance requiring town residency for five years

Sec. 6. This section applies to a town that:

(1) has a population of less than seven thousand five hundred (7,500); and

(2) adopted an ordinance to establish the requirements described in this section before September 1, 1984.

A town may require, in addition to the requirements of section 5 of this chapter, that a member of the police or fire department reside within the town until the member has served in the department for five (5) years.

As added by P.L.65-2008, SEC.2.

IC 36-8-4.5-7

Town with population of less than 7,500; exemption for members not in compliance on date ordinance adopted

Sec. 7. An ordinance adopted under section 5 or 6 of this chapter may not require a member of a town police or fire department to comply with section 5(1) of this chapter if the member resides:

(1) outside the county; or

(2) a distance outside the town greater than stated in the ordinance;

on the date the ordinance is adopted.

As added by P.L.65-2008, SEC.2.

IC 36-8-4.5-8

Exemption for members of town police departments appointed before July 1, 2008

Sec. 8. Notwithstanding any other law, a member appointed to a town police department under IC 36-5-7 or IC 36-8-9 before July 1, 2008, may not be required to reside within:

(1) the county in which the town is located; or

(2) a county that is contiguous to the county in which the town is located;

if the member resided within a county that is noncontiguous to the county in which the town is located on July 1, 2008.

As added by P.L.65-2008, SEC.2.

IC 36-8-4.5-9

Use of department vehicles

Sec. 9. Members of the police and fire departments may not use vehicles owned or maintained by their department outside the county in which the town is located except:

(1) during the performance of official duties; or

(2) as provided for by department regulation.

As added by P.L.65-2008, SEC.2.

IC 36-8-5

Chapter 5. Police and Fire Leaves of Absence

IC 36-8-5-1

Application of chapter

Sec. 1. (a) This chapter applies to the following:

(1) All municipalities.

(2) A county having a consolidated city that establishes a consolidated law enforcement department under IC 36-3-1-5.1.

(b) Section 2 of this chapter applies to any other political subdivision that employs full-time, fully paid firefighters.

As added by Acts 1981, P.L.309, SEC.54. Amended by P.L.227-2005, SEC.38; P.L.1-2006, SEC.574.

IC 36-8-5-2

Leaves of absence; authorization; duration; renewal; compensation

Sec. 2. (a) The police chief or fire chief may be granted a leave of absence by the authority who appointed the police chief or fire chief. This appointing authority may also grant a leave of absence to any other full-time, fully paid police officer or firefighter.

(b) A leave of absence under subsection (a) shall be granted for service in the Indiana general assembly. A leave of absence under subsection (a) may also be granted for service in any other elected office or for one (1) of the following reasons:

(1) Sickness.

(2) Disability.

(3) Sabbatical purposes.

However, a leave of absence because of disability may not be granted to a member of the 1977 fund under this subsection unless a leave granted under subsection (g) has expired without disability benefits having been paid from the 1977 fund. In the case of such an expiration, a leave for purposes of disability may be granted under this subsection but only until the member's eligibility for disability benefits is finally determined.

(c) Before a leave of absence may be granted for sabbatical purposes, the member must submit a written request explaining and justifying the leave to the appointing authority. Sabbatical purposes must be related to the improvement of the member's professional performance and skills, such as education, special training, work related experience, and exchange programs.

(d) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for a period of not more than one (1) year, determined by the appointing authority, and may be renewed upon written request of the member.

(e) This subsection applies to leaves of absence granted for service in an elected office. A police officer or firefighter who serves in the general assembly shall be granted a leave for the time spent in this service, including the time spent for committee or legislative council meetings. Except as provided in IC 3-5-9, a police officer or

firefighter who serves in any other elected office may be granted a leave for the time spent in this service. Leave for service in an elected office does not diminish a police officer's or firefighter's rights under the police officer's or firefighter's retirement or pension fund, except as provided in section 10 of this chapter, or advancement on the police officer's or firefighter's department salary schedule. For these purposes, the police officer or firefighter is, despite the leave, considered to be a member of the department during that time.

(f) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive compensation in an amount determined by the appointing authority, up to a maximum amount that equals the member's salary before the leave began.

(g) This subsection applies only to members of the 1977 fund. The local board may grant a leave of absence for purposes of disability to full-time, fully paid police officers or firefighters (including the police chief or fire chief). The leave is subject to the following conditions:

(1) The police chief or fire chief must make a written determination that there is no suitable and available work on the appropriate department for which the fund member is or may be capable of becoming qualified.

(2) The leave must be approved by the local board after a hearing conducted under IC 36-8-8-12.7.

(3) The leave may not begin until the police officer or firefighter has exhausted all paid leave for sickness.

(4) The leave shall continue until disability benefits are paid from the 1977 fund. However, the leave may not continue for more than six (6) months.

(5) During the leave, the police officer or firefighter is entitled to receive compensation in an amount equal to fifty percent (50%) of the salary of a first class patrolman or first class firefighter on the date the leave begins.

Payments of compensation under this subsection may not be made from the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

(h) Determinations under subsection (g) are not reviewable by the board of trustees of the Indiana public retirement system.

(i) This subsection applies to leaves of absence granted under subsection (a) or (b). An appointing authority shall establish a policy in writing that specifies whether a police officer or firefighter is entitled, during a leave of absence, to participate in any promotional process or earn seniority. A policy established under this subsection is subject to a department's existing disciplinary procedures. An appointing authority shall reinstate a police officer or firefighter returning from a leave at the merit or permanent rank determined under the policy established under this subsection. However, except as otherwise provided by federal law, an appointing authority is not required to reinstate a police officer or firefighter in the job that the police officer or firefighter held at the time the police officer's or

firefighter's leave began.
As added by Acts 1981, P.L.309, SEC.54. Amended by P.L.362-1983, SEC.1; P.L.311-1989, SEC.1; P.L.130-2008, SEC.2; P.L.35-2012, SEC.109; P.L.135-2012, SEC.11.

IC 36-8-5-3
Military service; temporary leave of absence

Sec. 3. (a) An active member of a regularly organized police or fire department who is:

(1) taken into military service by induction, enlistment, or commission or assigned by the government for war work during a national emergency declared by the president of the United States or during armed hostilities in which the United States is engaged; and

(2) temporarily absent from the department;

is considered to be a continuing member of the department on a temporary leave of absence. The records of the department must show the member in this status.

(b) Subsection (a) does not apply to a member who enlists or reenlists when no emergency or war has been declared.
As added by Acts 1981, P.L.309, SEC.54.

IC 36-8-5-4
Military leaves; overtime to cover vacancies

Sec. 4. The safety board and the police and fire chiefs may require members of the police and fire departments to work overtime to cover the vacancies created by members on temporary leave of absence under section 3 of this chapter. For overtime work the police officers and firefighters shall be compensated at a rate of pay not exceeding the amount that would have been paid the regular members had they not left for military service or been assigned to government war work.
As added by Acts 1981, P.L.309, SEC.54.

IC 36-8-5-5
Military leaves; use of temporary employees to cover vacancies

Sec. 5. (a) If, in the judgment of the executive, overtime work by the regular police officers or firefighters under section 4 of this chapter does not meet the requirements for public safety in the municipality, the safety board and the police and fire chiefs may employ persons temporarily. However, if there is an established merit system, eligibility lists for appointment or promotion in effect must be used in the selection of personnel before other temporary or permanent appointments. These persons shall be employed as temporary employees and are not members or beneficiaries of any pension fund under this article. All temporary employees' service terminates at the expiration of the emergency.

(b) Temporary employees and overtime work shall be paid out of the unexpended appropriations for salaries of those on temporary leave of absence under section 3 of this chapter.

As added by Acts 1981, P.L.309, SEC.54.

IC 36-8-5-6
Military leaves; salary appropriations for absent employees

Sec. 6. A municipality shall make a sufficient appropriation in its salary personnel budget appropriations for the police and fire departments for all members on temporary leave of absence under section 3 of this chapter. The personnel budget may not be reduced so as to make it impossible to absorb members who have returned from temporary leave.

As added by Acts 1981, P.L.309, SEC.54.

IC 36-8-5-7
Military leaves; pension considerations

Sec. 7. (a) The monthly assessments against the salary of a member of a 1925, 1937, 1953, or 1977 fund shall be waived while the member is on temporary leave of absence under section 3 of this chapter or on a leave of absence that qualifies for the protections afforded by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(b) A member of a 1925, 1937, 1953, or 1977 fund does not lose his benefits from the fund because he fails to pay assessments that are assessed against him while on temporary leave or on a leave of absence that qualifies for the protections afforded by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(c) Notwithstanding any provision of this chapter, a member of the 1925, 1937, 1953, or 1977 fund is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

As added by Acts 1981, P.L.309, SEC.54. Amended by P.L.5-1997, SEC.14.

IC 36-8-5-8
Reinstatement after termination of military service

Sec. 8. (a) A police officer or firefighter desiring to return to service in the police or fire department shall report to the person responsible for regulating and employing members of the department. This action must be taken within sixty (60) days after honorable discharge from military service or government war work.

(b) Within fifteen (15) days after the police officer or firefighter reports to the department, the police officer or firefighter shall be placed on duty at the rank held at the time of entering military service or government war work.

(c) If a member of the police or fire department is refused a proper assignment under subsection (b), he may file an action in the circuit court of the county in the manner prescribed by IC 36-8-3-4.

As added by Acts 1981, P.L.309, SEC.54.

IC 36-8-5-9
Evidence of member's death

Sec. 9. Death notices from the department of defense or other satisfactory proof of death are bona fide evidence of a member's death. This evidence constitutes full authority for the local board of a fund to carry out the law regarding deceased police officers and firefighters and their beneficiaries.

As added by Acts 1981, P.L.309, SEC.54.

IC 36-8-5-10
Credit for time spent on leave

Sec. 10. (a) Except as provided in subsection (b) or (c), a member on leave under either section 2 or section 3 of this chapter is entitled to be credited with time spent in full-time employment for all purposes, including retirement and pension benefits.

(b) A member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted an unpaid leave of absence under the Family Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) shall be credited with time spent on leave for the purposes of benefit eligibility and vesting to the extent required by the Family Medical Leave Act. The member shall not receive credit for purposes of accruing additional benefits, except to the extent required by the Family Medical Leave Act.

(c) This subsection applies to a member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted a leave of absence for service in an elected office under section 2 of this chapter. In order to receive service credit in the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund for the period of the leave of absence, the member must pay to the applicable fund for or during the leave the assessment or contribution that the member would have paid during the period of the leave had the member not been on the leave during that time. The member's employer may pay all or a part of the assessment or contribution for the member.

As added by Acts 1981, P.L.309, SEC.54. Amended by P.L.213-1995, SEC.5; P.L.130-2008, SEC.3.

IC 36-8-6
Chapter 6. 1925 Police Pension Fund

IC 36-8-6-0.1
Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 20 of this chapter by P.L.223-1986 applies only to fund members who die after March 10, 1986.

(2) The amendments made to section 8 of this chapter by P.L.171-1990 apply to all benefits paid after March 15, 1990.

(3) The amendments made to section 9.8 of this chapter by P.L.28-2008 apply only to benefits payable with respect to a member of the 1925 police pension fund who dies after June 30, 2008.

As added by P.L.220-2011, SEC.668.

IC 36-8-6-1
Application of chapter

Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, in second and third class cities, and in towns that have established a board of metropolitan police commissioners.

(b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if he:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if he:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925 fund.

(d) A police matron is covered by this chapter and not by IC 5-10.3 or IC 36-8-8 if she:

(1) was hired before May 1, 1977;

(2) is a member of a police department in a second or third class city; and

(3) is employed as a police matron on March 31, 1996.

As added by Acts 1981, P.L.309, SEC.55. Amended by Acts 1981, P.L.44, SEC.57; P.L.3-1990, SEC.129; P.L.236-1996, SEC.1.

IC 36-8-6-1.5
Qualification of 1925 fund under Internal Revenue Code; benefit limitations

Sec. 1.5. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The 1925 fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the 1925 fund. In order to meet those requirements, the 1925 fund is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The local board shall distribute the corpus and income of the 1925 fund to members and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the 1925 fund may be used or diverted to any purpose other than the exclusive benefit of the members and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under this chapter.

(4) If the 1925 fund is terminated, or if all contributions to the 1925 fund are completely discontinued, the rights of each affected member to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the 1925 fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the 1925 fund is subject to the following provisions:

(A) The life expectancy of a member, the member's spouse, or the member's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(C) The amount of an annuity paid to a member's beneficiary may not exceed the maximum amount determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The local board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of members or beneficiaries;

in a manner that discriminates in favor of members who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The local board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

(c) Notwithstanding any other provision of this chapter, and solely for the purposes of the benefits provided under this chapter, the benefit limitations of Section 415 of the Internal Revenue Code shall be determined by applying the provisions of Section 415(b)(10) of the Internal Revenue Code, as amended by the Technical and Miscellaneous Revenue Act of 1988. This section constitutes an election under Section 415(b)(10)(C) of the Internal Revenue Code to have Section 415(b) of the Internal Revenue Code, other than Section 415(b)(2)(G) of the Internal Revenue Code, applied without regard to Section 415(b)(2)(F) of the Internal Revenue Code (before its repeal on June 7, 2001, by P.L.107-16) to anyone who did not first become a participant before January 1, 1990.

As added by P.L.55-1989, SEC.48. Amended by P.L.4-1990, SEC.15; P.L.42-2011, SEC.81.

IC 36-8-6-1.7

"Americans with Disabilities Act"

Sec. 1.7. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

As added by P.L.4-1992, SEC.32.

IC 36-8-6-1.9

Administration of fund

Sec. 1.9. The 1925 fund shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

As added by P.L.4-1992, SEC.33.

IC 36-8-6-2

Creation of fund; management by board of trustees; selection and compensation of trustees

Sec. 2. (a) A police pension fund to be known as the 1925 fund is established in each municipality described in section 1(a) of this chapter.

(b) The 1925 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) having at least seven (7) but not more than nine (9) trustees, as follows:

(1) The municipal executive, the municipal fiscal officer, and the police chief, who are ex officio voting members of the local board.

(2) One (1) retired member of the police department.

(3) At least three (3) but not more than five (5) active members of the police department.

However, in cities where there are not sufficient members of the police department to appoint a local board consisting of at least five (5) trustees, the local board may be composed of three (3) trustees, those being the executive, the fiscal officer, and the police chief.

(c) The trustees under subsections (b)(2) and (b)(3) shall be elected at a meeting of the members of the police department at the central police station on the second Monday in February of each year. The trustees are elected for terms of three (3) years, succeeding those trustees whose terms of office expire on that date. The trustees hold their offices until their successors are elected and qualified.

(d) If a vacancy occurs on the local board among those trustees elected by the police department, the police department shall, within a reasonable time, hold a special meeting upon the call of the municipal executive and elect a successor for the remainder of the trustee's term.

(e) A majority of all the trustees constitutes a quorum for the transaction of business.

(f) The trustees receive no pay for their services and shall be paid only their necessary expenses. However, the trustees, the secretary, and each member of the police department selected by the local board shall be paid their necessary traveling expenses from the 1925 fund when acting upon matters pertaining to the fund.

(g) The local board may make all necessary bylaws for:

(1) meetings of the trustees;

(2) the manner of their election, including the counting and canvassing of the votes;

(3) the collection of all money and other property due or belonging to the 1925 fund;

(4) all matters connected with the care, preservation, and disbursement of the fund; and

(5) all other matters connected with the proper execution of this chapter.

As added by Acts 1981, P.L.309, SEC.55. Amended by Acts 1981, P.L.44, SEC.58; P.L.236-1996, SEC.2; P.L.173-2003, SEC.32.

IC 36-8-6-3

Board of trustees; officers; duties

Sec. 3. (a) The municipal executive is president of the local board, the municipal fiscal officer is its treasurer, and the local board shall select one (1) of its members secretary. The secretary shall be paid out of the 1925 fund a sum for the secretary's services as fixed by the local board.

(b) The president shall preside over all meetings of the local board, call special meetings of the police department of the city, and preside over the annual and called meetings of the department concerning the 1925 fund.

(c) The treasurer:

(1) has custody of all money and securities due or belonging to

the 1925 fund and shall collect the principal and interest on them;

(2) is liable on the treasurer's bond as an officer for the municipality for the faithful accounting of all money and securities belonging to the fund that come into the treasurer's hands;

(3) shall keep a separate account showing at all times the true condition of the fund; and

(4) shall, upon the expiration of the treasurer's term of office, account to the local board for all money and securities coming into the treasurer's hands, including the proceeds of them, and turn over to the treasurer's successor all money and securities belonging to the fund remaining in the treasurer's hands.

(d) The secretary shall:

(1) keep a true account of the proceedings of the local board and of the police department of the municipality when acting upon matters relating to the 1925 fund;

(2) keep a correct statement of the accounts of each member with the fund;

(3) collect and turn over to the treasurer of the local board all money belonging to the fund;

(4) give the local board a monthly account of the secretary's acts and services as secretary; and

(5) turn over to the secretary's successor all books and papers pertaining to the office.

(e) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of the secretary's duties.

(f) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the municipal clerk. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

(g) Each member of the police department shall turn over to the secretary of the local board, within thirty (30) days after receiving it, all money and securities belonging to the 1925 fund that come into the secretary's hands.

As added by Acts 1981, P.L.309, SEC.55. Amended by Acts 1981, P.L.47, SEC.24; P.L.173-2003, SEC.33.

IC 36-8-6-4

Derivation of funds; salary assessments

Sec. 4. (a) The 1925 fund is derived from the following sources:

(1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest of any money, chose in action, personal property, or real property, or an interest in it. The local board shall take the property in the name of the local board and may hold, assign, transfer, or sell it.

(2) From money, fees, and awards that are paid or given to the

police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1925 fund, an amount equal to six percent (6%) of the salary of a first class patrolman. However, the employer may pay all or a part of the assessment for the member.

(b) The secretary of the local board shall prepare a roll of each of the assessments and place opposite the name of every member of the police department the amount of the assessment against him. The treasurer of the local board shall retain out of the salary paid to the member each month the amount of the assessment, other than any amount paid on behalf of the member, and credit it to the 1925 fund. Except to the extent the assessment is paid on behalf of the member, every person becoming a member of the police department is liable for the payment of the assessments and is conclusively considered to agree to pay it and have it deducted from his salary as required in this section.

As added by Acts 1981, P.L.309, SEC.55. Amended by Acts 1981, P.L.182, SEC.3; P.L.312-1989, SEC.1.

IC 36-8-6-5

Insufficient funds; payment of deficiency by municipality; tax levy

Sec. 5. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the municipality is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1925 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 4(a) of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible to and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) The local board may provide in its annual budget and pay all necessary expenses of operating the 1925 fund, including the payment of all costs of litigation and attorney fees arising in

connection with the fund, as well as the payment of benefits and pensions, including the payments described in section 5.5 of this chapter. Notwithstanding any other law, neither the municipal legislative body, the county board of tax adjustment, nor the department of local government finance may reduce an item of expenditure.

(c) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the name, age, and date of retirement of each retired member and the monthly and yearly amount of the payment to which the retired member is entitled;

(2) the name and age of each member who is eligible to and expects to retire during the next fiscal year, the date on which the member expects to retire, and the monthly and yearly amount of the payment that the member will be entitled to receive; and

(3) the name and age of each dependent, the date on which the dependent became a dependent, the date on which the dependent will cease to be a dependent by reason of attaining the age at which dependents cease to be dependents, and the monthly and yearly amount of the payment to which the dependent is entitled.

(d) The total receipts shall be deducted from the total expenditures stated in the itemized estimate and the amount of the excess of the estimated expenditures over the estimated receipts shall be paid by the municipality in the same manner as other expenses of the municipality are paid. A tax levy shall be made annually for this purpose, as provided in subsection (e). The estimates submitted shall be prepared and filed in the same manner and form and at the same time that estimates of other municipal offices and departments are prepared and filed.

(e) The municipal legislative body shall levy an annual tax in the amount and at the rate that are necessary to produce the revenue to pay that part of the police pensions that the municipality is obligated to pay. All money derived from the levy is for the exclusive use of the police pensions and benefits, including the payments described in section 5.5 of this chapter. The amounts in the estimated disbursements, if found to be correct and in conformity with the data submitted in the certified statement, are a binding obligation upon the municipality. The legislative body shall make a levy for them that will yield an amount equal to the estimated disbursements, less the amount of the estimated receipts. Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the levy.

As added by Acts 1981, P.L.309, SEC.55. Amended by P.L.90-2002, SEC.487; P.L.224-2007, SEC.123; P.L.146-2008, SEC.776; P.L.182-2009(ss), SEC.427.

IC 36-8-6-5.5

Use of certain amounts in 1925 fund

Sec. 5.5. (a) This section applies to a balance in the 1925 fund that:

(1) accrued from property taxes;

(2) is not necessary to meet the pension, disability, and survivor benefit payment obligations of the 1925 fund because of amendments to IC 5-10.3-11-4.7 in 2008; and

(3) is determined under subsection (c).

(b) A local board may authorize the use of money in the 1925 fund to pay any or all of the following:

(1) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1925 fund.

(2) The municipality's employer contributions under IC 36-8-8-6.

(3) The contributions paid by the municipality for a member under IC 36-8-8-8(a).

(c) The maximum amount that may be used under subsection (b) is equal to the sum of:

(1) the unencumbered balance of the 1925 fund on December 31, 2008; plus

(2) the amount of property taxes:

(A) imposed for an assessment date before January 16, 2008, for the benefit of the 1925 fund; and

(B) deposited in the 1925 fund after December 31, 2008.

As added by P.L.182-2009(ss), SEC.428.

IC 36-8-6-6

Investment of funds

Sec. 6. (a) The local board shall determine how much of the 1925 fund may be safely invested and how much should be retained for the needs of the fund. The investment shall be made:

(1) in interest bearing bonds of the United States, the state, or an Indiana municipal corporation. The bonds shall be deposited with and must remain in the custody of the treasurer of the board, who shall collect the interest due as it becomes due; or

(2) under IC 5-13-9.

(b) Investments under this section are subject to section 1.5 of this chapter.

As added by Acts 1981, P.L.309, SEC.55. Amended by P.L.55-1989, SEC.49; P.L.35-1999, SEC.8.

IC 36-8-6-7

Repealed

(*Repealed by P.L.363-1983, SEC.4.)*

IC 36-8-6-8

Disability retirement; benefits; procedure for determination of disability and reinstatement; period of disability credited

Sec. 8. (a) For a member who became disabled before July 1,

2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding:

(1) for a disability or disease occurring before July 1, 1982, fifty percent (50%); and

(2) for a disability or disease occurring after June 30, 1982, fifty-five percent (55%);

of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability that renders the patrolman unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(b) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment. A disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13 or IC 5-10-15; and

(2) that renders the member unable to perform the essential

functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(c) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is not described in subsection (b)(1); and

(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(d) The member must have retired from active service after a physical examination by the police surgeon or another surgeon appointed by the local board. The disability must be determined solely by the local board after the examination and a hearing conducted under IC 36-8-8-12.7. A member shall be retained on active duty with full pay until the member is retired by the local board because of the disability.

(e) After a member has been retired upon pension, the local board may, at any time, require the retired member to again be examined by the police surgeon or another surgeon appointed by the local board. After the examination the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the retired member should remain on the pension roll. The retired member shall be retained on the pension roll until reinstated in the service of the police department, except in case of resignation. If after the examination and hearing the retired member is found to have recovered from the member's disability and to be again fit for active duty, then the member shall be put on active duty with full pay and from that time is no longer entitled to payments from the 1925 fund. If the member fails or refuses to return to active duty, the member waives all rights to further benefits from the 1925 fund.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below:

(1) the amount of the first full monthly pension received by that person; or

(2) fifty-five percent (55%) of the salary of a first class

patrolman;

whichever is greater.

(g) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the member has a total of twenty (20) years of service.

(h) A fund member who is receiving disability benefits under subsection (a) or (c) shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(i) A fund member who is receiving disability benefits under subsection (b) is entitled to:

(1) receive a disability benefit for the remainder of the fund member's life; and

(2) have the amount of the disability benefit computed under section 9 of this chapter when the fund member becomes fifty-five (55) years of age.

As added by Acts 1981, P.L.309, SEC.55. Amended by Acts 1981, P.L.182, SEC.4; Acts 1982, P.L.213, SEC.1; P.L.311-1989, SEC.2; P.L.171-1990, SEC.1; P.L.4-1992, SEC.34; P.L.118-2000, SEC.4; P.L.185-2002, SEC.5; P.L.62-2006, SEC.2.

IC 36-8-6-8.1

Determination whether disability in line of duty

Sec. 8.1. (a) If a local board determines that a fund member has a temporary or a permanent disability, the local board shall also make a recommendation to the board of trustees of the Indiana public retirement system (referred to in this section as "the system board") concerning whether the disability is:

(1) a disability in the line of duty (as described in section 8(b)(1) of this chapter); or

(2) a disability not in the line of duty (a disability other than a disability described in section 8(b)(1) of this chapter).

The local board shall forward its recommendation to the system board.

(b) The system board shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The system board shall notify the local board, the safety board, and the fund member of its initial determination.

(c) The fund member, the safety board, or the local board may object in writing to the system board's initial determination under subsection (b) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the system board's initial determination becomes final. If a timely written objection is filed, the system board shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

As added by P.L.118-2000, SEC.5. Amended by P.L.6-2012,

SEC.247.

IC 36-8-6-9
Retirement benefits

Sec. 9. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1925 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service; or

(2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. However, the pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in not less than twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) If a member voluntarily retires after twenty (20) or more years of service, the member is entitled to retirement and the pension, without reference to his physical condition at the time of application. However, he then relinquishes all rights to other benefits or pensions for temporary disability. After retirement the member is not required to render further services on the police department, is no longer subject to the rules of the department, and may not be deprived of other benefits under this chapter that may accrue to him or his dependents.

(d) To be retired based upon length of service, only the time served by the member on the regularly constituted police department may be computed. Time served by a member as a special police officer, a merchant police officer, or a private police officer may not be considered in computing length of service.

As added by Acts 1981, P.L.309, SEC.55. Amended by P.L.342-1985, SEC.2; P.L.55-1989, SEC.50; P.L.231-1997, SEC.1.

IC 36-8-6-9.5
Reemployment after retirement

Sec. 9.5. (a) Not less than thirty (30) days after a member retires from a police department covered by this chapter, the member may:

(1) be rehired by the same municipality that employed the member as a police officer for a position other than that of a full-time, fully paid police officer; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board

receives from the Internal Revenue Service a determination that prohibits the implementation.
As added by P.L.130-2008, SEC.4.

IC 36-8-6-9.6
Members dying other than in line of duty; monthly benefit

Sec. 9.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 10.1 of this chapter).

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to the following:

(1) To the surviving spouse of a member who died before January 1, 1989, an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(2) Except as otherwise provided in this subdivision, to the surviving spouse of a member who dies after December 31, 1988, an amount per month, during the spouse's life, equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class patrolman; or

(B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the amount under clause (B), the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided in this subdivision is subject to adjustment as provided in subsection (e).

(c) Except as otherwise provided in this subsection, a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (b) may not exceed

the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service. This maximum benefit is equal to fifty percent (50%) of the salary of a first class patrolman in the police department plus, for a member who retired before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service of the retired member over twenty (20) years or, for a member who retires after December 31, 1985, plus one percent (1%) of the first class patrolman's salary for each six (6) months of service of the retired member over twenty (20) years. However, the maximum benefit may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

(d) Except as otherwise provided in this subsection, if a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.
As added by P.L.118-2000, SEC.6.

IC 36-8-6-9.7
Members dying in line of duty before September 1, 1982; monthly benefit for surviving spouse, children, or parents

Sec. 9.7. (a) This section applies to a member who died in the line of duty (as defined in section 10.1 of this chapter) before September 1, 1982.

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) Except as otherwise provided in this subsection, a payment

shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (b) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service. This maximum benefit is equal to fifty percent (50%) of the salary of a first class patrolman in the police department plus, for a member who retired before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service of the retired member over twenty (20) years or, for a member who retires after December 31, 1985, plus one percent (1%) of the first class patrolman's salary for each six (6) months of service of the retired member over twenty (20) years. However, the maximum benefit may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the

child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

As added by P.L.118-2000, SEC.7. Amended by P.L.86-2003, SEC.2.

IC 36-8-6-9.8
Funeral benefits

Sec. 9.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1925 fund shall be used to pay funeral benefits to the heirs or estate of an active or a retired member of the police department who has died from any cause, in an amount fixed by ordinance, but at least twelve thousand dollars ($12,000).

As added by P.L.200-1984, SEC.1. Amended by P.L.47-1988, SEC.2; P.L.55-1989, SEC.51; P.L.197-1993, SEC.2; P.L.169-1994, SEC.2; P.L.231-1997, SEC.2; P.L.40-1997, SEC.4; P.L.49-1998, SEC.2; P.L.118-2000, SEC.8; P.L.28-2008, SEC.1.

IC 36-8-6-9.9
Repealed

(*Repealed by P.L.200-1984, SEC.7.)*

IC 36-8-6-10
Repealed

(*Repealed by P.L.50-1984, SEC.9.)*

IC 36-8-6-10.1
Members dying in line of duty after August 31, 1982; monthly benefit for surviving spouse, children, or parents

Sec. 10.1. (a) This section applies to a member who dies in the line of duty after August 31, 1982.

(b) The surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but no less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the surviving spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) A payment shall also be made to each child of a deceased

member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longer.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who have a physical or mental disability.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member in the member's capacity as a police officer:

(1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) performs in the course of controlling or reducing crime or enforcing the criminal law.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for

each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

As added by Acts 1982, P.L.214, SEC.1. Amended by P.L.364-1983, SEC.2; P.L.200-1984, SEC.2; P.L.196-1988, SEC.1; P.L.1-1989, SEC.70; P.L.1-1991, SEC.210; P.L.52-1993, SEC.3; P.L.40-1997, SEC.5; P.L.118-2000, SEC.9; P.L.62-2002, SEC.1; P.L.185-2002, SEC.6; P.L.86-2003, SEC.3; P.L.99-2007, SEC.215.

IC 36-8-6-11

Members dismissed after 20 years' service; benefits

Sec. 11. The 1925 fund shall be used to pay an amount, equal to the pensions provided by this chapter in the case of voluntary retirement after twenty (20) years' service, to a member of the police department who is dismissed for any reason after having been in actual service for twenty (20) years, including two percent (2%) additional for each full year of service in excess of twenty (20) years' service. However, a pension under this section may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

As added by Acts 1981, P.L.309, SEC.55.

IC 36-8-6-12

Reduction of benefits after first payment

Sec. 12. The monthly pension payable to a member or survivor under this chapter may not be reduced below the amount of the first full monthly pension received by that person.

As added by Acts 1981, P.L.309, SEC.55.

IC 36-8-6-13

Disability retirees; orders, discipline, and duties; examination by police surgeon; transcripts, reports, records, and other material

Sec. 13. (a) A member of the police department placed on the retired list, except those that have served on the department for twenty (20) years or more and have been retired for that reason, shall report for duty to the chief of police as is provided in the bylaws of the local board. A member is then subject to the orders and discipline

of the chief and shall perform the duties that are required of him and for which, in the opinion of the police surgeon, he is fit, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. He shall be paid full salary for these duties.

(b) If a retired member refuses to obey orders or breaches discipline, the chief shall report the member at once to the safety board for action that is considered proper for the good of the service. A member is subject to punishment and dismissal in the same manner as officers in active service. The pension to which the retired member is entitled ceases upon his expulsion, and the pension is subject to the action considered proper by the safety board.

(c) The police surgeon of the municipality shall examine members of the police department when:

(1) the local board requests it;

(2) a member requests it for the purpose of certifying his physical or mental condition to the local board; or

(3) he considers it proper.

The surgeon shall then certify to the local board the true physical or mental condition of the person.

(d) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

As added by Acts 1981, P.L.309, SEC.55. Amended by P.L.4-1992, SEC.35.

IC 36-8-6-14

Priority of claims on insufficient funds; procedure for making pension payments; exemption of payments from judicial process

Sec. 14. (a) If there is not sufficient money to the credit of the 1925 fund to pay all claims against it in full, claims arising from the death of members of the department shall be paid in full first with as little delay as possible, after which an equal percentage shall be paid upon all other claims to the full extent of the money on hand, until the fund is replenished.

(b) All pensions shall be paid by the treasurer of the local board at his office at the same time and in the same installments as the members of the police department are paid.

(c) All pensions payable out of the 1925 fund are exempt from seizure or levy upon attachment, execution, supplemental process, and all other process, whether mesne or final. Except as provided in section 21 of this chapter, pensions are not subject to sale, assignment, or transfer by a beneficiary.

As added by Acts 1981, P.L.309, SEC.55. Amended by P.L.10-1993, SEC.14.

IC 36-8-6-15

Eligibility of employees for pension plan; age; medical examination

Sec. 15. A pension may not be paid to an employee of the police

department who at the time of his appointment was thirty-six (36) years of age or older, or who failed at that time to pass the medical examination required by the board. However, such a person is exempt from paying or contributing to the 1925 fund.
As added by Acts 1981, P.L.309, SEC.55.

IC 36-8-6-16
Eligibility of persons employed when fund established

Sec. 16. (a) Notwithstanding section 15 of this chapter, all employees of the police department at the time a municipality established a 1925 fund, regardless of their age at the time they became members of the department, became members of the 1925 fund and are entitled to all the benefits of it. They shall pay the assessments prescribed by and are subject to this chapter.

(b) A member of the police department who:

(1) was in active service on March 9, 1935;
(2) was a member of the 1925 fund;
(3) passed the physical examination required by the local board;
(4) had previous service in the police department; and
(5) was thirty-six (36) years of age or older at the time of his reinstatement or reappointment;

is entitled to all of the benefits of the 1925 fund, with all of the years of active service with the police department counted in determining his eligibility for retirement.
As added by Acts 1981, P.L.309, SEC.55.

IC 36-8-6-17
Discontinuance or reduction of benefits; failure to comply with requirements of local board; failure to report

Sec. 17. If a person who has received a benefit from the 1925 fund fails to report for duty or for examination, or otherwise fails to comply with legal requirements imposed by the local board, the local board may, after notice to the person, discontinue or reduce future payments.
As added by Acts 1981, P.L.309, SEC.55. Amended by P.L.224-1991, SEC.1.

IC 36-8-6-18
Pension funds governed by other laws

Sec. 18. If a second or third class city maintains a police pension fund that pays a smaller amount to the beneficiary under prior statutes governing the pension fund, this chapter does not increase those amounts.
As added by Acts 1981, P.L.309, SEC.55.

IC 36-8-6-19
Items excluded when computing benefits; liability for overpayment

Sec. 19. (a) Remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off may not be

used in the computation of benefits under this chapter.

(b) If the remuneration or allowances described in subsection (a) were used to compute benefits for a recipient who began receiving benefits before May 2, 1977, this computation may continue only for that recipient and only during the eligibility period for benefits. The municipality and the official involved are not liable for making the overpayment, and a recipient is not required to repay the overpayment.

As added by Acts 1981, P.L.309, SEC.55.

IC 36-8-6-20

Special lump sum death benefit in addition to other benefits

Sec. 20. (a) As used in this section, "dies in the line of duty" has the meaning set forth in section 10.1 of this chapter.

(b) A special death benefit of seventy-five thousand dollars ($75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars ($150,000) for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the Indiana public retirement system from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty:

(1) To the surviving spouse.

(2) If there is no surviving spouse, to the surviving children (to be shared equally).

(3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

(c) The benefit provided by this section is in addition to any other benefits provided under this chapter.

As added by P.L.223-1986, SEC.1. Amended by P.L.225-1991, SEC.1; P.L.53-1993, SEC.2; P.L.49-1998, SEC.3; P.L.35-2012, SEC.110.

IC 36-8-6-21

Rollover to eligible retirement plan

Sec. 21. Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the 1925 fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

As added by P.L.10-1993, SEC.15.

IC 36-8-7

Chapter 7. 1937 Firefighters' Pension Fund

IC 36-8-7-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 26 of this chapter by P.L.223-1986 applies only to fund members who die after March 10, 1986.

(2) The addition of section 12.1 of this chapter by P.L.171-1990 applies to all benefits paid after March 15, 1990.

(3) The amendments made to section 13 of this chapter by P.L.28-2008 apply only to benefits payable with respect to a member of the 1937 firefighters' pension fund who dies after June 30, 2008.

As added by P.L.220-2011, SEC.669.

IC 36-8-7-1

Application of chapter

Sec. 1. (a) This chapter applies to pension benefits for members of fire departments hired before May 1, 1977, in units for which a 1937 fund was established before May 1, 1977.

(b) A firefighter with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if the firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(c) A firefighter is covered by this chapter and not by IC 36-8-8 if the firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1937 fund.

(d) A firefighter who:

(1) is covered by this chapter before a consolidation under IC 36-3-1-6.1; and

(2) becomes a member of a fire department of a consolidated city under IC 36-3-1-6.1;

is covered by this chapter after the effective date of the consolidation, and the firefighter's service as a member of a fire department of a consolidated city is considered active service under this chapter.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.3-1990, SEC.130; P.L.170-2002, SEC.162; P.L.227-2005, SEC.39.

IC 36-8-7-2

"Fire company" defined

Sec. 2. As used in this chapter, "fire company" means each organization or group doing duty as part of the fire department, including engine companies, hose companies, those in the telephone or telegraph service, inspectors, mechanics, watchmen, and others in charge of apparatus for extinguishing fires.

As added by Acts 1981, P.L.309, SEC.57.

IC 36-8-7-2.5

Qualification of 1937 fund under Internal Revenue Code; benefit limitations

Sec. 2.5. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The 1937 fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the 1937 fund. In order to meet those requirements, the 1937 fund is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The local board shall distribute the corpus and income of the 1937 fund to members and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the 1937 fund may be used or diverted to any purpose other than the exclusive benefit of the members and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under this chapter.

(4) If the 1937 fund is terminated, or if all contributions to the 1937 fund are completely discontinued, the rights of each affected member to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the 1937 fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the 1937 fund is subject to the following provisions:

(A) The life expectancy of a member, the member's spouse, or the member's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(C) The amount of an annuity paid to a member's beneficiary

may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The local board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of members or beneficiaries;

in a manner that discriminates in favor of members who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The local board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

(c) Notwithstanding any other provision of this chapter, and solely for the purposes of the benefits provided under this chapter, the benefit limitations of Section 415 of the Internal Revenue Code shall be determined by applying the provisions of Section 415(b)(10) of the Internal Revenue Code, as amended by the Technical and Miscellaneous Revenue Act of 1988. This section constitutes an election under Section 415(b)(10)(C) of the Internal Revenue Code to have Section 415(b) of the Internal Revenue Code, other than Section 415(b)(2)(G) of the Internal Revenue Code, applied without regard to Section 415(b)(2)(F) of the Internal Revenue Code (before its repeal on June 7, 2001, by P.L.107-16) to anyone who did not first become a participant before January 1, 1990.

As added by P.L.55-1989, SEC.52. Amended by P.L.4-1990, SEC.16; P.L.42-2011, SEC.82.

IC 36-8-7-2.7

"Americans with Disabilities Act"

Sec. 2.7. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

As added by P.L.4-1992, SEC.36.

IC 36-8-7-2.9

Administration of fund

Sec. 2.9. The 1937 fund shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

As added by P.L.4-1992, SEC.37.

IC 36-8-7-3

Creation of fund; management by board of trustees; powers and

duties

Sec. 3. (a) A firefighters' pension fund to be known as the 1937 fund is established in each unit described by section 1(a) of this chapter.

(b) The 1937 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) composed of seven (7) trustees. Two (2) trustees are the executive of the unit and the fire chief, who are ex officio voting trustees. The other trustees are one (1) retired member of the fire department and four (4) active members of the fire department elected for the terms and in the manner provided in this chapter.

(c) The local board has control of the 1937 fund of the unit. The local board shall manage, use, and disburse the fund for the purpose and in the manner prescribed by this chapter. The local board may adopt and enforce bylaws that do not conflict with this chapter and are considered necessary to enable it to achieve the purposes for which it was organized. Each trustee shall, before entering upon the duties of his office, take an oath to faithfully perform his duties.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.236-1996, SEC.3.

IC 36-8-7-4

Fire departments with fewer than five members; trustees; elections

Sec. 4. (a) If a unit has less than five (5) members in its fire department, the unit may provide for the organization of a local board consisting of the fire chief, the executive of the unit, and one (1) member of the fire department.

(b) The trustee from the fire department shall be elected under this section.

(c) The local board may amend the bylaws of the fund to elect the trustee from the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(d) This subsection applies only if the local board does not elect to be governed by subsection (c). The trustee from the fire department shall be elected at a meeting held on the second Monday in February each year. The meeting shall be called by the fire chief and held at the house or quarters of the fire department.

(e) The term of the elected trustee is one (1) year beginning immediately after the trustee's election.

(f) Each member of the department is entitled to one (1) ballot and the person receiving the highest number of votes is elected. The executive of the unit, the fire chief, and the city or county clerk shall canvass and count the ballots, and the clerk shall issue a certificate of election to the person having received the highest number of votes. If two (2) persons have received the same number of votes, the executive and the chief shall immediately determine by lot who will be the trustee from the persons receiving an equal number of votes.

(g) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.
As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.170-1994, SEC.1; P.L.227-2005, SEC.40.

IC 36-8-7-5
Trustees; election of active members

Sec. 5. (a) An election shall be held each year under this section to elect one (1) trustee from the active members of the fire department for a term of four (4) years, commencing on the day of his election. The fire chief shall fix a time for holding a convention to nominate candidates for trustees to be elected at each election. Each convention must be held at least five (5) days before the day on which the annual election is held. A convention consists of one (1) delegate from each fire company and one (1) delegate to be selected by the chief and the chief's assistants. The delegate from each fire company shall be elected by ballot by the members of the company at a time to be fixed by the chief in the call for a convention. The election of delegates shall be certified by the captain or other officer of the company, or, if there is not an officer present, then by the oldest member of the company present. The convention, when assembled, shall nominate six (6) members of the fire department to be voted upon as trustees, and the delegates shall report the names of the persons nominated as candidates to their respective companies in writing.

(b) The local board may amend the bylaws of the fund to elect the trustee from the active members of the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the respective companies of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

(c) This subsection applies only if the local board does not elect to be governed by subsection (b). The election shall be held at the houses or quarters of the respective companies on the second Monday in February between 9 a.m. and 6 p.m.

(d) Each member of a fire company is entitled to one (1) ballot, and the ballot may not contain the names of more than one (1) person, chosen from the six (6) persons nominated by the convention. The candidate receiving the highest number of votes is elected.

(e) The captain or other officer in command of each of the fire companies, immediately after the casting of all ballots, shall canvass and count the ballots. The captain or other officer shall certify in writing the total number of ballots cast and the number of votes received by each candidate for the office of trustee. After signing the certificate, the officer shall enclose it, together with all the ballots cast by the fire company, in an envelope, securely sealed and addressed, and deliver them to the fire chief. The fire chief shall deliver them to the executive of the unit as soon as the chief receives all the certificates and ballots. Upon receipt the executive shall, in

the presence of the chief and the clerk of the unit, open the envelopes, examine the certificates, and determine the total number of votes cast for each of the candidates. The executive shall then issue a certificate of election to the candidate having received the highest number of votes. If two (2) or more candidates have received the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes. An election may not be set aside for lack of formality in balloting by the members or in certifying or transmitting the returns of an election by the officers in charge.

(f) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.170-1994, SEC.2; P.L.227-2005, SEC.41.

IC 36-8-7-6

Trustees; election of retired members

Sec. 6. (a) An election shall be held under this section every two (2) years to elect one (1) trustee from the retired members of the fire department for a term of two (2) years, commencing on the day of the trustee's election, if the retired list contains at least three (3) retired members at the time of election. The fire chief shall fix a time for holding a convention to nominate candidates for trustee to be elected at each election. Each convention must be held at least fifteen (15) days before the day on which the biennial election is held. All retired members of the fire department may participate in the convention. The convention, when assembled, shall nominate not more than four (4) members of the retired list to be voted upon as trustee. The secretary of the board shall mail the names of the persons nominated along with an official ballot to the retired members within forty-eight (48) hours of the end of the convention.

(b) The election shall be conducted by mail. Each retired member is entitled to cast one (1) ballot by mail and the ballot may not contain more than one (1) name, chosen from the list of retired persons nominated by the convention. The candidate receiving the highest number of votes by 6 p.m. on the second Monday in February or an alternative date in February specified in the bylaws of the fund is elected.

(c) The ballots must remain closed and inviolate until the close of the election, at which time, in the presence of the executive of the unit, the fire chief, and the clerk of the unit, the ballots shall be opened and counted. A certificate of election shall be issued to the candidate receiving the highest number of votes. If two (2) or more candidates receive the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes.

(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.170-1994, SEC.3; P.L.227-2005, SEC.42.

IC 36-8-7-6.5
Securing ballots; tampering with ballots

Sec. 6.5. (a) All ballots voted under this chapter shall be secured until the balloting is closed.

(b) Tampering with a ballot for an election under this chapter is a Class A infraction.

(c) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

As added by P.L.170-1994, SEC.4. Amended by P.L.227-2005, SEC.43.

IC 36-8-7-7
Trustees; officers; local board secretary bond; rules; application for relief or pensions

Sec. 7. (a) The fire chief is the president of the local board.

(b) At the first meeting after each election, the local board shall elect a secretary, who may be chosen from among the trustees. However, the local board may consider it proper to have a secretary who is a member of the fire department, to be elected by the companies for a term of four (4) years in the same manner as the election for trustees. The secretary shall keep a full record of all the proceedings of the local board in a book provided for that purpose. The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of the secretary's duties.

(c) The local board shall make all rules necessary for the discharge of its duties and shall hear and determine all applications for relief or pensions under this chapter.

(d) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.227-2005, SEC.44; P.L.117-2011, SEC.3.

IC 36-8-7-8
Derivation of money in fund

Sec. 8. The 1937 fund is derived from the following sources:

(1) From all money and other property that is given to the local board or 1937 fund for the uses and purposes for which the fund is created. The local board may take by gift, grant, devise, or bequest any money, personal property, real estate, or an interest in it. The gift, grant, devise, or bequest may be absolute or in fee simple or upon the condition that only the rents, income, or profits arising from it may be applied to the purposes for which the fund is established.

(2) All money, fees, rewards, or emoluments that are paid, given, devised, or bequeathed to the fire department or one (1) of the fire companies.

(3) All money accruing as interest on the securities or investments that are owned by and held in the name of the local board.

(4) All money received by the local board from the sale or by

the maturity of securities or investments owned by the local board.

(5) An assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member equal to six percent (6%) of the salary of a fully paid first class firefighter. However, the employer may pay all or a part of the assessment for the member. The secretary of the fire department, or the person whose duty it is to make out the payrolls, shall place on the payroll opposite the name of every member the amount of assessment on his salary. The unit's fiscal officer shall deduct monthly from the salary of every member the sum listed opposite his name, other than any amount paid on behalf of the member, and shall credit that amount to the 1937 fund. Except to the extent the assessment is paid on behalf of the member, every person who becomes a member of the fire department is liable for the assessment and is conclusively considered to agree to pay it by having it deducted from his salary as required in this section.

(6) Appropriations that are made for the fund by the unit's fiscal body.

As added by Acts 1981, P.L.309, SEC.57. Amended by Acts 1981, P.L.182, SEC.6; P.L.312-1989, SEC.2.

IC 36-8-7-9
Use of funds

Sec. 9. The 1937 fund and the appropriations made for the fund shall be used exclusively for the following:

(1) Payments to retired members and the dependents of deceased members.

(2) Death benefits.

(3) Other incidental expenses that are authorized by and are essential to the proper administration of this chapter, including the payment of all costs of litigation (including attorney's fees) arising in connection with the 1937 fund.

(4) Payments described in section 9.5 of this chapter.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.349-1987, SEC.1; P.L.182-2009(ss), SEC.429.

IC 36-8-7-9.5
Use of certain amounts in 1937 fund

Sec. 9.5. (a) This section applies to a balance in a 1937 fund that:

(1) accrued from property taxes;

(2) is not necessary to meet the pension, disability, and survivor benefit payment obligations of the 1937 fund because of amendments to IC 5-10.3-11-4.7 in 2008; and

(3) is determined under subsection (c).

(b) A local board may authorize the use of money in the 1937 fund to pay any or all of the following:

(1) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1937

fund.

(2) The unit's employer contributions under IC 36-8-8-6.

(3) The contributions paid by the unit for a member under IC 36-8-8-8(a).

(c) The maximum amount that may be used under subsection (b) is equal to the sum of the following:

(1) the unencumbered balance of the 1937 fund on December 31, 2008; plus

(2) the amount of property taxes:

(A) imposed for an assessment date before January 16, 2008, for the benefit of the 1937 fund; and

(B) deposited in the 1937 fund after December 31, 2008.

As added by P.L.182-2009(ss), SEC.430.

IC 36-8-7-10

Investment of funds

Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that the fiscal officer will faithfully discharge the duties of the fiscal officer's office and faithfully account for and pay over to the persons authorized to receive it all money that comes into the fiscal officer's hands by virtue of the fiscal

officer's office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.55-1989, SEC.53; P.L.79-1998, SEC.109; P.L.35-1999, SEC.9; P.L.173-2003, SEC.34.

IC 36-8-7-11

Members retiring due to disability or inability to perform essential functions of job; monthly benefit

Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) If a member of the fire department becomes seventy (70) years of age or is found upon examination by a medical officer to have a physical or mental disability and to be unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, so as to make necessary the person's retirement from all service with the department, the local board shall retire the person.

(c) The local board may retire a person for disability only after a hearing conducted under IC 36-8-8-12.7.

(d) If after the hearing the local board determines that a person who became disabled before July 1, 2000, is disabled and unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(e) If, after the hearing under this section and a recommendation under section 12.5 of this chapter, the board of trustees of the Indiana public retirement system determines that a person who becomes disabled after June 30, 2000:

(1) has a disability that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is responding to an emergency or reported emergency for which the fund member is trained; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment. A disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13 or IC 5-10-15; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(f) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the board of trustees of the Indiana public retirement system determines that a person who becomes disabled after June 30, 2000:

(1) has a disability that is not a disability described in subsection (e)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local

board.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.364-1983, SEC.3; P.L.199-1984, SEC.2; P.L.38-1986, SEC.4; P.L.55-1989, SEC.54; P.L.311-1989, SEC.3; P.L.4-1992, SEC.38; P.L.197-1993, SEC.3; P.L.40-1997, SEC.6; P.L.118-2000, SEC.10; P.L.246-2001, SEC.14; P.L.185-2002, SEC.7; P.L.62-2006, SEC.3; P.L.99-2007, SEC.216; P.L.6-2012, SEC.248.

IC 36-8-7-12
Repealed

(*Repealed by P.L.196-1988, SEC.5.)*

IC 36-8-7-12.1
Members retiring with 20 years service

Sec. 12.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) A member who has been in service twenty (20) years, upon making a written application to the fire chief, may be retired from all service with the department without a medical examination or disability. Except as provided in subsection (f), the local board shall authorize the payment to the retired member of fifty percent (50%) of the salary of a fully paid first class firefighter of the unit at the time of the payment of the pension, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each year of service; or

(2) for a member who retires after December 31, 1985, one percent (1%) of that salary for each six (6) months of service;

over twenty (20) years. However, the pension in one (1) year may not exceed an amount greater than seventy-four percent (74%) of the salary of a fully paid first class firefighter.

(c) A member who is discharged from the fire department after having served at least twenty (20) years is entitled to receive the amount equal to the amount that the member would have received if the member retired voluntarily.

(d) All pensions in a class are on an equal basis. The local board may not depart from this chapter in authorizing the payment of pensions.

(e) The monthly pension payable to a member may not be reduced below the amount of the first full monthly pension received by that person.

(f) The monthly pension payable to a member who is transferred from disability to regular retirement status may not be reduced below fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(g) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(h) A fund member who is receiving disability benefits under section 11(d) or 11(f) of this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(i) A fund member who is receiving disability benefits under section 11(e) of this chapter is entitled to:

(1) receive a disability benefit for the remainder of the fund member's life; and

(2) have the amount of the disability benefit computed under section 11(e) of this chapter when the fund member becomes fifty-five (55) years of age.

As added by P.L.196-1988, SEC.2. Amended by P.L.1-1989, SEC.71; P.L.55-1989, SEC.55; P.L.171-1990, SEC.2; P.L.197-1993, SEC.4; P.L.52-1993, SEC.4; P.L.1-1994, SEC.179; P.L.231-1997, SEC.3; P.L.40-1997, SEC.7; P.L.118-2000, SEC.11; P.L.62-2006, SEC.4.

IC 36-8-7-12.2

Members dying other than in line of duty

Sec. 12.2. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 12.4 of this chapter).

(b) If a member of the fire department or a retired member of the 1937 fund dies and leaves:

(1) a surviving spouse;

(2) a child or children less than eighteen (18) years of age;

(3) a child or children at least eighteen (18) years of age who are mentally or physically incapacitated; or

(4) a child or children less than twenty-three (23) years of age who are:

(A) enrolled in and regularly attending a secondary school; or

(B) full-time students at an accredited college or university;

the local board shall authorize the payment to the surviving spouse and to the child or children the amount from the fund as prescribed by this section. If the surviving spouse of a deceased member remarried before September 1, 1983, and pension benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by this section.

(d) If a member dies while in active service or after retirement:

(1) the surviving spouse is entitled to receive an amount fixed

by ordinance but not less than:

(A) for the surviving spouse of a member who dies before January 1, 1989, thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(B) for the surviving spouse of a member who dies after December 31, 1988, except as otherwise provided in this clause, an amount per month, during the spouse's life, equal to the greater of thirty percent (30%) of the monthly pay of a first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death (these amounts shall be proportionately increased or decreased if the salary of a first class firefighter is increased or decreased); however, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the second amount under this item, the member's benefit is considered to be fifty percent (50%) of the monthly salary of a first class firefighter in the unit at the time of payment of the pension;

(2) the member's children who are:

(A) less than eighteen (18) years of age; or

(B) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(3) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2)(B), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(e) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

As added by P.L.118-2000, SEC.12.

IC 36-8-7-12.3

Members dying in line of duty before September 1, 1982

Sec. 12.3. (a) This section applies to a member who died in the line of duty (as defined in section 12.4 of this chapter) before September 1, 1982.

(b) If a member of the fire department or a retired member of the 1937 fund dies and leaves:

(1) a surviving spouse;

(2) a child or children less than eighteen (18) years of age;

(3) a child or children at least eighteen (18) years of age who are mentally or physically incapacitated; or

(4) a child or children less than twenty-three (23) years of age who are:

(A) enrolled in and regularly attending a secondary school; or

(B) full-time students at an accredited college or university;

the local board shall authorize the payment to the surviving spouse and to the child or children of the amount from the fund as prescribed by this section. If the surviving spouse of a deceased member remarried before September 1, 1983, and pension benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by this section.

(d) If a member dies while in active service:

(1) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension;

(2) the member's children who are:

(A) less than eighteen (18) years of age; or

(B) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(3) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2)(B), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(e) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(g) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

As added by P.L.118-2000, SEC.13. Amended by P.L.86-2003, SEC.4.

IC 36-8-7-12.4

Members dying in line of duty after August 31, 1982

Sec. 12.4. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a fully paid first

class firefighter. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a member dies while in active service, the member's children who are:

(1) less than eighteen (18) years of age; or

(2) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class firefighter. However, this limitation does not apply to the children of a member who have a physical or mental disability.

(e) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund. Each parent of a deceased member who was eligible for a pension under this subsection is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(f) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a firefighter:

(1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(g) If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not

receiving a benefit under subsection (c)(2), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(h) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(i) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(j) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

As added by P.L.118-2000, SEC.14. Amended by P.L.62-2002, SEC.2; P.L.185-2002, SEC.8; P.L.86-2003, SEC.5; P.L.99-2007, SEC.217.

IC 36-8-7-12.5

Determination whether disability in line of duty

Sec. 12.5. (a) If a local board determines that a fund member has a temporary or a permanent disability, the local board shall also make a recommendation to the board of trustees of the Indiana public retirement system (referred to in this section as "the system board") concerning whether the disability is:

(1) a disability in the line of duty (as described in section 11(e)(1) of this chapter); or

(2) a disability not in the line of duty (a disability other than a disability described in section 11(e)(1) of this chapter).

The local board shall forward its recommendation to the system board.

(b) The system board shall review the local board's recommendation not later than forty-five (45) days after receiving the

recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The system board shall notify the local board, the safety board, and the fund member of its initial determination.

(c) The fund member, the safety board, or the local board may object in writing to the system board's initial determination under subsection (b) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the system board's initial determination becomes final. If a timely written objection is filed, the system board shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

As added by P.L.118-2000, SEC.15. Amended by P.L.6-2012, SEC.249.

IC 36-8-7-12.7

Reemployment after retirement

Sec. 12.7. (a) Not less than thirty (30) days after a member retires from a fire department covered by this chapter, the member may:

(1) be rehired by the same unit that employed the member as a firefighter for a position other than that of a full-time, fully paid firefighter; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

As added by P.L.130-2008, SEC.5.

IC 36-8-7-13

Lump sum death benefit

Sec. 13. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) Upon the death of a disabled, retired, or discharged member of the fire department who was receiving or entitled to receive a pension at the time of the member's death, or upon the death of a member in active service at the time of the member's death, the local board shall authorize and pay out of the 1937 fund at least twelve thousand dollars ($12,000) as death benefits.

(c) The death benefit described under this section shall be paid:

(1) to the surviving spouse;

(2) if there is no surviving spouse, to the surviving children; and

(3) if there is no surviving spouse, and if there are no surviving children, to the estate;

of the deceased member and is in addition to other benefits paid to a member or survivor under this chapter.

As added by Acts 1981, P.L.309, SEC.57. Amended by Acts 1981, P.L.182, SEC.7; P.L.200-1984, SEC.3; P.L.55-1989, SEC.56; P.L.169-1994, SEC.3; P.L.49-1998, SEC.4; P.L.28-2008, SEC.2.

IC 36-8-7-14

Annual statement of receipts and disbursements; payment of excess expenditures by unit; appropriations

Sec. 14. (a) The local board shall meet annually and prepare an itemized estimate, in the form prescribed by the state board of accounts, of the amount of money that will be receipted into and disbursed from the 1937 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements must be divided into two (2) parts, designated as part 1 and part 2.

(b) Part 1 of the estimated disbursements consists of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible to and expect to retire during the next fiscal year, and to the dependents of deceased members. Part 2 of the estimated disbursements consists of an estimate of the amount of money that will be needed to pay death benefits and other expenditures that are authorized or required by this chapter.

(c) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing the following:

(1) The name, age, and date of retirement of each retired member and the monthly and yearly amount of the payment to which the retired member is entitled.

(2) The name and age of each member who is eligible to and expects to retire during the next fiscal year, the date on which the member expects to retire, and the monthly and yearly amount of the payment that the member will be entitled to receive.

(3) The name and the age of each dependent, the date on which the dependent became a dependent, the date on which the dependent will cease to be a dependent by reason of attaining the age at which dependents cease to be dependents, and the monthly and yearly amount of the payment to which the dependent is entitled.

(4) The amount that would be required for the next fiscal year to maintain level cost funding during the active fund members' employment on an actuarial basis.

(5) The amount that would be required for the next fiscal year to amortize accrued liability for active members, retired members, and dependents over a period determined by the local board, but not to exceed forty (40) years.

(d) The total receipts shall be deducted from the total expenditures as listed in the itemized estimate. The amount of the excess of the estimated expenditures over the estimated receipts shall be paid by the unit in the same manner as other expenses of the unit are paid, and an appropriation shall be made annually for that purpose. The estimates submitted shall be prepared and filed in the

same manner and form and at the same time that estimates of other offices and departments of the unit are prepared and filed.

(e) The estimates shall be made a part of the annual budget of the unit. When revising the estimates, the executive, the fiscal officer, and other fiduciary officers may not reduce the items in part 1 of the estimated disbursements.

(f) The unit's fiscal body shall make the appropriations necessary to pay that proportion of the budget of the 1937 fund that the unit is obligated to pay under subsection (d). In addition, the fiscal body may make appropriations for purposes of subsection (c)(4), (c)(5), or both. All appropriations shall be made to the local board for the exclusive use of the 1937 fund, including the payments described in section 9.5 of this chapter. The amounts listed in part 1 of the estimated disbursements, if found to be correct and in conformity with the data submitted in the certified statement, are a binding obligation upon the unit. Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the appropriations made to pay the amount equal to estimated disbursements minus estimated receipts.
As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.345-1985, SEC.1; P.L.90-2002, SEC.488; P.L.224-2007, SEC.124; P.L.146-2008, SEC.777; P.L.182-2009(ss), SEC.431.

IC 36-8-7-15
Insufficient funds for appropriations; loans; tax levy to repay loans

Sec. 15. If the appropriations for any of the purposes contemplated in section 14 of this chapter are exhausted before the end of the fiscal year for which the appropriations have been made, the unit's fiscal body shall make the necessary additional appropriations according to IC 6-1.1-18-5. If the amount of money in the general fund not otherwise appropriated is less than the additional appropriations found to be necessary, the fiscal body shall borrow the necessary money in the manner prescribed by statute for making loans by the unit. A tax shall be levied for the next year sufficient to repay the loan and the interest that has accrued.
As added by Acts 1981, P.L.309, SEC.57.

IC 36-8-7-16
Disability retirees; physical examinations; reactivation; hearing; period of disability credited; transcripts, reports, records, and other materials

Sec. 16. (a) After a member of the fire department has been retired upon pension because of disability, the local board may require the retired member to again be examined by competent physicians or surgeons. After the examination, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the retired member should be continued on the pension roll. However, the retired member remains upon the pension roll until placed back in active service of the department, except in cases of dismissal or resignation.

(b) If a retired member is found after the examination and hearing to be physically able to be placed back in active service of the department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, the local board shall certify the person's name and that fact to the safety board or other appointing authority. The person shall be placed back on active duty by the appointing authority as soon as the first vacancy occurs.

(c) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the member has a total of twenty (20) years of service.

(d) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

As added by Acts 1981, P.L.309, SEC.57. Amended by Acts 1981, P.L.182, SEC.8; P.L.311-1989, SEC.4; P.L.4-1992, SEC.39.

IC 36-8-7-17

Eligibility for employment; physical examinations; age requirements

Sec. 17. (a) The local board may require and provide for a physical examination of applicants for employment in the fire department.

(b) A person who:

(1) is at least thirty-six (36) years of age; or

(2) fails to pass the physical examination required by the local board;

may not be appointed, reappointed, or reinstated as a member of the fire department.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.38-1986, SEC.5; P.L.55-1987, SEC.4.

IC 36-8-7-18

Membership of persons employed on March 2, 1937, in pension fund

Sec. 18. (a) Notwithstanding section 17 of this chapter, each member of the fire department who was in active service on March 2, 1937, but who was not a member of the firemen's pension fund, is conclusively considered to be a member of the 1937 fund and shall pay, in addition to his previous assessments, the same amount into the 1937 fund for unpaid assessments that he would have paid as assessments if he had been a member of the 1937 fund during all of the years of his service.

(b) A member of the fire department who:

(1) was in active service on March 2, 1937;

(2) was a member of the 1937 fund;

(3) had previous service in the fire department; and

(4) who was thirty-six (36) years of age or older at the time of his reinstatement or reappointment;

is entitled to all of the benefits of the 1937 fund with all of the years of active service with the fire department counted in determining his eligibility for retirement.
As added by Acts 1981, P.L.309, SEC.57.

IC 36-8-7-19
Repealed
(*Repealed by P.L.38-1986, SEC.8.)*

IC 36-8-7-20
Deposit of funds
Sec. 20. All money that is collected and received by the local board or an officer of it by virtue of subdivisions (1) through (4) of section 8 of this chapter shall be paid to the unit's fiscal officer, who shall credit this money to the 1937 fund. The 1937 fund is a public fund for purposes of IC 5-13.
As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.19-1987, SEC.50; P.L.173-2003, SEC.35.

IC 36-8-7-21
Payments; procedure
Sec. 21. Payments to beneficiaries and dependents from the 1937 fund shall be made upon a warrant of the unit's fiscal officer upon a verified schedule of beneficiaries and dependents and the amount payable to each. The schedule shall be prepared and verified by the secretary, signed by the president, and countersigned by the secretary of the local board. All other claims shall be signed by the president and countersigned by the secretary and shall be paid upon a warrant of the fiscal officer.
As added by Acts 1981, P.L.309, SEC.57.

IC 36-8-7-22
Exemption of fund from judicial process; authorized expenditures
Sec. 22. The 1937 fund may not be, either before or after an order for distribution to members of the fire department or to the surviving spouses or guardians of a child or children of a deceased, disabled, or retired member, held, seized, taken, subjected to, detained, or levied on by virtue of an attachment, execution, judgment, writ, interlocutory or other order, decree, or process, or proceedings of any nature issued out of or by a court in any state for the payment or satisfaction, in whole or in part, of a debt, damages, demand, claim, judgment, fine, or amercement of the member or the member's surviving spouse or children. The 1937 fund shall be kept and distributed only for the purpose of pensioning the persons named in this chapter. The local board may, however, annually expend an amount from the 1937 fund that it considers proper for the necessary expenses connected with the fund. Notwithstanding any other law, neither the fiscal body, the county board of tax adjustment, nor the department of local government finance may reduce these expenditures.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.90-2002, SEC.489; P.L.224-2007, SEC.125; P.L.146-2008, SEC.778.

IC 36-8-7-23
Fiscal officer as custodian of fund; liability; accounts

Sec. 23. The unit's fiscal officer is the custodian of all money belonging to the 1937 fund, and all money belonging to the fund shall be promptly paid to the officer. The officer is liable on the officer's bond for the faithful performance of all duties imposed upon the officer by this chapter in relation to the fund and for the faithful accounting of all money and securities that come into the officer's possession and belong to the fund. The officer shall keep a separate account of the 1937 fund, which must always show the true condition of the fund.

As added by Acts 1981, P.L.309, SEC.57. Amended by P.L.173-2003, SEC.36.

IC 36-8-7-24
Temporary loans; authorization and procedure

Sec. 24. The local board may, by resolution, authorize temporary loans to be made and effected in anticipation of current revenues of the unit actually levied and in the course of collection for the fiscal year in which the loans are made. The fiscal body of the unit shall by ordinance authorize the temporary loans and the issuance and sale of securities for them in the same manner as prescribed for the unit generally in making temporary loans.

As added by Acts 1981, P.L.309, SEC.57.

IC 36-8-7-25
Items excluded when computing benefits; liability for overpayment

Sec. 25. (a) Remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off may not be used in the computation of benefits under this chapter.

(b) If the remuneration or allowances described in subsection (a) were used to compute benefits for a recipient who began receiving benefits before May 2, 1977, this computation may continue only for that recipient and only during the eligibility period for benefits. The unit and the official involved are not liable for making the overpayment, and a recipient is not required to repay the overpayment.

As added by Acts 1981, P.L.309, SEC.57.

IC 36-8-7-26
Special lump sum death benefit in addition to other benefits

Sec. 26. (a) As used in this section, "dies in the line of duty" has the meaning set forth in section 12.4 of this chapter.

(b) A special death benefit of seventy-five thousand dollars ($75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars ($150,000)

for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the Indiana public retirement system from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty:

(1) To the surviving spouse.

(2) If there is no surviving spouse, to the surviving children (to be shared equally).

(3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

(c) The benefit provided by this section is in addition to any other benefits provided under this chapter.

As added by P.L.223-1986, SEC.2. Amended by P.L.225-1991, SEC.2; P.L.53-1993, SEC.3; P.L.49-1998, SEC.5; P.L.118-2000, SEC.16; P.L.1-2001, SEC.43; P.L.35-2012, SEC.111.

IC 36-8-7-27

Rollover to eligible retirement plan

Sec. 27. Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the 1937 fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

As added by P.L.10-1993, SEC.16.

IC 36-8-7.5

Chapter 7.5. 1953 Police Pension Fund (Indianapolis)

IC 36-8-7.5-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 22 of this chapter by P.L.223-1986 applies only to fund members who die after March 10, 1986.

(2) The amendments made to section 13.8 of this chapter by P.L.28-2008 apply only to benefits payable with respect to a member of the 1953 police pension fund who dies after June 30, 2008.

As added by P.L.220-2011, SEC.670.

IC 36-8-7.5-1

Application of chapter; officers eligible for benefits

Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, by a consolidated city.

(b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if:

(1) the officer was hired before May 1, 1977;

(2) the officer did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) the officer was not a member of the 1953 fund because:

(A) the officer's employment was on a temporary or emergency status under a statute in effect before February 25, 1953;

(B) the officer failed to pass a five (5) year physical requirement under such a statute; or

(C) the officer was a war veteran without pension status;

(4) the officer submitted to a physical medical examination, if required by the local board, and the results were satisfactory; and

(5) the officer was accepted by the local board as a member of the 1953 fund upon payment of all dues required for the officer's entire time as a member of the police department.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if the officer:

(1) was hired before May 1, 1977; and

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981).

(d) A police officer is covered by this chapter and not by IC 36-8-8 if the officer:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) is a regularly appointed member of the police department;

(4) is a member of the 1953 fund;

(5) was employed on a temporary or emergency status before regular employment; and

(6) paid into the 1953 fund by not later than January 1, 1968, all dues for the period the officer was on temporary or emergency status.

(e) A police officer who:

(1) is covered by this chapter before consolidation under IC 36-3-1-5.1; and

(2) becomes a member of the consolidated law enforcement department through consolidation under IC 36-3-1-5.1;

is covered by this chapter after the effective date of the consolidation, and the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter.

(f) In computing the length of active service rendered by any police officer for the purpose of determining the expiration of a period of twenty (20) years of active service, all of the following periods are counted:

(1) All of the time the officer performed the duties of the officer's position in active service.

(2) Vacation time or periods of leave of absence with whole or part pay.

(3) Periods of leave of absence without pay that were necessary on account of physical or mental disability.

(4) Periods of disability for which the officer will receive or has received any disability benefit.

(g) In computing the term of service there is not included any of the following:

(1) Periods during which the police officer was or is suspended or on leave of absence without pay.

(2) Periods during which the officer was not in active service on account of the officer's resignation from the department.

(3) Time served as a special police officer, a merchant police officer, or private police officer.

As added by Acts 1982, P.L.77, SEC.9. Amended by P.L.104-1983, SEC.6; P.L.3-1990, SEC.131; P.L.227-2005, SEC.45.

IC 36-8-7.5-1.5

Qualification of 1953 fund under Internal Revenue Code; benefit limitations

Sec. 1.5. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The 1953 fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the 1953 fund. In order to meet those requirements, the 1953 fund is subject to the following provisions, notwithstanding any other provision of

this chapter:

(1) The local board shall distribute the corpus and income of the 1953 fund to members and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the 1953 fund may be used or diverted to any purpose other than the exclusive benefit of the members and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under this chapter.

(4) If the 1953 fund is terminated, or if all contributions to the 1953 fund are completely discontinued, the rights of each affected member to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the 1953 fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the 1953 fund is subject to the following provisions:

(A) The life expectancy of a member, the member's spouse, or the member's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(C) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The local board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of members or beneficiaries;

in a manner that discriminates in favor of members who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The local board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

(c) Notwithstanding any other provision of this chapter, and solely for the purposes of the benefits provided under this chapter, the

benefit limitations of Section 415 of the Internal Revenue Code shall be determined by applying the provisions of Section 415(b)(10) of the Internal Revenue Code, as amended by the Technical and Miscellaneous Revenue Act of 1988. This section constitutes an election under Section 415(b)(10)(C) of the Internal Revenue Code to have Section 415(b) of the Internal Revenue Code, other than Section 415(b)(2)(G) of the Internal Revenue Code, applied without regard to Section 415(b)(2)(F) of the Internal Revenue Code (before its repeal on June 7, 2001, by P.L.107-16) to anyone who did not first become a participant before January 1, 1990.
As added by P.L.55-1989, SEC.57. Amended by P.L.4-1990, SEC.17; P.L.42-2011, SEC.83.

IC 36-8-7.5-1.7
"Americans with Disabilities Act"
Sec. 1.7. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.
As added by P.L.4-1992, SEC.40.

IC 36-8-7.5-1.9
Administration of fund
Sec. 1.9. The 1953 fund shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.
As added by P.L.4-1992, SEC.41.

IC 36-8-7.5-2
Establishment of fund; local board of trustees; terms; vacancies; compensation; bylaws
Sec. 2. (a) A police pension fund to be known as the 1953 fund is established in each consolidated city.
(b) The 1953 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) having nine (9) trustees, as follows:
(1) The city executive, the county treasurer, and the city police chief.
(2) One (1) retired member of the police department.
(3) Five (5) active members of the police department.
(c) The trustee under subsection (b)(2) shall be elected at a meeting of the retired members of the 1953 fund. The trustees under subsection (b)(3) shall be elected at a meeting of the active members of the police department. The trustees are elected for terms of three (3) years, beginning on January 1 following the election, and succeeding those trustees whose terms of office expire on that date.
(d) If a vacancy occurs on the local board among those trustees elected by the police department, the remaining trustees of the local board shall fill the vacancy for the unexpired term of the trustee causing the vacancy, from the same class of members, active or retired, as was the trustee causing the vacancy.

(e) Any trustee of the local board elected as an active member of the police department automatically ceases to be a member of the local board if he ceases, for any reason, to be an active member of the police department and the vacancy shall be filled as provided in subsection (d).

(f) The trustees receive no compensation for their services and shall be paid only their necessary and actual expenses, including travel expenses, out of the fund in the custody of the treasurer, for acting upon matters related to the 1953 fund. The submission of expenses by any local board member and the authorization by the local board at regular meeting is sufficient authorization to the treasurer for payment.

(g) The local board may make all necessary bylaws for:

(1) meetings of the trustees;

(2) the manner of their election, including the counting and canvassing of the votes;

(3) the collection of all money and other property due or belonging to the 1953 fund;

(4) all matters connected with the care, preservation, and disbursement of the fund; and

(5) all other matters connected with the proper execution of this chapter.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-3

Officers of local board; powers and duties; secretary's bond; reports

Sec. 3. (a) The city executive is president of the local board, the police chief is its vice president, the county treasurer is its treasurer, and the local board shall elect a secretary. The secretary shall be paid out of the 1953 fund a sum for his services as fixed by the local board.

(b) The treasurer:

(1) has custody of all property, money, and securities belonging to the 1953 fund and shall collect the principal and interest on them;

(2) is liable on his bond as a county officer for the faithful accounting of all money and securities belonging to the 1953 fund that come into his hands;

(3) shall keep a separate account showing at all times the true condition of the 1953 fund; and

(4) shall, upon the expiration of his term of office, account to the local board for all money and securities coming into his hands, including the proceeds of them, and turn over to his successor all money and securities belonging to the fund remaining in his hands.

(c) The secretary shall:

(1) keep a true account of the proceedings of the local board when acting upon matters relating to the 1953 fund;

(2) keep a correct statement of the accounts of each member

with the 1953 fund;

(3) give the local board a monthly account of his acts and services as secretary;

(4) turn over to his successor all books and papers pertaining to his office; and

(5) perform any other duties imposed upon him by the local board.

(d) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of his duties.

(e) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the city fiscal officer. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-4

Management of revenue of fund by local board

Sec. 4. (a) The local board shall ensure and confirm that:

(1) all amounts specified in this chapter to be applied to the 1953 fund, from any sources, are collected and applied to the fund;

(2) the various sums to be deducted from the salaries of the police officers concerned are deducted and are paid into the 1953 fund;

(3) the various sums to be contributed by the police special service district are so contributed and are received into the 1953 fund;

(4) any revenue in form of interest upon money invested or upon money due to the 1953 fund is received and placed into the fund; and

(5) all other money that should accrue to the 1953 fund is collected and paid into it.

(b) The local board shall have an audit of the accounts of the 1953 fund done at least once each biennium, by a person or persons competent to perform the audit, if the state board of accounts fails to examine the affairs of the fund during the period.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-5

Applications to local board for annuities, pensions, and benefits

Sec. 5. (a) The local board shall consider and pass upon all applications for annuities, pensions, and benefits.

(b) The local board shall authorize the payment of any annuity, pension, or benefit, whether granted under this chapter or under any other statute superseded by this chapter.

(c) The local board may inquire into the validity of any grant of annuity, pension, or benefit paid from or payable out of the 1953 fund, whether the grant has been or is made in accordance with this chapter or with a statute in effect before February 25, 1953.

(d) The local board may effect an increase, decrease, or suspension of any grant payable from the 1953 fund whenever the grant or any part was secured or granted, or the amount fixed, as a result of misrepresentation, fraud, or error. However, a grant may not be reduced or suspended until the grantee concerned is:

(1) notified of the proposed action; and

(2) given an opportunity to be heard concerning the proposed action.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-6
Annual report of local board

Sec. 6. The local board shall submit a report in the month of June of each year to the city legislative body. The report shall be made as of the close of business on December 31 of the preceding year and must contain a detailed statement of the affairs of the 1953 fund under the control of the local board. The report must show the income and disbursements of, and the assets and liabilities of each fund established and maintained within the 1953 fund during the preceding year.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-7
Employees of local board; compensation

Sec. 7. The local board shall appoint the actuarial, medical, clerical, legal, or other employees as are necessary, and fix or approve the compensation of each of them, which shall be paid by the treasurer.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-8
Sources of fund

Sec. 8. The 1953 fund is derived from the following sources:

(1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest any money, chose in action, personal property, real property, or use the same for the purposes of the 1953 fund or for such purposes specified by the grantor.

(2) From money, fees, and awards of every nature that are given to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, all money from gambling cases and from gambling devices as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and confiscated by court order, and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter,

on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1953 fund, an amount equal to six percent (6%) of the salary of a first class patrolman. However, the employer may pay all or a part of the assessment for the member.

(4) From the income from investments of the 1953 fund.

(5) From the proceeds of a tax levied by the police special service district upon taxable property in the district, which the treasurer shall collect and credit to the 1953 fund, to be used exclusively by the 1953 fund, including the payments described in section 10.5 of this chapter.

As added by Acts 1982, P.L.77, SEC.9. Amended by P.L.312-1989, SEC.3; P.L.182-2009(ss), SEC.432.

IC 36-8-7.5-9
City officers; powers and duties

Sec. 9. The proper officers of the city shall do the following:

(1) Deduct all sums that this chapter provides from the salaries of members of the police department and pay the sums to the local board in the manner that the local board specifies.

(2) On the first day of each month, notify the local board of all the following regarding members eligible for the 1953 fund that occurred during the preceding month and state the dates upon which these events occurred:

(A) New employments.

(B) Discharges.

(C) Resignations.

(D) Suspensions from the service.

(E) Deaths.

(F) Changes in salary that occurred during the preceding month.

(3) Procure for and transmit to the local board, in the form and time or times specified by the local board, all information requested by the local board concerning the service, age, salary, residence, marital condition, spouse, children, physical condition, mental condition, and death of any member of the police department.

(4) Convey to the local board all information required by the local board concerning each newly appointed member of the police department immediately after the appointment.

(5) Certify to the pension board, as of same day in the year to be fixed by the local board, the name of each member of the police department to whom this chapter applies.

(6) Keep such records concerning members of the police department as the local board may reasonably require and specify.

(7) Perform all duties without any cost to the 1953 fund.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-10
Insufficient pension fund; estimates; statement; tax levy

Sec. 10. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the police special service district is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1953 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the estimated number of beneficiaries from the 1953 fund during the ensuing fiscal year in each of the various classifications of beneficiaries as prescribed in this chapter, and the names and amount of benefits being paid to those actively on the list of beneficiaries at that time;

(2) the name, age, and length of service of each member of the police department who is eligible to and expects to retire during the ensuing fiscal year, and the monthly and yearly amounts of the payment that the member will be entitled to receive; and

(3) the name and age of each dependent of a member of the police department who is then receiving benefits, the date on which the dependent commenced drawing benefits, and the date on which the dependent will cease to be a dependent by reason of attaining the age limit prescribed by this chapter, and the monthly and yearly amounts of the payments to which each of the dependents is entitled.

(c) After the amounts of receipts and disbursements shown in the itemized estimate are fixed and approved by the executive, fiscal officer, legislative body and other bodies, as provided by law for other municipal funds, the total receipts shall be deducted from the total expenditures stated in the itemized estimate, and the amount of the excess shall be paid by the police special service district in the same manner as other expenses of the district are paid. The legislative body shall levy a tax and the money derived from the levy shall, when collected, be credited exclusively to the 1953 fund, including the payments described in section 10.5 of this chapter. The tax shall be levied in the amount and at the rate that is necessary to produce sufficient revenue to equal the deficit. Notwithstanding any other law, neither the county board of tax adjustment nor the department of local government finance may reduce the tax levy.

As added by Acts 1982, P.L.77, SEC.9. Amended by P.L.90-2002,

SEC.490; P.L.1-2003, SEC.101; P.L.224-2007, SEC.126; P.L.146-2008, SEC.779; P.L.182-2009(ss), SEC.433.

IC 36-8-7.5-10.5
Use of certain amounts in 1953 fund

Sec. 10.5. (a) This section applies to a balance in the 1953 fund that:

(1) accrued from property taxes;

(2) is not necessary to meet the pension, disability, and survivor benefit payment obligations of the 1953 fund because of amendments to IC 5-10.3-11-4.7 in 2008; and

(3) is determined under subsection (c).

(b) A local board may authorize the use of money in the 1953 fund to pay any or all of the following:

(1) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1953 fund.

(2) The consolidated city's employer contributions under IC 36-8-8-6.

(3) The contributions paid by the consolidated city for a member under IC 36-8-8-8(a).

(c) The maximum amount that may be used under subsection (b) is equal to the sum of the following:

(1) the unencumbered balance of the 1953 fund on December 31, 2008; plus

(2) the amount of property taxes:

(A) imposed for an assessment date before January 16, 2008, for the benefit of the 1953 fund; and

(B) deposited in the 1953 fund after December 31, 2008.

As added by P.L.182-2009(ss), SEC.434.

IC 36-8-7.5-11
Investments of local board

Sec. 11. (a) The local board shall determine how much of the 1953 fund may be safely invested and how much should be retained for the needs of the fund. The investment shall be made in interest bearing direct obligations of the United States, obligations or issues guaranteed by the United States, bonds of the state of Indiana or any political subdivision, or street, sewer, or other improvement bonds of the state of Indiana or any political subdivision. However, the local board may not invest in obligations issued by the consolidated city, the county, or any political subdivision in the county. Any securities shall be deposited with and remain in the custody of the treasurer of the local board, who shall collect the interest due on them as it becomes due and payable. The local board may sell any of the securities belonging to the 1953 fund and borrow money upon the securities as collateral whenever in the judgment of the local board this action is necessary to meet the cash requirements of the 1953 fund.

(b) The revenues derived from the tax levy authorized by section

10(c) of this chapter may not be invested but shall be used for the exclusive purpose of paying the pensions and benefits that the local board is obligated to pay. These revenues are in addition to all money derived from the income on the investments of the board.

(c) Investments under this section are subject to section 1.5 of this chapter.

As added by Acts 1982, P.L.77, SEC.9. Amended by P.L.55-1989, SEC.58.

IC 36-8-7.5-12

Voluntary retirement pension; emergency services

Sec. 12. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service; or

(2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. The pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) If a member retires upon his voluntary application after twenty (20) years or more of active service, he then relinquishes all rights to other benefits or pensions for disability during the time of his retirement.

(d) After retirement the member is not required to render further services on the police department and is no longer subject to the rules of the police department, unless a national emergency has been declared by the local board, on application by the executive, the safety board, and the police chief of the city. Upon declaration of such an emergency, the retired member, if physically able, shall return to active duty under the rank he attained at the time of his retirement, and if he refuses to return to active duty upon being declared physically fit, he forfeits his right to receive his pension until the time he returns to active duty and again is retired or discharged from service.

(e) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

As added by Acts 1982, P.L.77, SEC.9. Amended by P.L.342-1985, SEC.4; P.L.55-1989, SEC.59.

IC 36-8-7.5-12.5
Reemployment after retirement

Sec. 12.5. (a) Not less than thirty (30) days after a member retires from a police department covered by this chapter, the member may:

(1) be rehired by the same consolidated city that employed the member as a police officer for a position other than that of a full-time, fully paid police officer; and

(2) continue to receive the member's pension benefit under this chapter.

(b) This section may be implemented unless the local board receives from the Internal Revenue Service a determination that prohibits the implementation.

As added by P.L.130-2008, SEC.6.

IC 36-8-7.5-13
Disability retirement; benefits; procedure for determination of disability and reinstatement; period of disability credited

Sec. 13. (a) For a member who becomes disabled before July 1, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to:

(1) fifty percent (50%) for a disease or disability occurring before July 1, 1991; and

(2) fifty-five percent (55%) for a disease or disability occurring after June 30, 1991;

of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(b) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered or contracted a mental or physical disease or disability that renders the member permanently unfit for active duty in the police department, or to an active member of the police department who has been in active service for less than one (1) year who has suffered or received personal injury from violent external causes while in the actual discharge of the member's duties as a police officer. The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department.

(b) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) has suffered or incurred a disability that renders the member permanently unfit for active duty in the police department and that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment. A disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13 or IC 5-10-15; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(c) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:

(1) has suffered or incurred a disability that:

(A) renders the member permanently unfit for active duty in the police department; and

(B) is not described in subsection (b)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as

the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(d) For a member who became disabled before July 1, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(a) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered any physical or mental disability that renders the member temporarily or permanently unable to perform the member's duties as a member of the police department, or to an active member of the police department who has been in active service for less than one (1) year and who has suffered or received personal injury from violent external causes while in the actual discharge of the member's duties as a police officer, until the time the member is physically and mentally able to return to active service on the police department.

(e) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) suffers or incurs a disability that renders the member temporarily unfit for active duty in the police department and that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment. A disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the

exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13 or IC 5-10-15; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department:

(1) who has been in active service for at least one (1) year;

(2) suffers or incurs a disability that:

(A) renders the member temporarily unfit for active duty in the police department; and

(B) is not described in subsection (e)(1); and

(3) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) If an application is made by an active member of the police department because of physical or mental disability for temporary benefits as provided in subsection (d), (e), or (f), the benefit is not payable until the local board determines after a hearing conducted under IC 36-8-8-12.7 that the member is unfit for active duty on the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. Before the hearing, a physician to be appointed by the local board shall examine the member and certify in writing whether in the physician's opinion the member is unfit, physically or mentally, for active duty in the police department. After the pension or benefit has been granted by the local board, the payment commences with the original date of the injury or illness causing the disability.

(h) A member who has been granted a disability benefit under this section and who fails or refuses to submit to a physical examination at any time by the local board physician has no right in the future to receive the disability benefit, and any benefit that has been granted shall be immediately canceled by the local board.

(i) The local board may, from time to time, require a member of the police department who is receiving at any time disability benefits or pensions as provided in this section to be examined by the physician appointed by the local board. After the examination, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the member should continue to receive the pension or benefit. If after the examination and hearing the member is found to have recovered from the member's disability and is fit for active duty on the police department, then upon written notice to the member by the local board, the member shall be reinstated in active service, the safety board shall be informed of the action of the local board, and from that time the member is no longer entitled to payments from the 1953 fund. If the member fails or refuses to return to active duty after ordered by the local board, the member ceases to be a member of the 1953 fund and waives all rights to any further pensions or benefits provided by the 1953 fund.

(j) Notwithstanding any other provision of this chapter, no disability benefit may be paid for any disability based upon or caused by any mental or physical condition that a member had at the time the member entered or reentered the member's active service in the police department.

(k) If a member who is receiving disability benefits under subsection (a), (b), or (c) for a disease or disability occurring after June 30, 1991, is transferred from disability to regular retirement status, the member's monthly pension may not be reduced below fifty-five percent (55%) of the salary of a first class patrolman at the time of payment of the pension.

(l) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

(m) A fund member who is receiving disability benefits under subsection (d) or (f) shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(n) A fund member who is receiving disability benefits under subsection (e) is entitled to:

(1) receive a disability benefit for the remainder of the fund member's life; and

(2) have the amount of the disability benefit computed under section 12 of this chapter when the fund member becomes fifty-five (55) years of age.

As added by Acts 1982, P.L.77, SEC.9. Amended by P.L.311-1989,

SEC.5; P.L.226-1991, SEC.1; P.L.4-1992, SEC.42; P.L.118-2000, SEC.17; P.L.246-2001, SEC.15; P.L.185-2002, SEC.9; P.L.62-2006, SEC.5.

IC 36-8-7.5-13.2
Determination whether disability in line of duty

Sec. 13.2. (a) If a local board determines that a fund member has a temporary or a permanent disability, the local board shall also make a recommendation to the board of trustees of the Indiana public retirement system (referred to in this section as "the system board") concerning whether the disability is:

(1) a disability in the line of duty (as described in section 13(b)(1) of this chapter); or

(2) a disability not in the line of duty (a disability other than a disability described in section 13(b)(1) of this chapter).

The local board shall forward its recommendation to the system board.

(b) The system board shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The system board shall notify the local board, the safety board, and the fund member of its initial determination.

(c) The fund member, the safety board, or the local board may object in writing to the system board's initial determination under subsection (b) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the system board's initial determination becomes final. If a timely written objection is filed, the system board shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

As added by P.L.118-2000, SEC.18. Amended by P.L.6-2012, SEC.250.

IC 36-8-7.5-13.6
Members dying other than in line of duty

Sec. 13.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter).

(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) and payable in monthly installments, to the surviving spouse of a member of the fund who dies from any cause after having served for one (1) year or more. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue

during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause after having served for one (1) year or more as an active member of the police department. The pension to each child continues:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund is used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause after having served for one (1) year or more as an active member of the police department. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(e) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) Except as otherwise provided in this subsection, the annuity payable under subsection (b) equals one (1) of the following:

(1) For the surviving spouse of a member who dies before January 1, 1989, thirty percent (30%) of the salary of a first class patrolman.

(2) For the surviving spouse of a member who dies after December 31, 1988, an amount per month during the spouse's life equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class

patrolman; or

(B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under subdivision (2)(B) the member's benefit is considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided in this subdivision is subject to adjustment as provided in subsection (f).

As added by P.L.118-2000, SEC.19. Amended by P.L.1-2001, SEC.44.

IC 36-8-7.5-13.7

Members dying in line of duty before September 1, 1982

Sec. 13.7. (a) This section applies to a member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.

(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) and payable in monthly installments, to the surviving spouse of a member. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed

and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(e) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) The annuity payable under subsection (b) equals thirty percent (30%) of the salary of a first class patrolman. The amount provided in this subsection is subject to adjustment as provided in subsection (f).

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

As added by P.L.118-2000, SEC.20. Amended by P.L.1-2001, SEC.45; P.L.86-2003, SEC.6.

IC 36-8-7.5-13.8

Death benefits paid to beneficiary or estate of member

Sec. 13.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to pay twelve thousand dollars ($12,000) to the beneficiary or estate of a member of the fund, active

or retired, who:

(1) dies from any cause after having served for one (1) year or more as an active member of the police department; or

(2) dies from any cause while in the actual discharge of the member's duties as a police officer after having served less than one (1) year as an active member of the police department.

Any member of the fund may name a beneficiary to receive the amount provided for upon the member's death by designating in writing in such form as is prescribed by the local board and delivered to the board. The beneficiary may be changed from time to time by the member by canceling the designation and delivering a new designation to the local board. If the member makes no designation of beneficiary, the sum provided for shall be paid to the member's estate.

As added by P.L.200-1984, SEC.4. Amended by P.L.346-1985, SEC.1; P.L.47-1988, SEC.4; P.L.55-1989, SEC.60; P.L.197-1993, SEC.5; P.L.169-1994, SEC.4; P.L.325-1995, SEC.1; P.L.231-1997, SEC.4; P.L.40-1997, SEC.8; P.L.49-1998, SEC.6; P.L.118-2000, SEC.21; P.L.28-2008, SEC.3.

IC 36-8-7.5-13.9
Repealed

(*Repealed by P.L.200-1984, SEC.7.)*

IC 36-8-7.5-14
Repealed

(*Repealed by P.L.50-1984, SEC.11.)*

IC 36-8-7.5-14.1
Members dying in line of duty after August 31, 1982

Sec. 14.1. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department dies in the line of duty after August 31, 1982, and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total benefit to all the member's children under this subsection may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who have a physical or mental disability.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause while in the actual discharge of duties as a police officer. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(h) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a police officer:

(1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) performs in the course of controlling or reducing crime or enforcing the criminal law.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(i) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

As added by Acts 1982, P.L.214, SEC.2. Amended by P.L.364-1983, SEC.6; P.L.200-1984, SEC.5; P.L.196-1988, SEC.3; P.L.1-1989, SEC.72; P.L.52-1993, SEC.5; P.L.325-1995, SEC.2; P.L.2-1996, SEC.292; P.L.118-2000, SEC.22; P.L.1-2001, SEC.46; P.L.62-2002, SEC.3; P.L.185-2002, SEC.10; P.L.86-2003, SEC.7; P.L.99-2007, SEC.218.

IC 36-8-7.5-15

Necessity of application; dismissed member of police department

Sec. 15. (a) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

(b) The 1953 fund shall be used to pay an amount equal to the pensions, annuities, and benefits provided by this chapter in the case of retirement after twenty (20) years service, to a member of the police department and to the dependents of a member, if the member is dismissed from service for any reason other than conviction of a felony after having been in actual service for twenty (20) years. If the member is dismissed for conviction of a felony, none of the pensions or other benefits provided for in this chapter are payable to the member, his beneficiaries, or his dependents.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-16

Reduction in monthly pension

Sec. 16. The monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-17

Payments to dependent children or mentally incompetent persons; benefits where member dies before payments are made; payments where member is entitled to part salary; reentry into active service

Sec. 17. (a) If benefits are payable to a dependent child under eighteen (18) years of age or to a person adjudged mentally incompetent, the local board may, when it is to the apparent interest of the dependent child or incompetent person, waive guardianship proceedings and pay the benefit directly to the person providing for and caring for the dependent child, and to the spouse, parent, or blood relative providing for and caring for the incompetent person. The local board may, if it finds it in the best interest of any dependent child, pay any benefits due to the dependent child directly to such child regardless of any other law.

(b) A member is not entitled to receive the benefits of this chapter until the member's payments are paid in full, unless the member has suffered permanent disability or death from any cause while in actual discharge of duties as a police officer. If the member dies before the required payments are made, the surviving spouse or other dependents shall pay any balance due and are then entitled to pension benefits.

(c) Notwithstanding any other provision of this chapter, no disability or retirement benefit of any kind provided for in this chapter may be paid to any member of the police department for any period during which the member receives or is entitled to receive all or any part of the member's salary.

(d) If any member reenters active service in the police department of any municipality after having been pensioned for any reason, the payment of the pension ceases but shall be resumed upon the resignation or discharge of the member.

As added by Acts 1982, P.L.77, SEC.9. Amended by P.L.33-1989, SEC.127; P.L.1-1990, SEC.366.

IC 36-8-7.5-18

Application for benefits other than for disability or voluntary retirement after 20 years

Sec. 18. (a) In connection with an application for any pensions, annuities, or benefits other than for disability and other than voluntary retirement after twenty (20) years of active service in the police department, the local board may, if it is satisfied with the facts reported in the application made for the pension, annuity, or benefit, act upon the application and allow the pension, annuity, or benefits applied for.

(b) In connection with an application for the pensions, annuities, or benefits referred to in subsection (a), the local board may deny the application. If the local board denies the application, it may, and shall upon the written request of the applicant, hold a hearing on the application at which time it shall hear any evidence of the applicant or any other person as to the facts contained in the application, and as to any of the requirements stated in this chapter for receiving the

pension, annuity, or benefit. After the hearing the board shall decide whether the application shall be granted or denied.

(c) At any hearing held by the local board as provided in this chapter, the local board may subpoena witnesses, and examine all witnesses under oath, and any member of the local board may administer the oath to any witness at any hearing.

(d) The local board shall give due notice of the time and place of the hearing.

(e) The applicant is entitled to be present at the hearing, to be represented by counsel, to examine any witness testifying at the hearing, and to introduce any evidence upon his behalf as to any question properly before the local board. The local board shall, upon the request of the applicant, subpoena any witness requested in writing by the applicant to be present at the hearing.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-19

Attachment or garnishment of pensions, annuities, or benefits

Sec. 19. All pensions, annuities, and benefits payable out of the 1953 fund are exempt from seizure or levy upon attachment, garnishment, execution, and all other process. Except as provided in section 23 of this chapter, pensions, annuities, and benefits are not subject to sale, assignment, or transfer by a beneficiary.

As added by Acts 1982, P.L.77, SEC.9. Amended by P.L.10-1993, SEC.17; P.L.97-2004, SEC.129.

IC 36-8-7.5-20

Benefits paid contrary to IC 36-8-7.5

Sec. 20. Any pension, annuity, or benefit provided for in this chapter that is paid by the local board contrary to this chapter or on account of the fraud or misrepresentation by the member concerned or any other applicant shall be treated as erroneously paid, and the local board may recover the pension, annuity, or benefit in an action against the person to whom the benefit was paid or against the estate of the person. The local board may also deduct these amounts from any future pensions, annuities, or benefits properly payable to the member or his dependents.

As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-21

Remuneration or allowances not to be used in computation of benefits

Sec. 21. (a) Remuneration or allowances for fringe benefits, incentive pay, holiday pay, insurance, clothing, automobiles, firearms, education, overtime, or compensatory time off may not be used in the computation of benefits under this chapter.

(b) If the remuneration or allowances described in subsection (a) were used to compute benefits for a recipient who began receiving benefits before May 2, 1977, this computation may continue only for that recipient and only during the eligibility period for benefits. The

city and the official involved are not liable for making the overpayment, and a recipient is not required to repay the overpayment.
As added by Acts 1982, P.L.77, SEC.9.

IC 36-8-7.5-22
Special lump sum death benefit in addition to other benefits

Sec. 22. (a) As used in this section, "dies in the line of duty" has the meaning set forth in section 14.1 of this chapter.

(b) A special death benefit of seventy-five thousand dollars ($75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars ($150,000) for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the Indiana public retirement system from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty:

(1) To the surviving spouse.

(2) If there is no surviving spouse, to the surviving children (to be shared equally).

(3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

(c) The benefit provided by this section is in addition to any other benefits provided under this chapter.
As added by P.L.223-1986, SEC.3. Amended by P.L.225-1991, SEC.3; P.L.53-1993, SEC.4; P.L.49-1998, SEC.7; P.L.35-2012, SEC.112.

IC 36-8-7.5-23
Rollover to eligible retirement plan

Sec. 23. Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the 1953 fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.
As added by P.L.10-1993, SEC.18.

IC 36-8-8

Chapter 8. 1977 Police Officers' and Firefighters' Pension and Disability Fund

IC 36-8-8-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 20 of this chapter by P.L.223-1986 applies only to fund members who die after March 10, 1986.

(2) The amendments made to section 10 of this chapter by P.L.232-1997 apply only to members of the 1977 fund who initially:

(A) become fifty-five (55) years of age; or

(B) retire;

after June 30, 1997.

(3) The amendments made to section 16 of this chapter by P.L.28-2008 apply only to benefits payable with respect to a member of the 1977 police officers' and firefighters' pension and disability fund who dies after June 30, 2008.

(4) The amendments made to sections 12 and 13.5 of this chapter by P.L.32-2009 and by P.L.34-2009 apply to a member of the 1977 police officers' and firefighters' pension and disability fund who:

(A) after June 30, 2009, receives a benefit based on a determination that the member has a Class 1 or Class 2 impairment, regardless of whether the determination was made before, on, or after June 30, 2009; and

(B) before July 1, 2009, has not had the member's disability benefit recalculated under section 13.5 of this chapter (as the section read before amendment by P.L.32-2009 and by P.L.34-2009).

As added by P.L.220-2011, SEC.671.

IC 36-8-8-1

Application of chapter

Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);

(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996;

(4) a park ranger who:

(A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at

the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(C) is employed by the parks department of a city having a population of more than one hundred ten thousand (110,000) but less than one hundred fifty thousand (150,000);

(5) a full-time fully paid firefighter who is covered by this chapter before the effective date of consolidation and becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1, provided that the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter;

(6) except as otherwise provided, a full-time fully paid firefighter who is hired or rehired after the effective date of the consolidation by a consolidated fire department established under IC 36-3-1-6.1;

(7) a full-time police officer who is covered by this chapter before the effective date of consolidation and becomes a member of the consolidated law enforcement department as part of the consolidation under IC 36-3-1-5.1, provided that the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter; and

(8) except as otherwise provided, a full-time police officer who is hired or rehired after the effective date of the consolidation by a consolidated law enforcement department established under IC 36-3-1-5.1;

except as provided by section 7 of this chapter.

As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.3-1990, SEC.132; P.L.236-1996, SEC.4; P.L.43-1997, SEC.6; P.L.22-1998, SEC.16; P.L.246-2001, SEC.16; P.L.227-2005, SEC.46; P.L.119-2012, SEC.218.

IC 36-8-8-1.5
"Electronic funds transfer"

Sec. 1.5. As used in this chapter, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).

As added by P.L.13-2011, SEC.15.

IC 36-8-8-2
"Employer"

Sec. 2. As used in this chapter, "employer" means:

(1) a municipality that established a 1925 or 1953 fund or that participates in the 1977 fund under section 3 or 18 of this chapter;

(2) a unit that established a 1937 fund or that participates in the 1977 fund under section 3 or 18 of this chapter;

(3) a consolidated city that consolidated the fire departments of

units that:

(A) established a 1937 fund; or

(B) participated in the 1977 fund;

before the units' consolidation into the fire department of a consolidated city established by IC 36-3-1-6.1; or

(4) a consolidated city that establishes a consolidated law enforcement department under IC 36-3-1-5.1.

As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.227-2005, SEC.47.

IC 36-8-8-2.1
"Local board"

Sec. 2.1. (a) As used in this chapter, "local board" means the following:

(1) For a unit that established a 1925 fund for its police officers, the local board described in IC 36-8-6-2.

(2) For a unit that established a 1937 fund for its firefighters, the local board described in IC 36-8-7-3.

(3) For a consolidated city that established a 1953 fund for its police officers, the local board described in IC 36-8-7.5-2.

(4) For a unit, other than a consolidated city, that did not establish a 1925 fund for its police officers or a 1937 fund for its firefighters, the local board described in subsection (b) or (c).

(b) If a unit did not establish a 1925 fund for its police officers, a local board shall be composed in the same manner described in IC 36-8-6-2(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(c) If a unit did not establish a 1937 fund for its firefighters, a local board shall be composed in the same manner described in IC 36-8-7-3(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

As added by P.L.236-1996, SEC.5.

IC 36-8-8-2.3
"System board"

Sec. 2.3. As used in this chapter, "system board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

As added by P.L.35-2012, SEC.113.

IC 36-8-8-2.5
Qualification of 1977 fund under Internal Revenue Code

Sec. 2.5. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the

meaning set forth in IC 6-3-1-11.

(b) The 1977 fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the 1977 fund. In order to meet those requirements, the 1977 fund is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The system board shall distribute the corpus and income of the 1977 fund to members and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the 1977 fund may be used or diverted to any purpose other than the exclusive benefit of the members and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under this chapter.

(4) If the 1977 fund is terminated, or if all contributions to the 1977 fund are completely discontinued, the rights of each affected member to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the 1977 fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the 1977 fund is subject to the following provisions:

(A) The life expectancy of a member, the member's spouse, or the member's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(C) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The system board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of members or beneficiaries;

in a manner that discriminates in favor of members who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the

Internal Revenue Code.

(9) The trustee may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

As added by P.L.55-1989, SEC.61. Amended by P.L.35-2012, SEC.114.

IC 36-8-8-2.6
Administration of fund

Sec. 2.6. The 1977 fund shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

As added by P.L.4-1992, SEC.43.

IC 36-8-8-3
Participation by units

Sec. 3. (a) If a town establishes a board of metropolitan police commissioners, or if a town becomes a city, the municipality shall participate in the 1977 fund. However, if a police officer or former marshal is a member of the public employees' retirement fund, the police officer or former marshal may continue as a member of that fund instead of the 1977 fund. Notwithstanding the age requirements under section 7(a) of this chapter, a police officer or former marshal employed by a municipality at the time the municipality enters the 1977 fund under this section shall be a member of the 1977 fund unless the police officer or former marshal elects to continue as a member of the public employees' retirement fund. A person may become a member of the 1977 fund under this subsection without meeting the age limitation under section 7(a) of this chapter only if the person satisfies:

(1) any aptitude, physical agility, or physical and mental standards established by a local board under IC 36-8-3.2; and

(2) the minimum standards that are:

(A) adopted by the system board under section 19 of this chapter; and

(B) in effect on the date the person becomes a member of the 1977 fund.

Credit for prior service of a person who becomes a member of the 1977 fund under this subsection shall be determined under section 18 or 18.1 of this chapter. No service credit beyond that allowed under section 18 or 18.1 of this chapter may be recognized under the 1977 fund.

(b) If a unit did not establish a 1937 fund for its firefighters, the unit may participate in the public employees' retirement fund or it may participate in the 1977 fund. If a unit established a 1937 fund for its firefighters, the unit is and shall remain a participant in the 1977 fund.

(c) A unit that:

(1) has not established a pension fund for its firefighters; or

(2) is participating in the public employees' retirement fund under subsection (b);

may participate in the 1977 fund upon approval by the fiscal body, notwithstanding IC 5-10.3-6-8. A unit that participates in the 1977 fund under this subsection must comply with section 21 of this chapter. However, if a firefighter is a member of the public employees' retirement fund, the firefighter may continue as a member of that fund instead of the 1977 fund.

As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.313-1989, SEC.1; P.L.213-1995, SEC.6; P.L.236-1996, SEC.6; P.L.101-1998, SEC.1; P.L.195-1999, SEC.32; P.L.35-2012, SEC.115.

IC 36-8-8-4

Fund established; managed by system board

Sec. 4. (a) There is established a police officers' and firefighters' pension and disability fund to be known as the 1977 fund. The 1977 fund consists of fund member and employer contributions, plus the earnings on them, to be used to make benefit payments to fund members and their survivors in the amounts and under the conditions specified in this chapter.

(b) The system board shall administer the 1977 fund, which may be commingled for investment purposes with other funds administered by the Indiana public retirement system. All actuarial data shall be computed on the total membership of the fund, and the cost of participation is the same for all employers in the fund. The fund member and employer contributions shall be recorded separately for each employer.

As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.201-1984, SEC.1; P.L.342-1985, SEC.5; P.L.119-2000, SEC.8; P.L.23-2011, SEC.27; P.L.35-2012, SEC.116.

IC 36-8-8-5

System board; powers and duties; appeals; personnel; confidentiality of fund records

Sec. 5. (a) The system board shall:

(1) determine eligibility for and make payments of benefits, except as provided in section 12 of this chapter;

(2) in accordance with the powers and duties granted it in IC 5-10.3-5-3 through IC 5-10.3-5-6, IC 5-10.5-4, and IC 5-10.5-5, administer the 1977 fund;

(3) provide by rule for the implementation of this chapter; and

(4) authorize deposits.

(b) A determination by the system board may be appealed under the procedures in IC 4-21.5.

(c) The powers and duties of the director appointed by the system board, the actuary of the system board, and the attorney general, with respect to the 1977 fund, are those specified in IC 5-10.3-3, IC 5-10.3-4, and IC 5-10.5.

(d) The system board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

(e) The 1977 fund records of individual members and membership information are confidential, except for the name and years of service

of a 1977 fund member.
As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.5-1988, SEC.219; P.L.5-1990, SEC.21; P.L.94-2004, SEC.8; P.L.99-2010, SEC.11; P.L.35-2012, SEC.117.

IC 36-8-8-6
Employer contributions

Sec. 6. (a) Each employer shall annually on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, or an alternate date established by the rules of the system board, pay into the 1977 fund an amount determined by the system board:

(1) for administration expenses; and
(2) sufficient to maintain level cost funding during the period of employment on an actuarial basis for members hired after April 30, 1977.

(b) After December 31, 2011, each employer shall submit the payments required by subsection (a) by electronic funds transfer.

(c) If an employer fails to make the payments required by subsection (a) or fails to send the fund members' contributions required by section 8(a) of this chapter, the amount payable, on request of the system board, may be withheld by the auditor of state from money payable to the employer and transferred to the fund. In the alternative, the amount payable may be recovered in the circuit or superior court of the county in which the employer is located, in an action by the state on the relation of the system board, prosecuted by the attorney general.
As added by Acts 1981, P.L.309, SEC.59. Amended by Acts 1982, P.L.33, SEC.39; P.L.13-2011, SEC.16; P.L.35-2012, SEC.118.

IC 36-8-8-7
Membership in fund

Revisor's Note: See IC 1-1-3.5-8(b) concerning the effective date of this section as amended by P.L.6-2012, SEC.59.

Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), (h), (k), (l), and (m):

(1) a police officer; or
(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires the police officer or firefighter chooses to contribute to the 1977 fund the amount necessary to amortize the police officer's or firefighter's prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the system board. If the employer

chooses to make the contributions, the police officer or firefighter is entitled to receive credit for the police officer's or firefighter's prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if the police officer or firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a

political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(3) is employed by the parks department of a city having a population of more than one hundred ten thousand 110,000 but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:

(1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1;

(2) whose employer is consolidated into the consolidated law enforcement department or the fire department of a consolidated city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and

(3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, if:

(1) before a consolidation under IC 8-22-3-11.6, a police officer or firefighter provides law enforcement services or fire

protection services for an entity in a consolidated city;

(2) the provision of those services is consolidated into the law enforcement department or fire department of a consolidated city; and

(3) after the consolidation, the police officer or firefighter becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 8-22-3-11.6;

the police officer or firefighter is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l) may not be:

(1) retired for purposes of section 10 of this chapter; or

(2) disabled for purposes of section 12 of this chapter;

solely because of a change in employer under the consolidation.

As added by Acts 1981, P.L.309, SEC.59. Amended by Acts 1981, P.L.182, SEC.9; Acts 1982, P.L.33, SEC.40; P.L.365-1983, SEC.1; P.L.202-1984, SEC.1; P.L.38-1986, SEC.6; P.L.55-1987, SEC.5; P.L.3-1990, SEC.133; P.L.4-1990, SEC.18; P.L.4-1992, SEC.44; P.L.2-1993, SEC.204; P.L.213-1995, SEC.7; P.L.236-1996, SEC.7; P.L.43-1997, SEC.7; P.L.22-1998, SEC.17; P.L.246-2001, SEC.17; P.L.227-2005, SEC.48; P.L.1-2006, SEC.575; P.L.35-2012, SEC.119; P.L.119-2012, SEC.219.

IC 36-8-8-7.2

Fire chief or police chief transfer of service credit to PERF

Sec. 7.2. (a) This section applies to an individual:

(1) who becomes a member of the 1977 fund under section 7(h) of this chapter;

(2) whose appointment as a fire chief or police chief ends after June 30, 2007; and

(3) who is not eligible to receive a benefit from the 1977 fund at the end of the individual's appointment as a fire chief or police chief.

(b) A fund member described in subsection (a) may elect:

(1) to receive the fund member's contributions to the 1977 fund under section 8 of this chapter; or

(2) to transfer the fund member's service credit earned as a fire chief or police chief to PERF under subsection (c).

(c) If a fund member makes the election described in subsection (b)(2), the system board shall:

(1) grant to the fund member service credit in PERF for all service earned as a fire chief or police chief in the 1977 fund; and

(2) transfer from the 1977 fund to PERF:

(A) the fund member's contributions made during the fund member's appointment as a fire chief or police chief to the 1977 fund; plus

(B) the present value of the unreduced benefit that would be payable to the transferring fund member upon retirement

under section 10 of this chapter.

(d) The system board shall deposit the amounts transferred to PERF under subsection (c) as follows:

(1) The fund member's contributions to the 1977 fund shall be credited to the fund member's PERF annuity savings account.

(2) The present value of the unreduced benefit that would be payable to the transferring fund member upon retirement under section 10 of this chapter shall be credited to PERF's retirement allowance account.

(e) For a fund member who makes the election described in subsection (b)(2), all credit for service as a fire chief or police chief in the 1977 fund is waived.

As added by P.L.180-2007, SEC.9. Amended by P.L.35-2012, SEC.120.

IC 36-8-8-8 Version a

Employee contributions; lump sum withdrawal on termination of employment

Note: This version of section effective until 7-1-2012. See also following version of this section, effective 7-1-2012.

Sec. 8. (a) Each fund member shall contribute during the period of the fund member's employment or for thirty-two (32) years, whichever is shorter, an amount equal to six percent (6%) of the salary of a first class patrolman or firefighter. However, the employer may pay all or a part of the contribution for the member. The amount of the contribution, other than contributions paid on behalf of a member, shall be deducted each pay period from each fund member's salary by the disbursing officer of the employer. The employer shall send to the system board each year on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, or an alternate date established by the rules of the system board, a certified list of fund members and a warrant issued by the employer for the total amount deducted for fund members' contributions.

(b) After December 31, 2011, an employer shall submit:

(1) the list described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the system board; and

(2) the contributions paid by or on behalf of a member under subsection (a) by electronic funds transfer.

(c) Except as provided in section 7.2 of this chapter, if a fund member ends the fund member's employment other than by death or disability before the fund member completes twenty (20) years of active service, the system board shall return to the fund member in a lump sum the fund member's contributions plus interest at a rate specified by rule by the system board. If the fund member returns to service, the fund member is entitled to credit for the years of service for which the fund member's contributions were refunded if the fund member repays the amount refunded to the fund member in either a lump sum or a series of payments determined by the system board.

As added by Acts 1981, P.L.309, SEC.59. Amended by Acts 1981, P.L.182, SEC.10; P.L.312-1989, SEC.4; P.L.180-2007, SEC.10; P.L.13-2011, SEC.17; P.L.16-2011, SEC.13; P.L.6-2012, SEC.251.

IC 36-8-8-8 Version b
Employee contributions; lump sum withdrawal on termination of employment

Note: This version of section effective 7-1-2012. See also preceding version of this section, effective until 7-1-2012.

Sec. 8. (a) Each fund member shall contribute during the period of the fund member's employment or for thirty-two (32) years, whichever is shorter, an amount equal to six percent (6%) of the salary of a first class patrolman or firefighter. However, the employer may pay all or a part of the contribution for the member. The amount of the contribution, other than contributions paid on behalf of a member, shall be deducted each pay period from each fund member's salary by the disbursing officer of the employer. The employer shall send to the system board each year on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, or an alternate date established by the rules of the system board, a certified list of fund members and a warrant issued by the employer for the total amount deducted for fund members' contributions.

(b) After December 31, 2011, an employer shall submit:

(1) the list described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the system board; and

(2) the contributions paid by or on behalf of a member under subsection (a) by electronic funds transfer.

(c) Except as provided in section 7.2 of this chapter, if a fund member ends the fund member's employment other than by death or disability before the fund member completes twenty (20) years of active service, the system board shall return to the fund member in a lump sum the fund member's contributions plus interest at a rate specified by rule by the system board. If the fund member returns to service, the fund member is entitled to credit for the years of service for which the fund member's contributions were refunded if the fund member repays the amount refunded to the fund member in either a lump sum or a series of payments determined by the system board.

As added by Acts 1981, P.L.309, SEC.59. Amended by Acts 1981, P.L.182, SEC.10; P.L.312-1989, SEC.4; P.L.180-2007, SEC.10; P.L.13-2011, SEC.17; P.L.16-2011, SEC.13; P.L.6-2012, SEC.251; P.L.35-2012, SEC.121.

IC 36-8-8-8.3
Purchase of military service credit

Sec. 8.3. (a) This section applies to a fund member who, after June 30, 2009, completes service for which the 1977 fund gives credit.

(b) A fund member may purchase not more than two (2) years of

service credit for the fund member's service on active duty in the armed services if the fund member meets the following conditions:

(1) The fund member has at least one (1) year of credited service in the fund.

(2) The fund member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The fund member receives an honorable discharge from the armed services.

(4) Before the fund member retires, the fund member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The salary of a first class patrolman or firefighter at the time the fund member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the 1977 fund, that is based on the age of the fund member at the time the fund member actually makes a contribution for service credit and that is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.

(iii) The number of years of service credit the fund member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(c) A fund member must have at least twenty (20) years of service before a fund member may receive a benefit based on a service credit purchased under this section. A fund member's years of service may not exceed thirty-two (32) years with the inclusion of the service credit purchased under this section.

(d) A fund member may not receive service credit under this section:

(1) for service credit received under IC 36-8-5-7; or

(2) if the military service for which the fund member requests credit also qualifies the fund member for a benefit in a military or another governmental retirement system.

(e) A fund member who:

(1) terminates service before satisfying the eligibility requirements necessary to receive a retirement benefit payment from the 1977 fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the fund a properly completed application for a refund.

(f) The following apply to the purchase of service credit under

this section:

(1) The system board may allow a fund member to make periodic payments of the contributions required for the purchase of the service credit. The system board shall determine the length of the period during which the payments must be made.

(2) The system board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

(g) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by P.L.19-2009, SEC.1. Amended by P.L.35-2012, SEC.122.

IC 36-8-8-8.5

Purchase of service credit in certain Indiana public retirement funds

Sec. 8.5. (a) This section applies to a fund member who, after June 30, 2010, completes service for which the 1977 fund gives credit.

(b) As used in this section, "public retirement fund" refers to any of the following, either singly or collectively:

(1) The public employees' retirement fund (IC 5-10.3).

(2) The Indiana state teachers' retirement fund (IC 5-10.4).

(3) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund (IC 5-10-5.5).

(4) The state police pension trust (IC 10-12).

(5) A sheriff's pension trust (IC 36-8-10-12).

(c) Subject to this section, a fund member may purchase service credit for the fund member's prior service in a position covered by a public retirement fund.

(d) To purchase the service credit described in subsection (c), a fund member must meet the following requirements:

(1) The fund member has at least one (1) year of creditable service in the 1977 fund.

(2) The fund member has not attained vested status in and is not an active member in the public retirement fund from which the fund member is purchasing service credit.

(3) Before the fund member retires, the fund member makes contributions to the 1977 fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The salary of a first class patrolman or firefighter at the time the fund member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary for the 1977 fund, that is based on the age of the fund member at the time the fund member actually makes a contribution for the service credit and that is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.

(iii) The number of years of service credit the fund member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(e) At the request of the fund member purchasing service credit under this section, the amount a fund member is required to contribute under subsection (d)(3) may be reduced by a trustee to trustee transfer from the public retirement fund in which the fund member has an account that contains amounts attributable to member contributions (plus any credited earnings) to the 1977 fund. The fund member may direct the transfer of an amount only to the extent necessary to fund the service purchase under subsection (d)(3). The fund member shall complete any forms required by the public retirement fund from which the fund member is requesting a transfer or the 1977 fund before the transfer is made.

(f) A fund member must have at least twenty (20) years of service in the 1977 fund before a fund member may receive a retirement benefit based on service credit purchased under this section. A fund member's years of service may not exceed thirty-two (32) years with the inclusion of the service credit purchased under this section.

(g) A fund member who:

(1) terminates employment before satisfying the eligibility

requirements necessary to receive a retirement benefit payment from the 1977 fund; or

(2) receives a retirement benefit for the same service from another tax supported governmental retirement plan other than the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting a properly completed application for a refund to the 1977 fund.

(h) The following apply to the purchase of service credit under this section:

(1) The system board may allow a fund member to make periodic payments of the contributions required for the purchase of the service credit. The system board shall determine the length of the period during which the payments may be made.

(2) The system board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

(i) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(j) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(k) The fund member's employer may pay all or a part of the fund member's contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (g), (h)(1), (h)(3), and (i) do not apply.

As added by P.L.70-2010, SEC.1. Amended by P.L.35-2012, SEC.123.

IC 36-8-8-8.8

Purchase of out-of-state service credit

Sec. 8.8. (a) This section applies to a fund member who, after June 30, 2010, completes service for which the 1977 fund gives credit.

(b) As used in this section, "out-of-state service" means service in another state in a comparable position for which the fund member would receive service credit in the 1977 fund if the service had been performed in Indiana.

(c) Subject to subsections (d) through (g), a fund member may purchase out-of-state service credit if the fund member meets the following requirements:

(1) The fund member has at least one (1) year of credited service in the 1977 fund.

(2) Before the fund member retires, the fund member makes contributions to the 1977 fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The salary of a first class patrolman or firefighter at the time the fund member makes a contribution for the service credit.

(ii) A rate, determined by the actuary for the 1977 fund, that is based on the age of the fund member at the time the fund member makes a contribution for the service credit and that is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service credit the fund member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(3) The fund member has received verification from the 1977 fund that the out-of-state service is, as of the date payment is made by the fund member, valid.

(d) A fund member must have at least twenty (20) years of service before the fund member may receive a benefit based on service credit purchased under this section. A fund member's years of service may not exceed thirty-two (32) years with the inclusion of service credit purchased under this section.

(e) A fund member may not receive service credit under this section if the service for which the fund member requests credit also qualifies the fund member for a benefit in another governmental retirement system.

(f) A fund member who:

(1) terminates service before satisfying the eligibility requirements necessary to receive a retirement benefit payment from the 1977 fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the 1977 fund a properly completed application for a refund.

(g) The following apply to the purchase of service credit under this section:

(1) The system board may allow a fund member to make periodic payments of the contributions required for the purchase of the service credit. The system board shall determine the length of the period during which the payments must be made.

(2) The system board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) The fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by P.L.88-2010, SEC.1. Amended by P.L.35-2012, SEC.124.

IC 36-8-8-9
Conversion from prior fund

Sec. 9. (a) This section applies to all police officers and firefighters who converted their benefits under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981).

(b) A police officer or firefighter who converted his benefits from

a 1925, 1937, or 1953 fund to the benefits and conditions of this chapter is not entitled to receive any benefits from the original fund. However, he is entitled to credit for all years of service for which he would have received credit before his conversion in that original fund.

(c) A police officer or firefighter who:

(1) converted his benefits from a 1925, 1937, or 1953 fund;

(2) retired or became disabled on or before June 30, 1998; and

(3) is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

shall be treated as a member of this fund for purposes of paying his benefits from the 1977 fund effective for benefits paid on or after October 1, 1998. Prior to October 1, 1998, he remains a member of the original fund entitled to receive only the benefits provided under this chapter based on the eligibility requirements of this chapter.

(d) A police officer or firefighter who:

(1) converted his benefits from a 1925, 1937 or 1953 fund;

(2) who did not retire or become disabled on or before June 30, 1998; and

(3) who is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

remains a member of that original fund but is entitled to receive only the benefits provided under this chapter and based on the eligibility requirements of this chapter.

(e) A police officer or firefighter who converted shall contribute six percent (6%) of the salary of a first class patrolman or firefighter to the 1925, 1937, or 1953 fund. This amount shall be deducted from his salary each pay period by the disbursing officer of the employer. Contributions under this subsection may not be refunded.

As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.3-1990, SEC.134; P.L.22-1998, SEC.18.

IC 36-8-8-10

Eligibility for retirement; initiation of benefits; election to receive actuarially reduced benefits

Sec. 10. (a) A fund member is eligible for retirement after he has completed twenty (20) years of active service.

(b) Unless the member is receiving benefits under subsection (c), unreduced benefits to a retired fund member begin the date:

(1) the fund member becomes fifty-two (52) years of age; or

(2) on which the fund member retires;

whichever is later. Benefit payments to a retired fund member under this subsection begin on the first day of the month on or after the date he reaches fifty-two (52) years of age or on which he retires, whichever is later.

(c) A retired member may elect to receive actuarially reduced benefits that begin the date:

(1) the fund member becomes fifty (50) years of age; or

(2) on which the fund member retires;

whichever is later. Benefit payments to a retired fund member under

this subsection begin on the first day of the month on or after the day the member reaches fifty (50) years of age or on which the member retires, whichever is later.

(d) If a fund member:

(1) becomes fifty-two (52) years of age in the case of unreduced benefits or fifty (50) years of age in the case of reduced benefits; or

(2) retires on a date other than on the first day of the month;

the amount due the fund member for the initial partial monthly benefit is payable together with the regular monthly benefit on the first of the month following the date the fund member becomes fifty-two (52) or fifty (50) years of age, respectively, or retires, whichever is later.

As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.232-1997, SEC.1; P.L.22-1998, SEC.19.

IC 36-8-8-11

Computation of retirement benefits; actuarially reduced benefits

Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) Except as provided in section 24.8 of this chapter, each fund member who qualifies for a retirement benefit payment under section 10(b) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman or firefighter in the year the member ended the member's active service plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each full year of active service; or

(2) for a member who retires after December 31, 1985, one percent (1%) of that salary for each six (6) months of active service;

over twenty (20) years, to a maximum of twelve (12) years.

(c) Each fund member who qualifies for a retirement benefit payment under section 10(c) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman or firefighter in the year the member ended the member's active service plus one percent (1%) of that salary for each six (6) months of active service over twenty (20) years, to a maximum of twelve (12) years, all actuarially reduced for each month (if any) of benefit payments prior to fifty-two (52) years of age, by a factor established by the fund's actuary from time to time.

As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.342-1985, SEC.6; P.L.55-1989, SEC.62; P.L.22-1998, SEC.20; P.L.99-2010, SEC.12; P.L.42-2011, SEC.84.

IC 36-8-8-11.5

Reemployment after retirement

Sec. 11.5. (a) Not less than thirty (30) days after a fund member retires from a position covered by this chapter, the fund member

may:

(1) be rehired by the same unit that employed the fund member in a position covered by this chapter for a position not covered by this chapter; and

(2) continue to receive the fund member's retirement benefit under this chapter.

(b) This section may be implemented unless the system board receives from the Internal Revenue Service a determination that prohibits the implementation.

As added by P.L.130-2008, SEC.7. Amended by P.L.35-2012, SEC.125.

IC 36-8-8-12

Benefits for members with covered impairments; retirement benefits for members who have a disability and are less than 52 years old

Sec. 12. (a) Benefits paid under this section are subject to sections 2.5 and 2.6 of this chapter.

(b) If an active fund member has a covered impairment, as determined under sections 12.3 through 13.1 of this chapter, the member is entitled to receive the benefit prescribed by section 13.3 or 13.5 of this chapter. A member who has had a covered impairment and returns to active duty with the department shall not be treated as a new applicant seeking to become a member of the 1977 fund.

(c) If a retired fund member who has not yet reached the member's fifty-second birthday is found by the system board to be permanently or temporarily unable to perform all suitable work for which the member is or may be capable of becoming qualified, the member is entitled to receive during the disability the retirement benefit payments payable at fifty-two (52) years of age. During a reasonable period in which a fund member with a disability is becoming qualified for suitable work, the member may continue to receive disability benefit payments. However, benefits payable for disability under this subsection are reduced by amounts for which the fund member is eligible from:

(1) a plan or policy of insurance providing benefits for loss of time because of disability;

(2) a plan, fund, or other arrangement to which the fund member's employer has contributed or for which the fund member's employer has made payroll deductions, including a group life policy providing installment payments for disability, a group annuity contract, or a pension or retirement annuity plan other than the fund established by this chapter;

(3) the federal Social Security Act (42 U.S.C. 401 et seq.), the Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States Department of Veterans Affairs, or another federal, state, local, or other governmental agency;

(4) worker's compensation payable under IC 22-3; and

(5) a salary or wage, including overtime and bonus pay and extra or additional remuneration of any kind, the fund member

receives or is entitled to receive from the member's employer. For the purposes of this subsection, a retired fund member is considered eligible for benefits from subdivisions (1) through (5) whether or not the member has made application for the benefits.

(d) Notwithstanding any other law, a plan, policy of insurance, fund, or other arrangement:

(1) delivered, issued for delivery, amended, or renewed after April 9, 1979; and

(2) described in subsection (c)(1) or (c)(2);

may not provide for a reduction or alteration of benefits as a result of benefits for which a fund member may be eligible from the 1977 fund under subsection (c).

(e) Time spent receiving disability benefits, not to exceed twenty (20) years, is considered active service for the purpose of determining retirement benefits. A fund member's retirement benefit shall be based on:

(1) the member's years of active service; plus

(2) if applicable, the period, not to exceed twenty (20) years, during which the member received disability benefits.

(f) A fund member who is receiving disability benefits:

(1) under section 13.3(d) of this chapter; or

(2) based on a determination under this chapter that the fund member has a Class 3 impairment;

shall be transferred from disability to regular retirement status when the member becomes fifty-two (52) years of age.

(g) A fund member who is receiving disability benefits:

(1) under section 13.3(c) of this chapter; or

(2) based on a determination under this chapter that the fund member has a Class 1 or Class 2 impairment;

is entitled to receive a disability benefit for the remainder of the fund member's life in the amount determined under the applicable sections of this chapter.

As added by Acts 1981, P.L.309, SEC.59. Amended by Acts 1981, P.L.182, SEC.11; P.L.28-1988, SEC.116; P.L.1-1989, SEC.73; P.L.55-1989, SEC.63; P.L.311-1989, SEC.6; P.L.1-1991, SEC.211; P.L.4-1992, SEC.45; P.L.213-1995, SEC.8; P.L.22-1998, SEC.21; P.L.118-2000, SEC.23; P.L.62-2006, SEC.6; P.L.99-2007, SEC.219; P.L.32-2009, SEC.1; P.L.34-2009, SEC.1; P.L.13-2011, SEC.18; P.L.35-2012, SEC.126.

IC 36-8-8-12.3

Covered impairments; hearings; inclusions; Class 3 excludable condition; determination

Sec. 12.3. (a) Upon a request from a fund member or from the safety board of the appropriate police or fire department, the local board shall conduct a hearing under section 12.7 of this chapter to determine whether the fund member has a covered impairment.

(b) A covered impairment is an impairment that permanently or temporarily makes a fund member unable to perform the essential function of the member's duties, considering reasonable

accommodation to the extent required by the Americans with Disabilities Act, with the police or fire department. However, a covered impairment does not include an impairment:

(1) resulting from an intentionally self-inflicted injury or attempted suicide while sane or insane;

(2) resulting from the fund member's commission or attempted commission of a felony;

(3) that begins within two (2) years after a fund member's entry or reentry into active service with the department and that was caused or contributed to by a mental or physical condition that manifested itself before the fund member entered or reentered active service. Notwithstanding this subdivision, a fund member may not be required to satisfy more than one (1) such two (2) year period for the same mental or physical condition; or

(4) that is occasioned, in whole or in part, by the fund member currently engaging (as defined in 29 CFR 1630.3, Appendix) in any of the following:

(A) Use of a controlled substance (as defined in the Controlled Substances Act (21 U.S.C. 812)).

(B) Unlawful use of a prescription drug.

(c) Notwithstanding subsection (b), this subsection applies to the following:

(1) A fund member who is hired after March 1, 1992.

(2) A fund member who was admitted to the 1977 fund after having been covered by another public pension plan as a police officer or firefighter.

For a fund member who is determined by the system board to have a Class 3 excludable condition under IC 36-8-8-13.6, a covered impairment does not include an impairment that would be classified as a Class 3 impairment that begins at any time after the fund member's entry or reentry into active service with the department and is related in any manner to the Class 3 excludable condition.

(d) If the local board determines that a covered impairment exists, the chief of the police or fire department shall submit to the local board written determinations of the following:

(1) Whether there is suitable and available work on the appropriate department for which the fund member is or may be capable of becoming qualified, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

(2) For a fund member covered by sections 12.5 and 13.5 of this chapter, the fund member's years of service with the department.

As added by P.L.311-1989, SEC.7. Amended by P.L.4-1992, SEC.46; P.L.213-1995, SEC.9; P.L.231-1997, SEC.5; P.L.35-2012, SEC.127.

IC 36-8-8-12.4

Election of coverage by IC 36-8-8-12.5 and IC 36-8-8-13.5

Sec. 12.4. A fund member who is hired for the first time before January 1, 1990, may choose to be covered by sections 12.5 and 13.5

of this chapter (instead of section 13.3 of this chapter) if the fund member files an election with the system board before January 1, 1991. However, an election may not be filed after the fund member has a covered impairment. An election filed under this section is irrevocable.

As added by P.L.311-1989, SEC.8. Amended by P.L.35-2012, SEC.128.

IC 36-8-8-12.5

Determination of class of impairment

Sec. 12.5. (a) This section applies only to a fund member who:

(1) is hired for the first time after December 31, 1989;

(2) chooses coverage by this section and section 13.5 of this chapter under section 12.4 of this chapter; or

(3) is described in section 12.3(c)(2) of this chapter.

(b) At the same hearing where the determination of whether the fund member has a covered impairment is made, the local board shall determine the following:

(1) Whether the fund member has a Class 1 impairment. A Class 1 impairment is a covered impairment that is the direct result of one (1) or more of the following:

(A) A personal injury that occurs while the fund member is on duty.

(B) A personal injury that occurs while the fund member is off duty and is responding to:

(i) an offense or a reported offense, in the case of a police officer; or

(ii) an emergency or reported emergency for which the fund member is trained, in the case of a firefighter.

(C) An occupational disease (as defined in IC 22-3-7-10). A covered impairment that is included within this clause and subdivision (2) shall be considered a Class 1 impairment.

(D) A health condition caused by an exposure risk disease that results in a presumption of disability or death incurred in the line of duty under IC 5-10-13.

(2) Whether the fund member has a Class 2 impairment. A Class 2 impairment is a covered impairment that is:

(A) a duty related disease. A duty related disease means a disease arising out of the fund member's employment. A disease shall be considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's

employment as the proximate cause; or

(B) a health condition caused by:

(i) an exposure related heart or lung disease;

(ii) an exposure related cancer; or

(iii) exposure related Parkinson's disease;

that results in a presumption of disability incurred in the line of duty under IC 5-10-15.

(3) Whether the fund member has a Class 3 impairment. A Class 3 impairment is a covered impairment that is not a Class 1 impairment or a Class 2 impairment.

As added by P.L.311-1989, SEC.9. Amended by P.L.213-1995, SEC.10; P.L.185-2002, SEC.11; P.L.62-2006, SEC.7; P.L.59-2009, SEC.5.

IC 36-8-8-12.7

Hearings; notice; procedure; discovery; determinations; appeals; records; determination whether disability in line of duty

Sec. 12.7. (a) This section applies to hearings conducted by local boards concerning determinations of impairment under this chapter or of disability under IC 36-8-5-2(g), IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.

(b) At least five (5) days before the hearing, the local board shall give notice to the fund member and the safety board of the time, date, and place of the hearing.

(c) The local board must hold a hearing not more than ninety (90) days after the fund member requests the hearing.

(d) At the hearing, the local board shall permit the fund member and the safety board to:

(1) be represented by any individual;

(2) through witnesses and documents, present evidence;

(3) conduct cross-examination; and

(4) present arguments.

(e) At the hearing, the local board shall require all witnesses to be examined under oath, which may be administered by a member of the local board.

(f) The local board shall, at the request of the fund member or the safety board, issue:

(1) subpoenas;

(2) discovery orders; and

(3) protective orders;

in accordance with the Indiana Rules of Trial Procedure that govern discovery, depositions, and subpoenas in civil actions.

(g) The local board shall have the hearing recorded so that a transcript may be made of the proceedings.

(h) After the hearing, the local board shall make its determinations, including findings of fact, in writing and shall provide copies of its determinations to the fund member and the safety board not more than thirty (30) days after the hearing.

(i) If the local board:

(1) does not hold a hearing within the time required under

subsection (c); or

(2) does not issue its determination within the time required under subsection (h);

the fund member shall be considered to be totally impaired for purposes of section 13.5 of this chapter and, if the issue before the local board concerns the class of the member's impairment, the member shall be considered to have a Class 1 impairment. The system board shall review an impairment determined under this subsection as provided in section 13.1 of this chapter.

(j) The local board may on its own motion issue:

(1) subpoenas;

(2) discovery orders; and

(3) protective orders;

in accordance with the Indiana Rules of Trial Procedure that govern discovery, depositions, and subpoenas in civil actions.

(k) At the hearing, the local board may exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on the basis of evidentiary privilege recognized by the courts.

(l) At the hearing, the local board may request the testimony of witnesses and the production of documents.

(m) If a subpoena or order is issued under this section, the party seeking the subpoena or order shall serve it in accordance with the Indiana Rules of Trial Procedure. However, if the subpoena or order is on the local board's own motion, the sheriff of the county in which the subpoena or order is to be served shall serve it. A subpoena or order under this section may be enforced in the circuit or superior court of the county in which the subpoena or order is served.

(n) With respect to a hearing conducted for purposes of determining disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5, the determination of the local board after a hearing is final and may be appealed to the court.

(o) With respect to a hearing conducted for purposes of determining impairment or class of impairment under this chapter, the fund member may appeal the local board's determinations. An appeal under this subsection:

(1) must be made in writing;

(2) must state the class of impairment and the degree of impairment that is claimed by the fund member;

(3) must include a written determination by the chief of the police or fire department stating that there is no suitable and available work; and

(4) must be filed with the local board and the system board's director no later than thirty (30) days after the date on which the fund member received a copy of the local board's determinations.

(p) To the extent required by the Americans with Disabilities Act, the transcripts, records, reports, and other materials generated as a result of a hearing, review, or appeal conducted to determine an impairment under this chapter or a disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5 must be:

(1) retained in the separate medical file created for the member; and

(2) treated as a confidential medical record.

(q) If a local board determines that a fund member described in section 13.3(a) of this chapter has a covered impairment, the local board shall also make a recommendation to the system board concerning whether the covered impairment is an impairment described in section 13.3(c) of this chapter or whether it is an impairment described in section 13.3(d) of this chapter. The local board shall forward its recommendation to the system board.

(r) The system board shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The system board shall notify the local board, the safety board, and the fund member of its initial determination.

(s) The fund member, the safety board, or the local board may object in writing to the system board's initial determination under subsection (r) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the system board's initial determination becomes final. If a timely written objection is filed, the system board shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

As added by P.L.311-1989, SEC.10. Amended by P.L.5-1990, SEC.22; P.L.4-1992, SEC.47; P.L.22-1998, SEC.22; P.L.195-1999, SEC.33; P.L.118-2000, SEC.24; P.L.29-2006, SEC.2; P.L.35-2012, SEC.129.

IC 36-8-8-13
Repealed

(*Repealed by P.L.1-1991, SEC.212.)*

IC 36-8-8-13.1 Version a
Submission of local board and safety board determination to system director; medical examination; initial determination; objections; hearing; final order; appeals

Note: This version of section effective until 3-14-2012. See also following version of this section, effective 3-14-2012.

Sec. 13.1. (a) If:

(1) the local board has determined under this chapter that a covered impairment exists and the safety board has determined that there is no suitable and available work within the department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act; or

(2) the fund member has filed an appeal under section 12.7(o) of this chapter;

the local board shall submit the local board's determinations and the safety board's determinations to the system board's director.

(b) Whenever a fund member is determined to have an impairment under section 12.7(i) of this chapter, the system board's director shall initiate a review of the default award not later than sixty (60) days after the director learns of the default award.

(c) After the system board's director receives the determinations under subsection (a) or initiates a review under subsection (b), the fund member must submit to an examination by a medical authority selected by the system board. The authority shall determine if there is a covered impairment. With respect to a fund member who is covered by sections 12.5 and 13.5 of this chapter, the authority shall determine the degree of impairment. The system board shall adopt rules to establish impairment standards, such as the impairment standards contained in the United States Department of Veterans Affairs Schedule for Rating Disabilities. The report of the examination shall be submitted to the system board's director. If a fund member refuses to submit to an examination, the authority may find that no impairment exists.

(d) The system board's director shall review the medical authority's report and the local board's determinations and issue an initial determination within sixty (60) days after receipt of the local board's determinations. The system board's director shall notify the local board, the safety board, and the fund member of the initial determination. The following provisions apply if the system board's director does not issue an initial determination within sixty (60) days and if the delay is not attributable to the fund member or the safety board:

(1) In the case of a review initiated under subsection (b):

(A) the determinations of the local board and the chief of the police or fire department are considered to be the initial determination; and

(B) for purposes of section 13.5(d) of this chapter, the fund member is considered to be totally impaired.

(2) In the case of an appeal submitted under subsection (a)(2), the statements made by the fund member under section 12.7(o) of this chapter are considered to be the initial determination.

(3) In the case of a review initiated under subsection (b), the initial determination is the impairment determined under section 12.7(i) of this chapter.

(e) The fund member, the safety board, or the local board may object in writing to the director's initial determination within fifteen (15) days after the determination is issued. If no written objection is filed, the initial determination becomes the final order of the system board. If a timely written objection is filed, the system board shall issue the final order after a hearing. Unless an administrative law judge orders a waiver or an extension of the period for cause shown, the final order shall be issued not later than one hundred eighty (180) days after the date of receipt of the local board's determination or the date the system board's director initiates a review under subsection (b). The following provisions apply if a final order is not issued within the time limit described in this subsection and if the delay is

not attributable to the fund member or the chief of the police or fire department:

(1) In the case of a review initiated under subsection (b):

(A) the determinations of the local board and the chief of the police or fire department are considered to be the final order; and

(B) for purposes of section 13.5(d) of this chapter, the fund member is considered to be totally impaired.

(2) In the case of an appeal submitted under subsection (a)(2), the statements made by the fund member under section 12.7(o) of this chapter are considered to be the final order.

(3) In the case of a review initiated under subsection (b), the impairment determined under section 12.7(i) of this chapter is considered to be the final order.

(f) If the system board approves the director's initial determination, then the system board shall issue a final order adopting the initial determination. The local board and the chief of the police or fire department shall comply with the initial determination. If the system board does not approve the initial determination, the system board may receive additional evidence on the matter before issuing a final order.

(g) Appeals of the system board's final order may be made under IC 4-21.5.

(h) The transcripts, records, reports, and other materials compiled under this section must be retained in accordance with the procedures specified in section 12.7(p) of this chapter.

As added by P.L.1-1991, SEC.213. Amended by P.L.4-1992, SEC.48; P.L.195-1999, SEC.34; P.L.29-2006, SEC.3; P.L.13-2011, SEC.19; P.L.23-2011, SEC.28; P.L.6-2012, SEC.252.

IC 36-8-8-13.1 Version b

Submission of determination of local board and safety board to system director; medical examinations; initial determination; objections; hearing; final order; appeals

Note: This version of section effective 3-14-2012. See also preceding version of this section, effective until 3-14-2012.

Sec. 13.1. (a) If:

(1) the local board has determined under this chapter that a covered impairment exists and the safety board has determined that there is no suitable and available work within the department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act; or

(2) the fund member has filed an appeal under section 12.7(o) of this chapter;

the local board shall submit the local board's determinations and the safety board's determinations to the system board's director.

(b) Whenever a fund member is determined to have an impairment under section 12.7(i) of this chapter, the system board's director shall initiate a review of the default award not later than sixty (60) days after the director learns of the default award.

(c) After the system board's director receives the determinations under subsection (a) or initiates a review under subsection (b), the fund member must submit to an examination by a medical authority selected by the system board. The authority shall determine if there is a covered impairment. With respect to a fund member who is covered by sections 12.5 and 13.5 of this chapter, the authority shall determine the degree of impairment. The system board shall adopt rules to establish impairment standards, such as the impairment standards contained in the United States Department of Veterans Affairs Schedule for Rating Disabilities. The report of the examination shall be submitted to the system board's director. If a fund member refuses to submit to an examination, the authority may find that no impairment exists.

(d) The system board's director shall review the medical authority's report and the local board's determinations and issue an initial determination within sixty (60) days after receipt of the local board's determinations. The system board's director shall notify the local board, the safety board, and the fund member of the initial determination. The following provisions apply if the system board's director does not issue an initial determination within sixty (60) days and if the delay is not attributable to the fund member or the safety board:

(1) In the case of a review initiated under subsection (a)(1):

(A) the determinations of the local board and the chief of the police or fire department are considered to be the initial determination; and

(B) for purposes of section 13.5(d) of this chapter, the fund member is considered to be totally impaired.

(2) In the case of an appeal submitted under subsection (a)(2), the statements made by the fund member under section 12.7(o) of this chapter are considered to be the initial determination.

(3) In the case of a review initiated under subsection (b), the initial determination is the impairment determined under section 12.7(i) of this chapter.

(e) The fund member, the safety board, or the local board may object in writing to the director's initial determination within fifteen (15) days after the determination is issued. If no written objection is filed, the initial determination becomes the final order of the system board. If a timely written objection is filed, the system board shall issue the final order after a hearing. Unless an administrative law judge orders a waiver or an extension of the period for cause shown, the final order shall be issued not later than one hundred eighty (180) days after the date of receipt of the local board's determination or the date the system board's director initiates a review under subsection (b). The following provisions apply if a final order is not issued within the time limit described in this subsection and if the delay is not attributable to the fund member or the chief of the police or fire department:

(1) In the case of a review initiated under subsection (a)(1):

(A) the determinations of the local board and the chief of the

police or fire department are considered to be the final order; and

(B) for purposes of section 13.5(d) of this chapter, the fund member is considered to be totally impaired.

(2) In the case of an appeal submitted under subsection (a)(2), the statements made by the fund member under section 12.7(o) of this chapter are considered to be the final order.

(3) In the case of a review initiated under subsection (b), the impairment determined under section 12.7(i) of this chapter is considered to be the final order.

(f) If the system board approves the director's initial determination, then the system board shall issue a final order adopting the initial determination. The local board and the chief of the police or fire department shall comply with the initial determination. If the system board does not approve the initial determination, the system board may receive additional evidence on the matter before issuing a final order.

(g) Appeals of the system board's final order may be made under IC 4-21.5.

(h) The transcripts, records, reports, and other materials compiled under this section must be retained in accordance with the procedures specified in section 12.7(p) of this chapter.

As added by P.L.1-1991, SEC.213. Amended by P.L.4-1992, SEC.48; P.L.195-1999, SEC.34; P.L.29-2006, SEC.3; P.L.13-2011, SEC.19; P.L.23-2011, SEC.28; P.L.6-2012, SEC.252; P.L.35-2012, SEC.130.

IC 36-8-8-13.3

Disability benefits

Sec. 13.3. (a) This section applies only to a fund member who:

(1) is hired for the first time before January 1, 1990; and

(2) does not choose coverage by sections 12.5 and 13.5 of this chapter under section 12.4 of this chapter.

This section does not apply to a fund member described in section 12.3(c)(2) of this chapter.

(b) A fund member:

(1) who became disabled before July 1, 2000;

(2) is determined to have a covered impairment; and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the fund member with a disability does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(c) Except as otherwise provided in this subsection, a fund member:

(1) who becomes disabled after July 1, 2000;

(2) who is determined to have a covered impairment that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer, or an emergency or reported emergency for which the fund member is trained, in the case of a firefighter; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment. A disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13 or IC 5-10-15; and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the fund member with a disability does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(d) Except as otherwise provided in this subsection, a fund member:

(1) who becomes disabled after July 1, 2000;

(2) who is determined to have a covered impairment that is not a covered impairment described in subsection (c)(2); and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the federal Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the fund member with a disability does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(e) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that except for section 12.3 of this chapter would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

As added by P.L.311-1989, SEC.12. Amended by P.L.4-1992, SEC.49; P.L.213-1995, SEC.11; P.L.22-1998, SEC.23; P.L.118-2000, SEC.25; P.L.62-2006, SEC.8; P.L.99-2007, SEC.220.

IC 36-8-8-13.4

Application with local board for recommendation of line of duty disability; final determination by system board

Sec. 13.4. (a) This section applies only to a fund member or survivor of a fund member who is receiving a disability benefit under section 13.3(b) of this chapter.

(b) A fund member or survivor of a fund member described in subsection (a) may file an application, in accordance with this section, requesting a determination that:

(1) the member's covered impairment, as determined under section 13.3(b) of this chapter, was:

(A) the direct result of:

(i) a personal injury that occurred while the fund member was on duty;

(ii) a personal injury that occurred while the fund member was off duty and was responding to an offense or a reported offense, in the case of a police officer, or an emergency or reported emergency for which the fund member was trained, in the case of a firefighter; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease, which for purposes of this section,

means a disease arising out of the fund member's employment. A disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause; or

(C) a disability presumed incurred in the line of duty under IC 5-10-13 or IC 5-10-15; or

(2) the member's covered impairment, as determined under section 13.3(b) of this chapter, was not a covered impairment described in subsection (b)(1).

The application must be filed with the local board that made the determination of a covered impairment resulting in a disability benefit under section 13.3(b) of this chapter. The application form shall be prepared by the system board or its designee and be made available to a fund member or survivor of a fund member described in subsection (a) upon request.

(c) A fund member or survivor of a fund member who files an application under this section has the burden of presenting sufficient evidence to support a finding that the member's covered impairment, as determined under section 13.3(b) of this chapter, satisfies the standard provided in subsection (b)(1). Such evidence may include any documents, materials, or other evidence provided in connection with the original hearing and determination of a covered impairment as determined under section 13.3(b) of this chapter, including any transcript from that proceeding. A fund member or a survivor of a fund member may include with an application any additional probative evidence that is relevant to the determination under subsection (b)(1). The local board may establish reasonable procedures with respect to the application process and may engage a medical authority to provide opinions relevant to making its determination. The local board may hold a hearing with respect to an application filed under this section if the fund member or survivor of a fund member shows good cause that documents or other probative evidence sufficient to make the showing required under this subsection is not reasonably obtainable and that holding a hearing would be reasonably likely to provide such probative evidence. If the local board conducts a hearing, it shall be subject to the provisions of section 12.7 of this chapter relating to the conduct of hearings on the determinations of covered impairments under this chapter.

(d) The local board shall make its recommendation, including findings of fact, in writing and shall provide copies of its recommendation to the fund member or survivor of the fund member

and the system board not later than thirty (30) days after the:

(1) filing of the application, if no hearing is held; or

(2) hearing, if held.

(e) If the local board does not issue its recommendation within the time required under subsection (d), the member's covered impairment shall be considered to be a covered impairment described under subsection (b)(1) for purposes of the local board's recommendation.

(f) The system board shall review the local board's recommendation, or the considered recommendation under subsection (e), not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the covered impairment is one described under subsection (b)(1). The system board shall notify the local board and the fund member or survivor of the fund member of its initial determination.

(g) The fund member or survivor of the fund member or the local board may object in writing to the system board's initial determination under subsection (f) not later than fifteen (15) days after the initial determination is issued by filing an objection with the system board. If a written objection is not filed, the system board's initial determination becomes final. If a timely written objection is filed, the system board shall issue a final determination after a hearing. Unless an administrative law judge orders a waiver or an extension of the period for cause shown, the final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

(h) If the system board fails to issue an initial determination within forty-five (45) days after receiving the local board's recommendation, the default determination on whether the covered impairment is one described under subsection (b)(1) will be the determination made by the system board's medical authority. An objection to this determination may be filed in accordance with the provisions of subsection (g).

(i) A determination that a member's covered impairment is one described under subsection (b)(1) will apply only on a prospective basis beginning on January 1 of the calendar year in which the determination is made. The amount of the benefit will not be changed as a result of this determination.

(j) A fund member or survivor of a fund member described in subsection (a) must file an application under this section no later than two (2) years after the date the system board notifies the fund members and survivors described in subsection (a) that the board has received a favorable ruling from the Internal Revenue Service. The system board will provide notice of receipt of a favorable ruling within thirty (30) days of its receipt.

(k) This section expires July 1, 2021.

As added by P.L.177-2011, SEC.2. Amended by P.L.35-2012, SEC.131.

IC 36-8-8-13.5

Applicability to certain fund members; disability benefits for

classes of impairment

Sec. 13.5. (a) This section applies only to a fund member who:

(1) is hired for the first time after December 31, 1989;

(2) chooses coverage by this section and section 12.5 of this chapter under section 12.4 of this chapter; or

(3) is described in section 12.3(c)(2) of this chapter.

(b) A fund member who is determined to have a Class 1 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(c) A fund member who is determined to have a Class 2 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to twenty-two percent (22%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment plus one-half percent (0.5%) of that salary for each year of service, up to a maximum of thirty (30) years of service.

(d) For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(e) For applicants hired after March 1, 1992, or described in section 12.3(c)(2) of this chapter, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to the following benefits instead of benefits provided under subsection (d):

(1) If the fund member did not have a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(2) Except as provided in subdivision (5), a fund member is

entitled to receive the benefits set forth in subdivision (1) if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund;

(B) the fund member has a Class 3 impairment that is not related in any manner to the Class 3 excludable condition described in clause (A); and

(C) the Class 3 impairment described in clause (B) occurs after the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(3) Except as provided in subdivision (5), a fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment occurs before the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(4) A fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment is related in any manner to the Class 3 excludable condition.

(5) If, during the first four (4) years of service with the employer:

(A) a fund member with a Class 3 excludable condition is determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental injury that is not related in any manner to the fund member's Class 3 excludable condition;

the member is entitled to receive the benefits provided in subdivision (1) with respect to the accidental injury. For purposes of this subdivision, the local board shall make the initial determination of whether an impairment is attributable to an accidental injury. The local board shall forward the initial determination to the director of the system board for a final determination by the system board or the system board's designee.

(f) If a fund member is entitled to a monthly base benefit under subsection (b), (c), (d), or (e), the fund member is also entitled to a monthly amount that is no less than ten percent (10%) and no greater than forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment. The additional monthly amount shall be determined by the Indiana public retirement system medical authority based on the degree of impairment.

(g) Benefits for a Class 1 impairment as determined under this

section are payable for the remainder of the fund member's life.

(h) Benefits for a Class 2 impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) for the remainder of the fund member's life if the fund member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service.

(i) Benefits for a Class 3 impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) until the member becomes fifty-two (52) years of age if the member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service.

(j) Upon becoming fifty-two (52) years of age, a fund member with a Class 2 impairment determined under subsection (h)(1) is entitled to receive the retirement benefit payable to a fund member with:

(1) twenty (20) years of service; or

(2) the total years of service (including both active service and the period, not to exceed twenty (20) years, during which the member received disability benefits) and salary, as of the year the member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age;

whichever is greater.

(k) Upon becoming fifty-two (52) years of age, a fund member who is receiving or has received a Class 3 impairment benefit that is:

(1) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(2) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service;

is entitled to receive the retirement benefit payable to a fund member with twenty (20) years of service.

(l) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that, except for section 12.3(b)(3) of this chapter, would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

As added by P.L.311-1989, SEC.13. Amended by P.L.4-1992, SEC.50; P.L.213-1995, SEC.12; P.L.22-1998, SEC.24; P.L.32-2009, SEC.2; P.L.34-2009, SEC.2; P.L.35-2012, SEC.132.

IC 36-8-8-13.6

"Class 3 excludable condition"; rules; recording and retaining listing of condition

Sec. 13.6. (a) As used in this chapter, "Class 3 excludable condition" means a condition that is included on the list of excludable medical conditions established by the system board under subsection (b).

(b) The system board shall adopt rules to establish a list of excludable medical conditions.

(c) To the extent required by the Americans with Disabilities Act, the system board shall record and retain the listing of a fund member's Class 3 excludable condition in the fund member's confidential medical file.

As added by P.L.4-1992, SEC.51. Amended by P.L.23-2011, SEC.29.

IC 36-8-8-13.7

Review of member's impairment; hearing; costs of medical examination

Sec. 13.7. (a) No more than once every twelve (12) months after the final determination of covered impairment under this chapter:

(1) a petition for review of the fund member's impairment may be filed with the local board by the fund member, the safety board, or the system board; or

(2) the local board may on its own motion seek a review of a

fund member's impairment.

(b) The review may include a review of whether a covered impairment continues to exist, whether the degree of impairment has changed, and any other matter considered appropriate by the local board.

(c) The local board shall conduct a hearing under section 12.7 of this chapter to determine the matters raised in the petition for review. The local board's determination shall be submitted to the system board, and the procedures specified in section 13.1 of this chapter apply.

(d) The costs of a medical examination required by the local board shall be paid by the party who filed the petition for review.

As added by P.L.311-1989, SEC.14. Amended by P.L.1-1991, SEC.214; P.L.35-2012, SEC.133.

IC 36-8-8-13.8

Members dying other than in line of duty after August 31, 1982

Sec. 13.8. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter) after August 31, 1982.

(b) If a fund member dies while receiving retirement or disability benefits, the following apply:

(1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be

reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return filed by the fund member in the year before the year in which the fund member died.

(c) Except as otherwise provided in this subsection, if a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents are entitled to receive a monthly benefit determined under subsection (b). If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

As added by P.L.118-2000, SEC.26. Amended by P.L.1-2007, SEC.242; P.L.62-2010, SEC.1; P.L.23-2010, SEC.1.

IC 36-8-8-13.9

Members dying in line of duty before September 1, 1982

Sec. 13.9. (a) This section applies to an active member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.

(b) Except as otherwise provided in this subsection, if a fund member dies in the line of duty, the following apply:

(1) Each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on

the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return filed by the fund member in the year before the year in which the fund member died.

(c) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit under subsection (b) is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

(d) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

As added by P.L.118-2000, SEC.27. Amended by P.L.86-2003, SEC.8; P.L.1-2007, SEC.243; P.L.62-2010, SEC.2; P.L.23-2010, SEC.2.

IC 36-8-8-14
Repealed

(*Repealed by P.L.50-1984, SEC.13.)*

IC 36-8-8-14.1
Members dying in line of duty after August 31, 1982

Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(1) until the child reaches eighteen (18) years of age; or

(2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return filed by the fund member in the year before the year in which the fund member died.

(f) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years old, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from:

(1) any action that the member, in the member's capacity as a police officer:

(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(B) performs in the course of controlling or reducing crime or enforcing the criminal law; or

(2) any action that the member, in the member's capacity as a firefighter:

(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

As added by P.L.50-1984, SEC.14. Amended by P.L.196-1988, SEC.4; P.L.1-1989, SEC.74; P.L.55-1989, SEC.64; P.L.1-1993, SEC.247; P.L.52-1993, SEC.6; P.L.197-1993, SEC.6; P.L.1-1994, SEC.180; P.L.25-1994, SEC.11; P.L.231-1997, SEC.6; P.L.40-1997, SEC.9; P.L.22-1998, SEC.25; P.L.195-1999, SEC.35; P.L.118-2000, SEC.28; P.L.62-2002, SEC.4; P.L.185-2002, SEC.12; P.L.86-2003, SEC.9; P.L.1-2007, SEC.244; P.L.62-2010, SEC.3; P.L.23-2010, SEC.3.

IC 36-8-8-15
Cost of living adjustment

Sec. 15. Each year the system board shall determine if there has been an increase or decrease in the consumer price index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the consumer price index for January, February, and March of that year with the arithmetic mean for the same three (3) months of the preceding year. If there has been an increase, or a decrease, it shall be stated as a percentage of the arithmetic mean for the preceding three (3) month period. The percentage shall be rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%). If there is a percentage increase of the arithmetic mean for the preceding three (3) month period, a fund member's or survivor's monthly benefit, beginning with the July payment, shall be increased by an amount equal to the June payment times the percentage increase. However, a fund member's or survivor's monthly benefit may not be increased under this section until July of the year following the year of the first monthly benefit payment to the fund member or survivor. In computing a fund member's benefit, the increase is based only on those years for which the fund member was eligible for benefit payments under this chapter. A monthly benefit may not be reduced if there is a percentage decrease of the arithmetic mean for the preceding three (3) month period.

As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.99-2010, SEC.13; P.L.35-2012, SEC.134.

IC 36-8-8-16
Lump sum death benefit

Sec. 16. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) The heirs or estate of a fund member is entitled to receive at least twelve thousand dollars ($12,000) upon the fund member's death.

As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.200-1984, SEC.6; P.L.55-1989, SEC.65; P.L.311-1989, SEC.15; P.L.169-1994, SEC.5; P.L.49-1998, SEC.8; P.L.28-2008, SEC.4.

IC 36-8-8-17
Benefits exempt from judicial process; transfer prohibited; rollover to eligible retirement plan

Sec. 17. (a) The benefits of this chapter are exempt from attachment and garnishment and may not be seized, taken, or levied upon by any execution or process.

(b) Except as provided in subsection (c) and section 17.2 of this chapter, a person receiving a benefit under this chapter may not transfer, assign, or sell the benefit.

(c) Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992

(P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the 1977 fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.
As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.10-1993, SEC.19; P.L.183-2003, SEC.2.

IC 36-8-8-17.2
Voluntary benefit deductions

Sec. 17.2. (a) Notwithstanding any other provision of this chapter, a person receiving a disability, retirement, or survivor monthly benefit under this chapter may, after June 30, 2004, authorize the system board to make a deduction from the benefit.

(b) An authorization for a deduction from a disability, retirement, or survivor monthly benefit paid under this chapter is valid only if all the following requirements are met:

(1) The authorization is:

(A) in writing;

(B) signed personally by the person receiving the benefit;

(C) revocable at any time by the person receiving the benefit upon written notice to the system board; and

(D) agreed to in writing by the system board.

(2) An executed copy of the authorization is delivered to the system board within ten (10) days after its execution.

(3) The deduction is made for a purpose described in subsection (c).

(c) A deduction under this section may be made for the purpose of paying any of the following:

(1) A premium on a policy of insurance for medical, surgical, hospitalization, dental, vision, long term care, or Medicare supplement coverage offered to retired fund members by the fund member's former employer, the state, or the system board.

(2) A pledge or contribution to a charitable or nonprofit organization.

(3) Dues payable by the person receiving the benefit to a labor organization of which the person is a member.

As added by P.L.183-2003, SEC.3. Amended by P.L.35-2012, SEC.135.

IC 36-8-8-18
Credit for service prior to participation in 1977 fund; rollover distributions; trustee to trustee transfers

Sec. 18. (a) Except as provided in subsection (b), if a unit becomes a participant in the 1977 fund, credit for prior service by police officers (including prior service as a full-time, fully paid town marshal or full-time, fully paid deputy town marshal by a police officer employed by a metropolitan board of police commissioners) or by firefighters before the date of participation may be given by the system board only if:

(1) the unit contributes to the 1977 fund the amount necessary

to amortize prior service liability over a period of not more than forty (40) years, the amount and period to be determined by the system board; and

(2) the police officers or firefighters pay, either in a lump sum or in a series of payments determined by the system board, the amount that they would have contributed if they had been members of the 1977 fund during their prior service.

If the requirements of subdivisions (1) and (2) are not met, a fund member is entitled to credit only for years of service after the date of participation.

(b) If a unit becomes a participant in the 1977 fund under section 3(c) of this chapter, or if a firefighter becomes a member of the 1977 fund under section 7(g) of this chapter, credit for prior service before the date of participation or membership shall be given by the system board as follows:

(1) For a member who will accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, the member will be given credit in the 1977 fund for one-third (1/3) of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.

(2) For a member who will not accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, such prior service shall be given only if:

(A) The unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over a period of not more than ten (10) years. The amount of contributions must be based on the actual salary earned by a first class firefighter at the time the unit becomes a participant in the 1977 fund, or the firefighter becomes a member of the 1977 fund, or if no such salary designation exists, the actual salary earned by the firefighter. The limit on credit for prior service does not apply if the firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 is entitled to full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid firefighter or as an emergency medical technician under section 7(g) of this chapter.

(B) The amount the firefighter would have contributed if the firefighter had been a member of the 1977 fund during the

firefighter's prior service must be fully paid and must be based on the firefighter's actual salary earned during that period before service can be credited under this section.

(C) Any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must include interest at a rate determined by the system board.

(3) If, at the time a unit entered the 1977 fund, the unit contributed the amount required by subdivision (2) so that a fund member received the maximum prior service credit allowed by subdivision (2) and, at a later date, the earliest retirement age was lowered, the unit may contribute to the 1977 fund on the fund member's behalf an additional amount that is determined in the same manner as under subdivision (2) with respect to the additional prior service, if any, available as a result of the lower retirement age. If the unit pays the additional amount described in this subdivision in accordance with the requirements of subdivision (2), the fund member shall receive the additional service credit necessary for the fund member to retire at the lower earliest retirement age.

(c) This subsection applies to a unit that:

(1) becomes a participant in the 1977 fund under section 3(c) of this chapter; and

(2) is a fire protection district created under IC 36-8-11 that includes a township or a municipality that had a 1937 fund.

A firefighter who continues uninterrupted service with a unit covered by this subsection and who participated in the township or municipality 1937 fund is entitled to receive service credit for such service in the 1977 fund. However, credit for such service is limited to the amount accrued by the firefighter in the 1937 fund or the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes fifty-two (52) years of age, whichever is less.

(d) The unit shall contribute into the 1977 fund the amount necessary to fund the amount of past service determined in accordance with subsection (c), amortized over a period not to exceed ten (10) years with interest at a rate determined by the system board.

(e) If the township or municipality has accumulated money in its 1937 fund, any amount accumulated that exceeds the present value of all projected future benefits from the 1937 plan shall be paid by the township or municipality to the unit for the sole purpose of making the contributions determined in subsection (d).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b)

of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by Acts 1981, P.L.309, SEC.59. Amended by P.L.313-1989, SEC.2; P.L.4-1990, SEC.19; P.L.149-1992, SEC.1; P.L.101-1998, SEC.2; P.L.49-1998, SEC.9; P.L.61-2002, SEC.17; P.L.148-2007, SEC.2; P.L.13-2011, SEC.20; P.L.35-2012, SEC.136.

IC 36-8-8-18.1

1977 fund participants previously covered in PERF or firefighters participating in 1977 fund; minimum benefit; transfer of contributions; reduction of contributions; credit for prior service

Sec. 18.1. (a) As used in this section, "police officer" includes a former full-time, fully paid town marshal or full-time, fully paid deputy town marshal who is employed as a police officer by a metropolitan board of police commissioners.

(b) If a unit becomes a participant in the 1977 fund and the unit previously covered police officers, firefighters, or emergency medical technicians in PERF, or if the employees of the unit become members of the 1977 fund under section 7(g) of this chapter, the following provisions apply:

(1) A minimum benefit applies to members electing to transfer or being transferred to the 1977 fund from PERF. The minimum benefit, payable at age fifty-two (52), for such a member equals the actuarial equivalent of the vested retirement benefit payable to the member upon normal retirement under IC 5-10.2-4-1 as of the day before the transfer, based solely on:

(A) creditable service;

(B) the average of the annual compensation; and

(C) the amount credited to the annuity savings account;

of the transferring member as of the day before the transfer under IC 5-10.2 and IC 5-10.3.

(2) The system board shall transfer from PERF to the 1977 fund the amount credited to the annuity savings accounts and the present value of the retirement benefits payable at age sixty-five (65) attributable to the transferring members.

(3) The amount the unit and the member must contribute to the 1977 fund under section 18 of this chapter, if any service credit

is to be given under that section, will be reduced by the amounts transferred to the 1977 fund by the system board under subdivision (2).

(4) Credit for prior service in PERF of a member as a police officer, a firefighter, or an emergency medical technician is waived in PERF. Any credit for that service under the 1977 fund shall only be given in accordance with section 18 of this chapter.

(5) Credit for prior service in PERF of a member, other than as a police officer, a firefighter, or an emergency medical technician, remains in PERF and may not be credited under the 1977 fund.

As added by P.L.4-1990, SEC.20. Amended by P.L.1-1991, SEC.215; P.L.101-1998, SEC.3; P.L.13-2011, SEC.21; P.L.35-2012, SEC.137.

IC 36-8-8-19

Baseline statewide physical and mental examinations

Sec. 19. (a) The baseline statewide physical examination required by section 7(a) of this chapter shall be prescribed by the system board and shall be administered by the appointing authority, as determined by the local board, after the appointing authority extends a conditional offer for employment. The baseline statewide physical examination shall be administered by a licensed physician and must include all of the following:

(1) A general medical history.

(2) The tests identified in rules that shall be adopted by the system board.

(b) The system board shall adopt minimum standards by rule that a police officer or firefighter must meet for the baseline statewide physical examination described in subsection (a). The baseline statewide physical examination and related standards must:

(1) reflect the essential functions of the job;

(2) be consistent with business necessity; and

(3) be evaluated by the system board one (1) time before January 1, 2015, and every five (5) years thereafter.

(c) The system board shall, in consultation with the commissioner of mental health, select the baseline statewide mental examination described in section 7(a) of this chapter. The standards for passing the baseline statewide mental examination shall be determined by the local board. The baseline statewide mental examination and related standards must:

(1) reflect the essential functions of the job;

(2) be consistent with business necessity; and

(3) be evaluated by the system board one (1) time before January 1, 2015, and every five (5) years thereafter.

The purpose of the baseline statewide mental examination is to determine if the police officer or firefighter is mentally suitable to be a member of the department. The local board may designate a community mental health center or a managed care provider (as defined in IC 12-7-2-127(b)), a hospital, a licensed physician, or a

licensed psychologist to administer the examination. However, the results of a baseline statewide mental examination shall be interpreted by a licensed physician or a licensed psychologist.

(d) The employer shall pay for no less than one-half (1/2) the cost of the examinations.

(e) Each local board shall name the physicians who will conduct the examinations under this section.

(f) If a local board determines that a candidate passes the local physical and mental standards, if any, established under IC 36-8-3.2-6, the baseline statewide physical examination described in subsection (a), and the baseline statewide mental examination described in subsection (c), the local board shall send the following to the Indiana public retirement system:

(1) Copies and certification of the results of the baseline statewide physical examination described in subsection (a).

(2) Certification of the results of the physical agility examination required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5.

(3) Certification of the results of the baseline statewide mental examination described in subsection (c).

(g) The system board or the system board's designee shall then determine whether the candidate passes the baseline statewide physical standards adopted under subsection (b). If the candidate passes the baseline statewide standards, the system board or the system board's designee shall also determine whether the candidate has a Class 3 excludable condition under section 13.6 of this chapter. The system board or the system board's designee shall retain the results of the examinations and all documents related to the examination until the police officer or firefighter retires or separates from the department.

(h) To the extent required by the federal Americans with Disabilities Act, the system board shall do the following:

(1) Treat the medical transcripts, reports, records, and other material compiled under this section as confidential medical records.

(2) Keep the transcripts, reports, records, and material described in subdivision (1) in separate medical files for each member.

(i) A local board may, at the request of an appointing authority or on the local board's own motion, issue subpoenas, discovery orders, and protective orders in accordance with the Indiana Rules of Trial Procedure to facilitate the receipt of accurate and original documents necessary for the proper administration of this chapter. A subpoena or order issued under this subsection:

(1) must be served in accordance with the Indiana Rules of Trial Procedure; and

(2) may be enforced in the circuit or superior court with jurisdiction for the county in which the subpoena or order is served.

As added by P.L.365-1983, SEC.2. Amended by P.L.202-1984, SEC.2; P.L.342-1985, SEC.8; P.L.4-1992, SEC.52; P.L.40-1994, SEC.82; P.L.99-2010, SEC.14; P.L.23-2011, SEC.30; P.L.6-2012,

SEC.253.

IC 36-8-8-20
Special lump sum death benefit in addition to other benefits

Sec. 20. (a) As used in this section, "dies in the line of duty" has the meaning set forth in section 14.1 of this chapter.

(b) Benefits paid under this section are subject to section 2.5 of this chapter.

(c) A special death benefit of seventy-five thousand dollars ($75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars ($150,000) for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the Indiana public retirement system from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty:

(1) To the surviving spouse.

(2) If there is no surviving spouse, to the surviving children (to be shared equally).

(3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

(d) The benefit provided by this section is in addition to any other benefits provided under this chapter.

As added by P.L.223-1986, SEC.4. Amended by P.L.55-1989, SEC.66; P.L.225-1991, SEC.4; P.L.53-1993, SEC.5; P.L.49-1998, SEC.10; P.L.35-2012, SEC.138.

IC 36-8-8-21
1977 fund members; age limitation; aptitude, physical agility, and physical and mental standards; credit for prior service

Sec. 21. (a) This section applies to firefighters who:

(1) are employed by units that become participants in the 1977 fund under section 3(c) of this chapter; or

(2) become members of the 1977 fund under section 7(g) of this chapter.

(b) A firefighter may become a member of the 1977 fund without meeting the age limitation under section 7(a) of this chapter if the firefighter satisfies:

(1) any aptitude, physical agility, or physical and mental standards established by a local board under IC 36-8-3.2; and

(2) the minimum standards that are:

(A) adopted by the system board under section 19 of this chapter; and

(B) in effect on the date the firefighter becomes a member of the 1977 fund.

(c) Credit for prior service of a firefighter who becomes a member of the 1977 fund under this section shall be determined under section 18 or 18.1 of this chapter. No service credit beyond that allowed under section 18 or 18.1 of this chapter may be recognized under the 1977 fund.

As added by P.L.313-1989, SEC.3. Amended by P.L.4-1990, SEC.21; P.L.4-1992, SEC.53; P.L.35-2012, SEC.139.

IC 36-8-8-22
Selection of administrative law judge

Sec. 22. Nothing in this chapter limits the discretion of the system board to select an administrative law judge under IC 4-21.5-3-9.
As added by P.L.311-1989, SEC.16. Amended by P.L.35-2012, SEC.140.

IC 36-8-8-23
Disability retiree supplemental benefit

Sec. 23. (a) This section applies to a fund member who:

(1) after June 30, 2009, receives a benefit based on a determination that the member has a Class 1 or Class 2 impairment, regardless of whether the determination was made before, on, or after June 30, 2009; and

(2) before July 1, 2009, has not had the member's disability benefit recalculated under section 13.5 of this chapter.

(b) Upon becoming fifty-two (52) years of age, a fund member receiving a Class 1 impairment benefit or Class 2 impairment benefit under section 13.5(h)(2) of this chapter is entitled to receive a monthly supplemental benefit determined in STEP THREE of the following formula:

STEP ONE: Determine the greater of:

(A) the monthly retirement benefit payable to a fund member with twenty (20) years of service; or

(B) the monthly retirement benefit payable to a fund member with the total years of service (including both active service and the period, not to exceed twenty (20) years, during which the member received disability benefits) and salary, as of the year the fund member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age.

STEP TWO: Subtract from the amount determined under STEP ONE the amount of any monthly benefit determined under section 13.5 of this chapter that the fund member is entitled to receive for the remainder of the fund member's life.

STEP THREE: Determine the greater of the following:

(A) The remainder determined under STEP TWO.

(B) Zero (0).

(c) A monthly supplemental benefit determined under this section is payable for the remainder of the fund member's life.
As added by P.L.32-2009, SEC.3; P.L.34-2009, SEC.3.

IC 36-8-8-24
Beneficiary designation

Sec. 24. (a) A fund member may designate one (1) or more beneficiaries to receive in a lump sum the fund member's

contributions plus interest at a rate determined by the system board if the fund member dies:

(1) without receiving a retirement benefit under sections 10 and 11 of this chapter;

(2) without receiving a disability benefit under section 13.3 or 13.5 of this chapter;

(3) without a survivor entitled to receive a benefit under section 13.8, 13.9, or 14.1 of this chapter; and

(4) without the system board returning the fund member's contributions under section 8 of this chapter.

(b) A fund member who chooses to designate one (1) or more beneficiaries under this section shall file the fund member's designation with the system board on a form prescribed by the system board.

(c) The system board shall adopt rules to allow a fund member who designates more than one (1) beneficiary to allocate the contributions and interest paid in percentage increments.

(d) Whenever a fund member does not designate a beneficiary under this section and has no survivors entitled to receive a benefit under section 13.8, 13.9, or 14.1 of this chapter, the system board shall refund to the fund member's estate:

(1) the fund member's contributions; plus

(2) interest at a rate determined by the system board.

As added by P.L.23-2010, SEC.4; P.L.62-2010, SEC.4. Amended by P.L.35-2012, SEC.141.

IC 36-8-8-24.8

Partial lump sum distribution

Sec. 24.8. (a) This section does not apply to a fund member who elects to enter the DROP (as defined in IC 36-8-8.5-4) under IC 36-8-8.5 after June 30, 2011.

(b) This subsection applies to a fund member who enters the DROP (as defined in IC 36-8-8.5-4) before July 1, 2011, and:

(1) does not, before July 1, 2011, exit the DROP as provided in IC 36-8-8.5-14; or

(2) before July 1, 2011, exits the DROP without retiring.

A fund member to whom this subsection applies may elect to receive a partial lump sum distribution under this section. If a fund member makes an election under this subsection and has not exited the DROP, the fund member shall exit the DROP on the date the fund member's election under this subsection is effective. The retirement benefits of a fund member who makes an election under this subsection are calculated as if the fund member had never entered the DROP.

(c) Benefits paid under this section are subject to section 2.5 of this chapter.

(d) As used in this section, "partial lump sum distribution" means the amount calculated under subsection (g).

(e) After June 30, 2010, a fund member may elect to receive at retirement a partial lump sum distribution if the fund member meets

all of the following requirements on the date of the election:

(1) The fund member is in active service.

(2) The fund member qualifies for a retirement fund benefit payment under section 10(b) of this chapter.

(f) A fund member's election under subsection (e):

(1) must be in writing;

(2) must be filed with the PERF board, on a form prescribed by the PERF board; and

(3) is irrevocable.

(g) The partial lump sum distribution for a fund member who makes an election described in subsection (e) is determined in STEP TWO of the following formula:

STEP ONE: Determine the lesser of the following:

(A) The fund member's years of service for which the fund member has received service credit in the fund.

(B) Thirty-two (32).

STEP TWO: Multiply the STEP ONE amount by the fund member's monthly benefit calculated under section 11(b) of this chapter.

(h) The monthly benefit of a fund member who receives a partial lump sum distribution under this section is actuarially reduced by subtracting an amount determined by dividing the partial lump sum distribution amount determined in subsection (g) by a rate, determined by the actuary for the fund, that is:

(1) based on the age of the fund member and, if applicable, the age of the fund member's spouse at the time the fund member elects to take the partial lump sum distribution; and

(2) computed to result in a monthly benefit amount that has an actuarial present value that approximates the partial lump sum distribution amount.

(i) A fund member who makes an election described in subsection (e) must elect to receive the partial lump sum distribution determined in subsection (g) as:

(1) a lump sum paid not later than thirty (30) days after the fund member's retirement date; or

(2) three (3) equal annual payments commencing not later than thirty (30) days after the fund member's retirement date and thereafter paid on the anniversary of the fund member's retirement date.

(j) This section expires July 1, 2012.

As added by P.L.99-2010, SEC.15. Amended by P.L.177-2011, SEC.3.

IC 36-8-8.5

Chapter 8.5. Deferred Retirement Option Plan (DROP)

IC 36-8-8.5-1

Repealed

(*Repealed by P.L.51-2006, SEC.5.)*

IC 36-8-8.5-1.5

DROP expiration date

Sec. 1.5. This chapter expires for members of the 1925 fund, the 1937 fund, or the 1953 fund on the date the authority of the board of trustees of the Indiana public retirement system to distribute from the pension relief fund established under IC 5-10.3-11-1 to units of local government (described in IC 5-10.3-11-3) amounts determined under IC 5-10.3-11-4.7 expires.

As added by P.L.51-2006, SEC.1. Amended by P.L.35-2012, SEC.142.

IC 36-8-8.5-2

Applicability

Sec. 2. Except as provided in section 1.5 of this chapter, this chapter applies to a person who is a member of any of the following funds:

(1) 1925 Police Pension Fund (IC 36-8-6) (referred to in this chapter as the 1925 fund).

(2) 1937 Firefighters' Pension Fund (IC 36-8-7) (referred to in this chapter as the 1937 fund).

(3) 1953 Police Pension Fund (Indianapolis) (IC 36-8-7.5) (referred to in this chapter as the 1953 fund).

(4) 1977 Police Officers' and Firefighters' Pension and Disability Fund (IC 36-8-8) (referred to in this chapter as the 1977 fund).

As added by P.L.62-2002, SEC.5. Amended by P.L.51-2006, SEC.2.

IC 36-8-8.5-3

"Applicable fund"

Sec. 3. As used in this chapter, "applicable fund" means the following:

(1) For members of the 1925 fund, the 1925 fund.

(2) For members of the 1937 fund, the 1937 fund.

(3) For members of the 1953 fund, the 1953 fund.

(4) For members of the 1977 fund, the 1977 fund.

As added by P.L.62-2002, SEC.5.

IC 36-8-8.5-4

"DROP"

Sec. 4. As used in this chapter, "DROP" means the deferred retirement option plan established by this chapter.

As added by P.L.62-2002, SEC.5.

IC 36-8-8.5-5
"DROP election"

Sec. 5. As used in this chapter, "DROP election" means a member's election to enter the DROP.

As added by P.L.62-2002, SEC.5.

IC 36-8-8.5-6
"DROP entry date"

Sec. 6. As used in this chapter, "DROP entry date" means the date that a member's DROP election becomes effective.

As added by P.L.62-2002, SEC.5.

IC 36-8-8.5-7
"DROP frozen benefit"

Sec. 7. As used in this chapter, "DROP frozen benefit" means a member's monthly retirement benefit calculated under the provisions of the applicable fund and based on:

(1) the salary of a first class officer or firefighter that is in effect on the member's DROP entry date; and

(2) the member's years of service accrued on the member's DROP entry date.

As added by P.L.62-2002, SEC.5.

IC 36-8-8.5-8
"DROP retirement date"

Sec. 8. As used in this chapter, "DROP retirement date" means the future retirement date selected by a member at the time the member makes a DROP election.

As added by P.L.62-2002, SEC.5.

IC 36-8-8.5-9
Eligibility

Sec. 9. A member may make a DROP election as provided in this chapter only if the member is eligible to receive an unreduced benefit under the provisions of the applicable fund on the member's DROP entry date.

As added by P.L.62-2002, SEC.5.

IC 36-8-8.5-10
DROP election requirements

Sec. 10. A member who elects to enter the DROP shall agree to the following:

(1) The member shall execute an irrevocable election to retire on the DROP retirement date and shall remain in active service until that date.

(2) While in the DROP, the member shall continue to make contributions to the applicable fund under the provisions of that fund.

(3) The member shall elect a DROP retirement date not less than twelve (12) months and not more than thirty-six (36)

months after the member's DROP entry date.

(4) The member may not remain in the DROP after the date the member reaches any mandatory retirement age that may apply to the member.

(5) The member may make an election to enter the DROP only once in the member's lifetime.

As added by P.L.62-2002, SEC.5.

IC 36-8-8.5-11
Employer contributions

Sec. 11. The employer of a 1977 fund member who elects to enter the DROP shall continue to make the employer contributions to the 1977 fund on behalf of that member under the provisions of the 1977 fund.

As added by P.L.62-2002, SEC.5.

IC 36-8-8.5-12
Calculation of retirement benefit

Sec. 12. (a) The retirement benefit for a member who enters the DROP and retires on:

(1) the member's DROP retirement date; or

(2) the date the member retires because of a disability as provided under section 16.5(d) of this chapter;

is determined under this chapter rather than under the provisions of the applicable fund.

(b) A member who retires on the member's DROP retirement date or on the date the member retires because of a disability as provided under section 16.5(d) of this chapter may elect to receive a retirement benefit in one of the following forms:

(1) A retirement benefit paid by and calculated under the provisions of the applicable fund as if the member had never entered the DROP.

(2) A retirement benefit paid by the applicable fund and consisting of:

(A) the DROP frozen benefit; plus

(B) an additional amount, paid as the member elects under subsection (c), calculated by multiplying:

(i) the amount of the DROP frozen benefit; by

(ii) the number of months that the member was in the DROP.

(c) A member who chooses the retirement benefit described in subdivision (b)(2) must elect to receive the additional amount described in subdivision (b)(2)(B) as:

(1) a lump sum paid on:

(A) the member's DROP retirement date; or

(B) the date the member retires because of a disability as provided under section 16.5(d) of this chapter; or

(2) three (3) equal annual payments:

(A) commencing on:

(i) the member's DROP retirement date; or

(ii) the date the member retires because of a disability as provided under section 16.5(d) of this chapter; and

(B) thereafter paid on the anniversary of:

(i) the member's DROP retirement date; or

(ii) the date the member retires because of a disability as provided under section 16.5(d) of this chapter.

(d) In calculating a member's retirement benefit under this chapter, the applicable fund must use the lesser of:

(1) the member's actual years of service; or

(2) thirty-two (32) years of service.

(e) Except as provided under section 16.5(d) of this chapter, the retirement benefits for a member who exits the DROP for any reason other than retirement on the member's DROP retirement date are calculated under the provisions of the applicable fund as if the member had never entered the DROP.

As added by P.L.62-2002, SEC.5. Amended by P.L.148-2007, SEC.3.

IC 36-8-8.5-13

Cost of living adjustment

Sec. 13. (a) A cost of living adjustment to the monthly benefit of a member of the 1925 fund, 1937 fund, or 1953 fund is determined in STEP FOUR of the following formula:

STEP ONE: Calculate a percentage by dividing:

(A) the amount of any increase in the salary of a first class officer or firefighter, whichever is applicable; by

(B) the prior year's salary of a first class officer or firefighter, whichever is applicable.

STEP TWO: Add:

(A) the member's DROP frozen benefit; and

(B) the amount of any prior cost of living adjustments calculated under this section.

STEP THREE: Multiply the percentage determined under STEP ONE by the sum determined under STEP TWO.

STEP FOUR: Add the product determined under STEP THREE to the sum determined under STEP TWO.

(b) A cost of living adjustment to the monthly benefit of a member of the 1977 fund is determined under the provisions of IC 36-8-8, as applied after:

(1) the member's DROP retirement date; or

(2) the date the member retires because of a disability as provided under section 16.5(d) of this chapter.

As added by P.L.62-2002, SEC.5. Amended by P.L.148-2007, SEC.4.

IC 36-8-8.5-14

DROP exit date

Sec. 14. (a) Subject to subsection (b), a member who enters the DROP established by this chapter shall exit the DROP at the earliest of:

(1) the member's DROP retirement date;

(2) thirty-six (36) months after the member's DROP entry date;

(3) the mandatory retirement age applicable to the member, if any;
(4) the date the member retires because of a disability as provided under section 16.5(d) of this chapter; or
(5) the date determined under IC 36-8-8-24.8.

(b) A member of the 1925 fund, the 1937 fund, or the 1953 fund who enters the DROP established by this chapter must exit the DROP on the date the authority of the board of trustees of the Indiana public retirement system to distribute from the pension relief fund established under IC 5-10.3-11-1 to units of local government (described in IC 5-10.3-11-3) amounts determined under IC 5-10.3-11-4.7 expires.

As added by P.L.62-2002, SEC.5. Amended by P.L.51-2006, SEC.3; P.L.148-2007, SEC.5; P.L.177-2011, SEC.4; P.L.35-2012, SEC.143.

IC 36-8-8.5-15
Survivor benefits

Sec. 15. If a member dies:
(1) in the line of duty; or
(2) other than in the line of duty;

while the member is in the DROP, benefits for the member's survivors are calculated under the provisions of the applicable fund as if the member had never entered the DROP.

As added by P.L.62-2002, SEC.5.

IC 36-8-8.5-16
Repealed

(*Repealed by P.L.148-2007, SEC.11.)*

IC 36-8-8.5-16.5
Disability benefit

Sec. 16.5. (a) This section applies to a member of the 1977 fund who becomes disabled after June 1, 2005, while the member is in the DROP, because of a disability that arose either in the line of duty or other than in the line of duty.

(b) The retirement benefit for a member who retires because of a disability while in the DROP is determined under this chapter rather than under the provisions of the applicable fund. Determinations as to whether:
(1) the member is disabled; and
(2) a disability is in the line of duty;

under this chapter are made under the provisions of the applicable fund.

(c) If the member retires because of a disability less than twelve (12) months after the date the member enters the DROP, the benefits for the member are calculated under the provisions of the applicable fund as if the member had never entered the DROP.

(d) If the member retires because of a disability at least twelve (12) months after the date the member enters the DROP, the benefits for the member are calculated under section 12 of this chapter, and

the member's retirement date is the date the member retires because of a disability rather than the member's DROP retirement date.
As added by P.L.148-2007, SEC.6.

IC 36-8-8.5-17
Exemption from levy limits; taxes of civil taxing unit for pension benefits

Sec. 17. (a) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5 do not apply to ad valorem property taxes imposed by a civil taxing unit for a calendar year to pay pension benefits under section 12(c) of this chapter to the extent provided in subsection (b).

(b) For purposes of determining the property tax levy limit imposed on a civil taxing unit under IC 6-1.1-18.5, the civil taxing unit's ad valorem property tax levy for a calendar year does not include an amount equal to the amounts paid by the civil taxing unit for pension benefits in that calendar year under section 12(c) of this chapter, minus:

(1) the amount of pension relief distributions under IC 5-10.3-11-4, IC 5-10.3-11-4.5 (repealed effective January 1, 2009), and IC 5-10.3-11-4.7 to be received by the civil taxing unit in that calendar year that is attributable to pension benefits paid under section 12(c) of this chapter for that calendar year; and

(2) an amount equal to the percentage of the civil taxing unit's pension distributions that were relieved under IC 5-13-12-4 in the preceding calendar year, multiplied by the amount of pension benefits paid under section 12(c) of this chapter in that calendar year.

As added by P.L.62-2002, SEC.5. Amended by P.L.1-2009, SEC.170.

IC 36-8-9

Chapter 9. Town Board of Metropolitan Police Commissioners

IC 36-8-9-1

Application of chapter

Sec. 1. This chapter applies to all towns.

As added by Acts 1981, P.L.309, SEC.60.

IC 36-8-9-2

Establishment of board

Sec. 2. The legislative body of a town may by ordinance:

(1) abolish the office of town marshal; and

(2) establish a board of metropolitan police commissioners (referred to as "the board" in this chapter).

As added by Acts 1981, P.L.309, SEC.60. Amended by P.L.3-1987, SEC.567; P.L.101-1998, SEC.4.

IC 36-8-9-3

Repealed

(*Repealed by P.L.12-2001, SEC.2.)*

IC 36-8-9-3.1

Membership

Sec. 3.1. (a) An ordinance adopted under section 2 of this chapter must provide as follows:

(1) The board must consist of either of the following number of members:

(A) Three (3) members. If the ordinance provides for a three (3) member board, not more than two (2) board members may be members of the same political party, if individuals who satisfy this requirement can be found to serve on the board.

(B) Five (5) members. If the ordinance provides for a five (5) member board, not more than three (3) board members may be members of the same political party, if individuals who satisfy this requirement can be found to serve on the board.

(2) Each board member must be a resident of the town.

(3) The town legislative body shall appoint each board member.

(4) Except as provided in subdivision (5), the term of each board member expires January 1 of the third year after the member's appointment.

(5) The ordinance must provide for staggered terms of the board members and the method for staggering the terms. If the board has three (3) members, the term of one (1) board member must expire each year. If the board has five (5) members, the terms of not more than two (2) board members may expire each year.

(6) The town legislative body may remove a board member for any cause that the legislative body considers sufficient.

(7) The town legislative body may not appoint a police officer employed by the town to serve on the board.

(b) The ordinance may provide that a member of the town legislative body may serve as an ex officio member of the board. If the ordinance permits members of the town legislative body to serve as members of the board, the following apply:

(1) The ordinance must state the maximum number of board members that may also be members of the town legislative body.

(2) The ordinance must provide either of the following:

(A) That a board member vacates the member's position on the board when the member is no longer a member of the town legislative body.

(B) That a board member may continue to serve until the end of the board member's term even if the board member vacates the member's position on the town legislative body.

(3) A board member who is also a member of the town legislative body may not receive compensation as a board member provided under subsection (g).

(4) A board member who is also a member of the town legislative body is not required to post the bond required by subsection (f).

(c) This subsection does not apply to a board member who is a member of the town legislative body. Before performing any function of a board member, an individual shall take and subscribe an oath or affirmation of office before the circuit court clerk of the county in which the town is located.

(d) This subsection applies to all board members. Before performing any function of a board member, an individual shall take and subscribe an oath or affirmation before the circuit court clerk of the county in which the town is located that, in each appointment or removal made by the board to or from the town police department under this chapter, the board member will not appoint or remove a member of the town police department because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person.

(e) The circuit court clerk shall file oaths and affirmations required by this section among the circuit court clerk's records.

(f) This subsection does not apply to a board member who is a member of the town legislative body. A board member shall give bond in the penal sum of five thousand dollars ($5,000), payable to the state and conditioned upon the faithful and honest discharge of the member's duties. The bond must be approved by the town legislative body.

(g) The town legislative body shall fix the salary of board members who are not members of the town legislative body. A board member's salary is payable monthly out of the town treasury.

(h) If the board has three (3) members, the town legislative body may amend the ordinance at any time to increase the number of board members to five (5). The amended ordinance and the

appointment of board members must satisfy all the requirements of subsection (a).

(i) A board established in compliance with section 3 of this chapter (before its repeal) is considered a board established under this section. A town legislative body may amend an ordinance adopted in compliance with section 3 of this chapter (before its repeal) as provided in this section.

As added by P.L.12-2001, SEC.1.

IC 36-8-9-4

Powers and duties of board

Sec. 4. (a) The board may appoint, subject to the qualifications for employment determined by the board and approved by the town legislative body, as many persons as necessary to serve in the police department of the town. One (1) person shall be appointed to serve as the police chief. The board may also appoint other employees that are necessary to carry on the work of the police department.

(b) The board may recommend and the town legislative body shall determine the compensation to be paid to members of the police department in amounts that are just and reasonable.

(c) All persons appointed must be of good moral character and serve only during good behavior. The board constitutes the safety board of the town for purposes of the suspension, demotion, or dismissal of any member of the police department. Proceedings for the suspension, demotion, or dismissal of any member of the police department shall be conducted in the manner prescribed by IC 36-8-3-4. The disciplinary provisions of IC 36-8-3-4.1 also apply to the safety board and the police chief.

(d) The board may make general and special rules for the government and discipline of the police department and may make special and general orders to the department through the police chief, who is the executive head of the department.

As added by Acts 1981, P.L.309, SEC.60. Amended by Acts 1981, P.L.315, SEC.6; Acts 1982, P.L.33, SEC.41; P.L.198-1984, SEC.2; P.L.101-1998, SEC.5; P.L.65-2008, SEC.3.

IC 36-8-9-5

Appropriations

Sec. 5. The town legislative body shall appropriate a sum sufficient to pay the salaries of the members of the town police department.

As added by Acts 1981, P.L.309, SEC.60.

IC 36-8-9-6

Statutes governing police departments

Sec. 6. (a) The operation, management, and control of a police department under this chapter is governed by statutes applicable to the management and control of other municipal police departments if those statutes are consistent with this chapter.

(b) The members of the police department may exercise all

powers granted to members of police departments by other statutes. The members of the police department are entitled to all the rights, powers, and privileges granted by statute to members of police departments.
As added by Acts 1981, P.L.309, SEC.60.

IC 36-8-9-7
Probationary appointments

Sec. 7. (a) The board may provide that all appointments to the police department are probationary for a period not to exceed one (1) year.

(b) If the board finds, upon the recommendation of the chief of the department during the probationary period, that the conduct or capacity of a member is not satisfactory, the board shall notify the member in writing that the member is being suspended or that the member will not receive a permanent appointment.

(c) If a member is notified that the member will not receive a permanent appointment, the member's employment immediately ceases. Otherwise, at the expiration of the probationary period, the member is considered regularly employed.
As added by P.L.98-2000, SEC.28.

IC 36-8-9-8
Payment of line of duty health care expenses for police

Sec. 8. (a) A town shall pay for the care of a full-time, paid police officer who:

(1) suffers an injury; or
(2) contracts an illness;

during the performance of the officer's duty.

(b) The town shall pay for the following expenses incurred by a police officer described in subsection (a):

(1) Medical and surgical care.
(2) Medicines and laboratory, curative, and palliative agents and means.
(3) X-ray, diagnostic, and therapeutic service, including during the recovery period.
(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the general fund of the town.

(d) A town that has paid for the care of a police officer under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the police officer has a cause of action for an injury sustained because of, or an illness caused by, the third party. The town's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the police officer against the third party.
As added by P.L.150-2002, SEC.2.

IC 36-8-9-9

Body armor

Sec. 9. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).

(b) After December 31, 2010, a town shall provide an active member of the police department of the town with body armor for the torso. The town shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the police department of a town shall not be required to pay for maintenance of the body armor for the torso furnished under this section.

(d) Body armor for the torso provided by a town under this section remains the property of the town. The town may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the town.

As added by P.L.34-2010, SEC.7.

IC 36-8-10

Chapter 10. Sheriff's Department; Merit Board; Pensions

IC 36-8-10-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 11.5 of this chapter by P.L.228-1991 applies only to county police officers and jail employees who suffer an injury or contract an illness after June 30, 1991.

(2) The amendments made to section 12 of this chapter by P.L.40-1997 apply only to monthly benefits paid after June 30, 1997, unless the fiscal body determines that section 12 of this chapter, as amended by P.L.40-1997, applies to earlier monthly benefits as determined by the fiscal body.

(3) The amendments made to section 12.2 of this chapter by P.L.51-2006 apply to an employee beneficiary of a county retirement plan established under section 12 of this chapter who dies in the line of duty after December 31, 2005.

As added by P.L.220-2011, SEC.672.

IC 36-8-10-0.3

Legalization of certain county fiscal body actions taken before July 1, 1994

Sec. 0.3. A county fiscal body action taken before July 1, 1994, to directly appropriate money from the appropriate source to a sheriff's pension trust plan is legalized and validated to the same extent as if P.L.152-1994 had been enacted.

As added by P.L.220-2011, SEC.673.

IC 36-8-10-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by Acts 1981, P.L.309, SEC.61.

IC 36-8-10-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to the sheriff's merit board established under this chapter.

"Department" refers to the sheriff's department of a county.

"Eligible employee" means the sheriff of a county or a county police officer.

"Employee beneficiary" means an eligible employee who has completed an application to become an employee beneficiary and who has had the proper deductions made from his wages as required in the pension trust agreement.

"Net amount paid into the trust fund from wages of an employee beneficiary" means the amount of money actually paid in from the wages of the employee beneficiary, plus interest at the rate of three

percent (3%) compounded annually and less a sum including interest at the same rate, paid from the trust fund to the employee beneficiary or to a governmental fund for the credit or benefit of the employee beneficiary.

"Pension engineers" means technical consultants qualified to supervise and assist in the establishment, maintenance, and operation of a pension trust on an actuarially sound basis.

"Trust fund" means the assets of the pension trust and consists of voluntary contributions from the department, money paid from the wages of employee beneficiaries, and other payments or contributions made to the pension trust, including the income and proceeds derived from the investment of them.

"Trustee" refers to the trustee of the pension trust, who may be one (1) or more corporate trustees or the treasurer of the county serving under bond.

As added by Acts 1981, P.L.309, SEC.61.

IC 36-8-10-3
Sheriff's merit board

Sec. 3. (a) The fiscal body of each county shall, by ordinance, establish a sheriff's merit board to be known as the _____ county sheriff's merit board (inserting the name of the county).

(b) The board consists of five (5) members. Three (3) members shall be appointed by the sheriff, and two (2) members shall be elected by a majority vote of the members of the county police force under procedures established by the sheriff's merit board. However, no active county police officer may serve on the board. Appointments are for terms of four (4) years or for the remainder of an unexpired term. Not more than two (2) of the members appointed by the sheriff nor more than one (1) of the members elected by the officers may belong to the same political party. All members must reside in the county. All members serve during their respective terms and until their successors have been appointed and qualified. A member may be removed for cause duly adjudicated by declaratory judgment of the circuit court of the county.

(c) As compensation for service, each member of the board is entitled to receive from the county a minimum of fifteen dollars ($15) per day for each day, or fraction of a day, that the member is engaged in transacting the business of the board.

(d) As soon as practicable after the members of the board have been appointed, they shall meet upon the call of the sheriff and organize by electing a president and a secretary from among their membership. Three (3) members of the board constitute a quorum for the transaction of business. The board shall hold regular monthly meetings throughout the year as is necessary to transact the business of the sheriff's department.

As added by Acts 1981, P.L.309, SEC.61. Amended by Acts 1981, P.L.315, SEC.7; P.L.310-1989, SEC.2.

IC 36-8-10-4
County police force; creation; membership; budget and salaries

Sec. 4. (a) A county police force is established in each county. The members are employees of the county, and the sheriff of the county shall assign their duties according to law.

(b) The expenses of the county police force are a part of the sheriff's department budget. The board may recommend the number and salary of the personnel, but the county fiscal body shall determine the budget and salaries.

(c) The county shall furnish to the sheriff and his full-time paid county police officers the uniforms or other clothing they need to perform their duties. However, after one (1) year of service in the sheriff's department, a sheriff or or county police officer may be required by the county to furnish and maintain his own uniform clothing upon payment to him by the county of an annual cash allowance of at least two hundred dollars ($200).

As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.131-1983, SEC.13.

IC 36-8-10-4.5
Body armor

Sec. 4.5. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).

(b) After December 31, 2010, a county shall provide an active member of the department with body armor for the torso. The county shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the department shall not be required to maintain the body armor for the torso furnished under this section from any annual cash allowance paid to the member under section 4(c) of this chapter.

(d) Body armor for the torso provided by a county under this section remains the property of the county. The county may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the county.

As added by P.L.34-2010, SEC.8.

IC 36-8-10-5
Prison matron; appointment; powers and duties

Sec. 5. (a) Each sheriff shall appoint a prison matron for the county. The sheriff shall set the qualifications for that position. Except as provided in subsection (b), the sheriff has complete hiring authority over the position of prison matron.

(b) A prison matron who was a county police officer appointed under section 10(b) of this chapter immediately before being hired as prison matron is entitled to the discipline and removal procedures under section 11 of this chapter before:

(1) being reduced in grade to a rank below the rank that the person held before being hired as prison matron; or

(2) removal from the department.

(c) The sheriff may employ assistant prison matrons if necessary.

(d) The prison matron or the prison matron's assistants shall receive, search, and care for all female prisoners and all boys under fourteen (14) years of age who are committed to or detained in the county jail, municipal lockup, or other detention center in the county.

(e) The prison matron and assistant matrons:

(1) are members of the department;

(2) have the powers and duties of members of the department; and

(3) are entitled to the same salary that other members of the department of the same rank, grade, or position are paid.

As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.237-1996, SEC.1.

IC 36-8-10-5.5
Chief deputy

Sec. 5.5. (a) Except as provided in subsection (b), the sheriff has complete hiring authority over the position of chief deputy.

(b) A chief deputy who was a county police officer appointed under section 10(b) of this chapter immediately before being hired as chief deputy is entitled to the discipline and removal procedures under section 11 of this chapter before:

(1) being reduced in grade to a rank below the rank that the person held before being hired as chief deputy; or

(2) removal from the department.

As added by P.L.237-1996, SEC.2.

IC 36-8-10-6
Emergencies; appointment of additional deputies and assistants

Sec. 6. (a) A sheriff may appoint additional deputy sheriffs or assistants if an emergency arises that requires them for:

(1) promoting public safety and conserving the peace;

(2) repressing, preventing, and detecting crime; and

(3) apprehending criminals.

(b) The county executive shall determine the number and salaries of deputy sheriffs or assistants to be appointed in an emergency. The executive shall provide compensation and necessary expenses for them from the general fund of the county without a specific appropriation. Expenses shall be paid after the appointed persons file sworn vouchers with the executive detailing their expenses.

(c) The deputies or assistants have the same powers that sheriffs have under statute.

(d) The deputy sheriffs or assistants must have been bona fide residents of the county for at least one (1) year before their appointment. This subsection does not apply to a county having a consolidated city.

(e) When the emergency ends, the county executive may reduce the number of deputy sheriffs or assistants to the number that the circumstances require for the public welfare.

As added by Acts 1981, P.L.309, SEC.61.

IC 36-8-10-7
Prisoner meal allowances

Sec. 7. (a) The state examiner of the state board of accounts shall fix the exact amount per meal that the sheriff of each county receives for feeding the prisoners in the sheriff's custody. Subject to the maximum meal allowance provided in this section, the state examiner shall increase the amount per meal that a sheriff receives as follows:

(1) Increase the amount per meal by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

(2) Increase the amount per meal above the amount determined under subdivision (1) if the sheriff furnishes to the state examiner sufficient documentation to prove that the sheriff cannot provide meals at the amount per meal that is determined under subdivision (1).

The amount must be fixed by April 15 each year and takes effect immediately upon approval. The allowance may not exceed two dollars ($2) per person per meal. The allowance shall be paid out of the general fund of the county after the sheriff submits to the county executive an itemized statement, under oath, showing the names of the prisoners, the date that each was imprisoned in the county jail, and the number of meals served to each prisoner.

(b) Notwithstanding subsection (a), IC 36-2-13-2.5(b)(4) through IC 36-2-13-2.5(b)(5), and IC 36-2-13-2.8(b), this subsection applies to a county having a population of:

(1) more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000); or

(2) more than three hundred thousand (300,000).

A county shall feed the county prisoners through an appropriation in the usual manner by the county fiscal body. The appropriation shall be expended by the sheriff under the direction of the county executive. If a county has a population of less than four hundred thousand (400,000), an accounting of the expenditures must be filed monthly with the county auditor by the fifth day of the month following the expenditure. If a county has a population of four hundred thousand (400,000) or more, an accounting of the expenditures must be filed with the county auditor on the first Monday of January and the first Monday of July of each year. Neither the sheriff nor the sheriff's officers, deputies, and employees may make a profit as a result of the appropriation.

As added by Acts 1981, P.L.309, SEC.61. Amended by Acts 1982, P.L.215, SEC.1; P.L.227-1991, SEC.1; P.L.12-1992, SEC.173; P.L.83-1993, SEC.3; P.L.230-1996, SEC.2; P.L.170-2002, SEC.163; P.L.119-2012, SEC.220.

IC 36-8-10-8

Reinstatement of sheriff following expiration of term of office

Sec. 8. A member of the department who becomes sheriff either by election or by appointment shall, upon the expiration of his term and upon his written application, be appointed by the board to the rank in the department that he held at the time of his election or appointment as sheriff, if there is a vacancy in the department. However, if the sheriff during his tenure of office has qualified in accordance with the promotion procedure prescribed by the board in its rules for a rank in the department that is higher than the rank he previously held, the board shall, upon the expiration of his term as sheriff, appoint him to the rank for which he has qualified under the promotion procedure if there is a vacancy in that rank.

As added by Acts 1981, P.L.309, SEC.61.

IC 36-8-10-9

Powers and duties of members of department

Sec. 9. (a) Each member of the department:

(1) has general police powers;

(2) shall arrest, without process, all persons who commit an offense within his view, take them before the court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(3) shall suppress all breaches of the peace within his knowledge, with authority to call to his aid the power of the county;

(4) shall pursue and commit to the jail of the county all felons;

(5) may execute all process directed to the sheriff by legal authority;

(6) shall attend upon and preserve order in all courts of the county;

(7) shall guard prisoners in the county jail;

(8) shall serve all process directed to the sheriff from a court or from the county executive according to law; and

(9) shall take photographs, fingerprints, and other identification data as shall be prescribed by the sheriff of persons taken into custody for felonies or misdemeanors.

(b) A person who:

(1) refuses to be photographed;

(2) refuses to be fingerprinted;

(3) withholds information; or

(4) gives false information;

as prescribed in subsection (a)(9), commits a Class C misdemeanor.

As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.344-1983, SEC.2.

IC 36-8-10-10

Police officers; classification of ranks, grades, and positions; appointments

Sec. 10. (a) Except for the position of chief deputy, the position of prison matron, and in a county with a population of more than

fifty thousand (50,000), temporary administrative ranks or positions established and appointed by the sheriff, the sheriff, with the approval of the board, shall establish a classification of ranks, grades, and positions for county police officers in the department. For each rank, grade, and position established, the sheriff, with the approval of the board, shall:

(1) set reasonable standards of qualifications; and

(2) fix the prerequisites of:

(A) training;

(B) education; and

(C) experience.

(b) The sheriff, with the approval of the board, shall devise and administer examinations designed to test applicants for the qualifications required for the respective ranks, grades, or positions. After these examinations, the sheriff and the board shall jointly prepare a list naming only those applicants who, in the opinion of both the sheriff and the board, best meet the prescribed standards and prerequisites. The sheriff appoints county police officers but only from among the persons whose names appear on this list. All county police officers appointed to the department under this chapter are on probation for a period of one (1) year from the date of appointment.

(c) In a county with a population of more than fifty thousand (50,000), the sheriff may:

(1) establish a temporary administrative rank or position within the county police department; and

(2) appoint a county police officer that has served as a county police officer for at least five (5) years to and remove a county police officer from a temporary administrative rank or position;

without the approval of the board. Any temporary administrative rank or position established pursuant to this section shall not diminish or reduce the number and classifications of the existing merit ranks within the county police department. A county police officer appointed under this subsection must have served as a county police officer in the county police department for at least five (5) years before the appointment. A county police officer retains the rank, grade, or position awarded under subsection (b) while serving in a temporary administrative rank or position. This subsection may not be construed to limit, modify, annul, or otherwise affect a collective bargaining agreement.

(d) In a county with a population of more than fifty thousand (50,000), the sheriff, with the approval of the board, shall establish written rules and regulations governing the discipline of county police officers. Rules and regulations established by a sheriff under this subsection must conform to the disciplinary procedure required by section 11 of this chapter.

As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.131-1983, SEC.14; P.L.314-1989, SEC.1; P.L.237-1996, SEC.3; P.L.270-1999, SEC.1; P.L.14-2000, SEC.83.

IC 36-8-10-10.4

County police force; preference for employment

Sec. 10.4. (a) Subject to subsection (c), the board shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

(b) Subject to subsection (c), the board may give a preference for employment to any of the following:

(1) A member of another department laid off under section 11.1 of this chapter.

(2) A police officer laid off by a city under IC 36-8-4-11.

(c) A person described in subsection (a) or (b) may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed:

(A) by law, including physical and age requirements; and

(B) by the department.

As added by P.L.95-2003, SEC.2. Amended by P.L.110-2010, SEC.36.

IC 36-8-10-10.5

Repealed

(*Repealed by P.L.311-1983, SEC.49.)*

IC 36-8-10-10.6

Special deputies with powers of law enforcement officer; appointment; qualifications; duties

Sec. 10.6. (a) The sheriff may appoint as a special deputy any person who is employed by a governmental entity as defined in IC 35-31.5-2-144 or private employer, the nature of which employment necessitates that the person have the powers of a law enforcement officer. During the term of the special deputy's appointment and while the special deputy is fulfilling the specific responsibilities for which the appointment is made, a special deputy has the powers, privileges, and duties of a county police officer under this chapter, subject to any written limitations and specific requirements imposed by the sheriff and signed by the special deputy. A special deputy is subject to the direction of the sheriff and shall obey the rules and orders of the department. A special deputy may be removed by the sheriff at any time, without notice and without assigning any cause.

(b) The sheriff shall fix the prerequisites of training, education, and experience for special deputies, subject to the minimum requirements prescribed by this subsection. Applicants must:

(1) be twenty-one (21) years of age or older;

(2) never have been convicted of a felony, or a misdemeanor

involving moral turpitude;

(3) be of good moral character; and

(4) have sufficient training to insure the proper performance of their authorized duties.

(c) Except as provided in subsection (d), a special deputy shall wear a uniform the design and color of which is easily distinguishable from the uniforms of the Indiana state police, the regular county police force, and all municipal police and fire forces located in the county.

(d) The sheriff may permit a special deputy to wear the uniform of the regular county police force if the special deputy:

(1) has successfully completed the minimum basic training requirements under IC 5-2-1;

(2) is periodically assigned by the sheriff to duties of a regular county police officer; and

(3) is an employee of the department.

The sheriff may revoke permission for the special deputy to wear the uniform of the regular county police force at any time without cause or notice.

(e) The sheriff may also appoint one (1) legal deputy, who must be a member of the Indiana bar. The legal deputy does not have police powers. The legal deputy may continue to practice law. However, neither the legal deputy nor any attorney in partnership with the legal deputy may represent a defendant in a criminal case.

(f) The sheriff, for the purpose of guarding prisoners in the county jail:

(1) in counties not having a consolidated city, may appoint special deputies to serve as county jail guards; and

(2) in counties having a consolidated city, shall appoint only special deputies to serve as county jail guards.

This subsection does not affect the rights or liabilities accrued by any county police officer assigned to guard the jail before August 31, 1982.

As added by P.L.311-1983, SEC.45. Amended by P.L.48-1987, SEC.2; P.L.114-2012, SEC.149.

IC 36-8-10-11

Police officers; discipline and removal; hearings; notice; appeal; specific findings; final judgment; venue

Sec. 11. (a) The sheriff may dismiss, demote, or temporarily suspend a county police officer for cause after preferring charges in writing and after a fair public hearing before the board, which is reviewable in the circuit court. Written notice of the charges and hearing must be delivered by certified mail to the officer to be disciplined at least fourteen (14) days before the date set for the hearing. The officer may be represented by counsel. The board shall make specific findings of fact in writing to support its decision.

(b) The sheriff may temporarily suspend an officer with or without pay for a period not exceeding fifteen (15) days, without a hearing before the board, after preferring charges of misconduct in

writing delivered to the officer.

(c) A county police officer may not be dismissed, demoted, or temporarily suspended because of political affiliation nor after the officer's probationary period, except as provided in this section. Subject to IC 3-5-9, an officer may:

(1) be a candidate for elective office and serve in that office if elected;

(2) be appointed to an office and serve in that office if appointed; and

(3) except when in uniform or on duty, solicit votes or campaign funds for the officer or others.

(d) The board has subpoena powers enforceable by the circuit court for hearings under this section. An officer on probation may be dismissed by the sheriff without a right to a hearing.

(e) An appeal under subsection (a) must be taken by filing in court, within thirty (30) days after the date the decision is rendered, a verified complaint stating in a concise manner the general nature of the charges against the officer, the decision of the board, and a demand for the relief asserted by the officer. A bond must also be filed that guarantees the appeal will be prosecuted to a final determination and that the plaintiff will pay all costs only if the court finds that the board's decision should be affirmed. The bond must be approved as bonds for costs are approved in other cases. The county must be named as the sole defendant and the plaintiff shall have a summons issued as in other cases against the county. Neither the board nor the members of it may be made parties defendant to the complaint, but all are bound by service upon the county and the judgment rendered by the court.

(f) All appeals shall be tried by the court. The appeal shall be heard de novo only upon any new issues related to the charges upon which the decision of the board was made. Within ten (10) days after the service of summons, the board shall file in court a complete written transcript of all papers, entries, and other parts of the record relating to the particular case. Inspection of these documents by the person affected, or by the person's agent, must be permitted by the board before the appeal is filed, if requested. The court shall review the record and decision of the board on appeal.

(g) The court shall make specific findings and state the conclusions of law upon which its decision is made. If the court finds that the decision of the board appealed from should in all things be affirmed, its judgment should so state. If the court finds that the decision of the board appealed from should not be affirmed in all things, then the court shall make a general finding, setting out sufficient facts to show the nature of the proceeding and the court's decision on it. The court shall either:

(1) reverse the decision of the board; or

(2) order the decision of the board to be modified.

(h) The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify and file a copy of the final judgment of the court to the

board, which shall conform its decisions and records to the order and judgment of the court. If the decision is reversed or modified, then the board shall pay to the party entitled to it any salary or wages withheld from the party pending the appeal and to which the party is entitled under the judgment of the court.

(i) Either party shall be allowed a change of venue from the court or a change of judge in the same manner as such changes are allowed in civil cases. The rules of trial procedure govern in all matters of procedure upon the appeal that are not otherwise provided for by this section.

(j) An appeal takes precedence over other pending litigation and shall be tried and determined by the court as soon as practical.

As added by Acts 1981, P.L.309, SEC.61. Amended by Acts 1981, P.L.315, SEC.9; P.L.347-1985, SEC.1; P.L.350-1987, SEC.1; P.L.197-1988, SEC.1; P.L.265-1993, SEC.5; P.L.135-2012, SEC.12.

IC 36-8-10-11.1

Reinstatement following layoffs

Sec. 11.1. (a) As used in this section, "appointing authority" means the sheriff and the board.

(b) If it is necessary for the appointing authority to reduce the number of members of the department by layoff for financial reasons, the last member appointed to the department must be the first to be laid off. Additional members must be laid off in reverse hiring order until the desired level of employment is achieved.

(c) If department membership is increased, the members of the department who have been laid off under this section must be reinstated before any new member is appointed to the department. The last member to be laid off from the department must be the first to be reinstated. Additional members must be reinstated in reverse of the order in which the members were laid off.

(d) A member who is laid off shall keep the appointing authority advised of the member's current address. The appointing authority shall inform a member of the member's reinstatement by written notice sent by certified mail to the member's last known address.

(e) Not later than twenty (20) calendar days after the date notice of reinstatement is sent under subsection (d), the member must advise the appointing authority whether the member:

(1) accepts reinstatement; and

(2) will be able to commence employment on the date specified in the notice.

(f) All reinstatement rights granted to a member under this section terminate on the earlier of:

(1) the date the member fails to accept reinstatement within the time specified in subsection (e); or

(2) five (5) years after the date on which a member's layoff begins.

As added by P.L.270-1999, SEC.2. Amended by P.L.56-2010, SEC.2.

IC 36-8-10-11.5

"Care" defined; payments for care

Sec. 11.5. (a) As used in this section, "care" includes:

(1) medical and surgical care;

(2) medicines and laboratory, curative, and palliative agents and means;

(3) X-ray, diagnostic, and therapeutic service, including service during the recovery period; and

(4) hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(b) After deducting expenditures paid by an insurance or worker's compensation program, a county shall pay for the care of the following persons:

(1) A county police officer who:

(A) suffers an injury; or

(B) contracts an illness;

while the officer is on duty or while the officer is off duty and is responding to an offense or a reported offense.

(2) A jail employee who:

(A) suffers an injury; or

(B) contracts an illness;

while the employee is on duty.

(c) Expenditures required by subsection (b) shall be paid from the general fund of the county.

As added by P.L.228-1991, SEC.1.

IC 36-8-10-12

Pension trust

Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's duties.

(c) Joint contributions shall be made to the trust fund:

(1) either by:

(A) the department through a general appropriation provided to the department;

(B) a line item appropriation directly to the trust fund; or

(C) both; and

(2) by an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. However, the employer may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for plans established or modifications adopted after June 30, 1989, unless the establishment or modification is approved by the county fiscal body.

(d) For a county not having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed six percent (6%) of the employee beneficiary's average monthly wages. For a county having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.

(e) The minimum annual contribution by the department must be sufficient, as determined by the pension engineers, to prevent deterioration in the actuarial status of the trust fund during that year. If the department fails to make minimum contributions for three (3) successive years, the pension trust terminates and the trust fund shall be liquidated.

(f) If during liquidation all expenses of the pension trust are paid, adequate provision must be made for continuing pension payments to retired persons. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages, and any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the trust fund.

(g) If a person ceases to be an employee beneficiary because of death, disability, unemployment, retirement, or other reason, the person, the person's beneficiary, or the person's estate is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or monthly installments not less than the person's pension amount.

(h) If an employee beneficiary is retired for old age, the employee beneficiary is entitled to receive a monthly income in the proper amount of the employee beneficiary's pension during the employee beneficiary's lifetime.

(i) To be entitled to the full amount of the employee beneficiary's pension classification, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. Otherwise, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

(j) This subsection does not apply to a county that adopts an ordinance under section 12.1 of this chapter. For an employee beneficiary who retires before January 1, 1985, a monthly pension may not exceed by more than twenty dollars ($20) one-half (1/2) the amount of the average monthly wage received during the highest paid five (5) years before retirement. However, in counties where the fiscal body approves the increases, the maximum monthly pension for an employee beneficiary who retires after December 31, 1984, may be increased by no more or no less than two percent (2%) of that average monthly wage for each year of service over twenty (20) years to a maximum of seventy-four percent (74%) of that average

monthly wage plus twenty dollars ($20). For the purposes of determining the amount of an increase in the maximum monthly pension approved by the fiscal body for an employee beneficiary who retires after December 31, 1984, the fiscal body may determine that the employee beneficiary's years of service include the years of service with the sheriff's department that occurred before the effective date of the pension trust. For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee beneficiary's pension benefits may not exceed the monthly minimum salary that a full-time prosecuting attorney was entitled to be paid by the state at the time the employee beneficiary retires.

(k) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(l) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(m) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the plan.

(n) Within ninety (90) days after the close of each fiscal year, the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department. The report must include the following:

(1) Schedule 1. Receipts and disbursements.

(2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.

(3) Schedule 3. List of terminations, showing the cause and amount of refund.

(4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(o) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.203-1984, SEC.1; P.L.38-1986, SEC.7; P.L.313-1989, SEC.4; P.L.312-1989, SEC.5; P.L.267-1993, SEC.1; P.L.152-1994, SEC.2; P.L.230-1996, SEC.3; P.L.233-1997, SEC.1; P.L.40-1997, SEC.10; P.L.234-1997, SEC.1; P.L.253-1997(ss), SEC.32; P.L.173-2007, SEC.46.

IC 36-8-10-12.1
Maximum monthly pension

Sec. 12.1. (a) This section applies to an employee beneficiary who:

(1) retires after June 30, 1997; and

(2) served in a county that has adopted an ordinance stating that the maximum monthly pension for an employee beneficiary who retires after June 30, 1997, shall be determined under this section instead of section 12(j) of this chapter.

(b) As used in this section, "average monthly wage" means the lesser of:

(1) the average monthly wage received by the employee beneficiary during the highest paid three (3) years before retirement; or

(2) the monthly minimum salary that a full-time prosecuting attorney is entitled to be paid by the state at the time the employee beneficiary retires.

(c) Except as provided in subsection (d), an employee beneficiary's monthly pension may not exceed twenty dollars ($20) plus one-half (1/2) the amount of the average monthly wage.

(d) The fiscal body of a county may approve an increase in the maximum monthly pension for an employee beneficiary. The maximum monthly pension may:

(1) be increased by one percent (1%) of the average monthly wage for each six (6) months of service after twenty (20) years; and

(2) not exceed seventy-four percent (74%) of the average monthly wage plus twenty dollars ($20).

As added by P.L.233-1997, SEC.2.

IC 36-8-10-12.2
Deferred retirement option plan (DROP)

Sec. 12.2. (a) This section applies to a county that adopts a deferred retirement option plan as part of its retirement plan under this chapter.

(b) As used in this section, "DROP" refers to a deferred retirement option plan established under this section.

(c) As used in this section, "DROP frozen benefit" refers to a monthly pension benefit calculated under the provisions of a retirement plan established under this chapter based on the employee beneficiary's:

(1) salary; and

(2) years of service;

on the date the employee beneficiary enters the DROP.

(d) As used in this section, "maximum years of service" refers to the maximum number of years of service included in the monthly pension benefit calculation under a department's retirement plan.

(e) An employee beneficiary who:

(1) is not yet credited with the maximum number of years of service; and

(2) is eligible to receive an unreduced benefit immediately upon termination of employment;

may elect to enter a DROP. The employee beneficiary's election is irrevocable.

(f) The employee beneficiary exits a DROP on the earliest of the following:

(1) The date that the employee beneficiary is credited with the maximum years of service under the retirement plan.

(2) The employee beneficiary's retirement date.

(3) The date any required benefit begins.

(g) The retirement benefit paid to the employee beneficiary who participated in a DROP consists of:

(1) the DROP frozen benefit; plus

(2) an additional amount, paid as the employee beneficiary elects under subsection (h), determined in STEP THREE of the following formula:

STEP ONE: Multiply:

(A) the DROP frozen benefit; by

(B) the number of months the employee beneficiary participated in the DROP.

STEP TWO: Multiply the product determined in STEP ONE by an interest rate that does not exceed three percent (3%) annually.

STEP THREE: Add the product determined under STEP ONE and the product determined under STEP TWO.

(h) The employee beneficiary shall elect, at the employee beneficiary's retirement, to receive the additional amount calculated under subsection (g)(2) in one (1) of the following ways:

(1) A lump sum.

(2) An actuarially equivalent increase in the monthly pension benefit payable to the employee beneficiary.

(3) A combination of (1) and (2).

(i) The cost of living payment determined under section 23 of this chapter does not apply to the additional amount calculated under subsection (g)(2). No cost of living payment is applied to a DROP frozen benefit while the employee beneficiary is participating in a DROP.

(j) If an employee beneficiary becomes disabled:

(1) in the line of duty; or

(2) other than in the line of duty;

benefits for the employee beneficiary are calculated as if the employee beneficiary had never entered the DROP.

(k) Except as provided in subsection (m), if, before the employee beneficiary's monthly pension benefit begins, an employee beneficiary dies, in the line of duty or other than in the line of duty, death benefits are payable as follows:

(1) The benefit under subsection (g)(2) is paid in a lump sum to the employee beneficiary's surviving spouse. If there is no surviving spouse, the lump sum must be divided equally among the employee beneficiary's surviving children. If there are no

surviving children, the lump sum is paid to the employee beneficiary's parents. If there are no surviving parents, the lump sum is paid to the employee beneficiary's estate.

(2) A benefit is paid on the DROP frozen benefit under the terms of the county's retirement plan.

(l) A DROP under this section must be designed to be actuarially cost neutral to the county's retirement plan.

(m) This subsection applies if:

(1) an employee beneficiary dies in the line of duty before payment of the employee beneficiary's monthly pension benefit begins; and

(2) the calculation of a death benefit under the provisions of the county's retirement plan depends upon whether an employee beneficiary dies in the line of duty or other than in the line of duty.

Death benefits for an employee beneficiary who dies in the line of duty are calculated under the provisions of the county's retirement plan as if the employee beneficiary had never entered the DROP and shall be adjusted as necessary to ensure compliance with subsection (l).

As added by P.L.97-2005, SEC.1. Amended by P.L.51-2006, SEC.4.

IC 36-8-10-12.5

Purchase of service credit earned in certain Indiana public retirement funds

Sec. 12.5. (a) This section applies after June 30, 2009, to active employee beneficiaries in a retirement plan established under this chapter.

(b) As used in this section, "public retirement fund" refers to any of the following, either singly or collectively:

(1) The public employees' retirement fund (IC 5-10.3).

(2) The Indiana state teachers' retirement fund (IC 5-10.4).

(3) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund (IC 5-10-5.5).

(4) The state police pension trust (IC 10-12).

(5) The 1977 police officers' and firefighters' pension and disability fund (IC 36-8-8).

(6) A retirement plan established under this chapter by a department other than the department that employs the employee beneficiary who desires to purchase service credit under this section.

(c) Subject to subsection (j), if an employee beneficiary:

(1) has not attained vested status in; and

(2) is not an active participant in;

a public retirement fund other than the retirement plan established under this chapter by the department that employs the employee beneficiary, the employee beneficiary may make a transfer described in subsection (d) for the amount in the public retirement fund that is attributable to contributions made by or on behalf of the employee

beneficiary (plus credited earnings).

(d) An employee beneficiary described in subsection (c) may transfer the amount described in subsection (c) to a retirement plan established under this chapter by the department that employs the employee beneficiary in order to purchase service credit in the retirement plan for the employee beneficiary's prior service in a public retirement fund.

(e) A transfer under subsection (d) is irrevocable. A transfer cannot exceed the amount necessary to fund the service purchase under subsection (d). Any amounts in the public retirement fund after the transfer shall remain subject to the public retirement fund's provisions.

(f) If an employee beneficiary makes a transfer under subsection (d), the employee beneficiary is entitled to receive service credit for the transferred amount equal to the service credit that would be purchased by a contribution of the same amount computed at the actuarial present value for an individual whose salary or wages and age would be the same as the salary or wages and age of the employee beneficiary on the transfer date.

(g) Before a transfer is made under this section, the employee beneficiary must complete any forms required by:

(1) the public retirement fund from which the employee beneficiary is requesting a transfer; and

(2) the retirement plan established under this chapter to which the transfer is being made.

(h) An employee beneficiary who makes a transfer under subsection (d) must have at least the number of years of credited service necessary to receive an unreduced pension benefit in a retirement plan established under this chapter by the department that employs the employee beneficiary before the employee beneficiary may receive a benefit based on the amount transferred under this section.

(i) An employee beneficiary who:

(1) makes a transfer under subsection (d); and

(2) terminates employment before satisfying the eligibility requirements necessary to receive a monthly pension;

may withdraw the transferred amount, plus accumulated interest, from the retirement plan established under this chapter by the department that employs the employee beneficiary after submitting to the retirement plan established under this chapter a properly completed application for a refund. If a withdrawal of the transferred amount occurs under this subsection, the benefit payable to the employee beneficiary from the retirement plan established under this chapter shall be adjusted as necessary to ensure that the plan remains actuarially cost neutral to the county.

(j) The department may deny an application to transfer an amount under this section if the transfer would exceed the limitations under Section 415 of the Internal Revenue Code.

(k) If an employee beneficiary makes a transfer under subsection (d), the employee beneficiary waives all credit for the employee

beneficiary's service in the public retirement fund from which the amount is transferred or paid.

(l) To the extent permitted by the Internal Revenue Code and applicable regulations, a retirement plan established under this chapter may accept, on behalf of an employee beneficiary who is purchasing permissive service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(m) To the extent permitted by the Internal Revenue Code and applicable regulations, a retirement plan established under this chapter may accept, on behalf of an employee beneficiary who is purchasing permissive service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by P.L.98-2009, SEC.2.

IC 36-8-10-13

Pension trust; participation by sheriff

Sec. 13. Except as provided in section 19 of this chapter, a sheriff may participate in the pension trust in the same manner as a county police officer. In addition, a sheriff who is not participating in the pension trust after the creation of the pension trust in the sheriff's county may make a payment to the pension trust in the amount of contributions the sheriff would have made had the sheriff been participating while a sheriff, plus interest at three percent (3%) compounded annually. The sheriff is entitled to credit for the years of service as a sheriff for all purposes of the pension trust if the sheriff makes this payment.

As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.180-2007, SEC.11.

IC 36-8-10-14

Death benefit program

Sec. 14. (a) The department may establish and operate a death benefit program for the payment of death benefits to deceased employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining group life insurance, or both. However, the department may not establish or

modify a death benefit program after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any death benefits set forth in any death benefit program that was in effect on January 1, 1989.

(b) Benefits payable under a group life insurance policy established under subsection (a) must be in reasonable amounts. Benefits payable from a reserve account established under subsection (a) may not exceed twenty-five thousand dollars ($25,000).

As added by Acts 1981, P.L.309, SEC.61. Amended by Acts 1981, P.L.48, SEC.3; P.L.313-1989, SEC.5; P.L.168-1990, SEC.2.

IC 36-8-10-15

Disability benefit program

Sec. 15. (a) The department may establish and operate a disability benefit program for the payment of disability expense reimbursement and pensions to employee beneficiaries with a disability. The department may provide these benefits by the creation of a reserve account, by obtaining disability insurance coverage, or both. However, the department may not establish or modify a disability benefit program after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any disability benefits set forth in any disability program that was in effect on January 1, 1989.

(b) Benefits payable as a result of line of duty activities, including a disability presumed incurred in the line of duty under IC 5-10-13, must be in reasonable amounts. Monthly benefits payable as a result of other activities may not exceed the amount of pension to which that employee beneficiary employed until normal retirement age would have been entitled.

As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.313-1989, SEC.6; P.L.185-2002, SEC.13; P.L.99-2007, SEC.221; P.L.1-2010, SEC.151.

IC 36-8-10-16

Dependent's pension benefit; establishment and operation; maximum monthly pension payable; eligibility

Sec. 16. (a) The department may establish and operate a dependent's pension benefit for the payment of pensions to dependent parents, surviving spouses, and dependent children under eighteen (18) years of age of former employee beneficiaries. The department may provide these benefits by the creation of a reserve account, by obtaining appropriate insurance coverage, or both. However, the department may not establish or modify a dependent's pension benefit after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any dependent's pension benefits that were in effect on January 1, 1989.

(b) This subsection applies to survivors of employee beneficiaries who:

(1) died before January 1, 1990; and

(2) were covered by a benefit plan established under this

section.

The maximum monthly pension payable to dependent parents or surviving spouses may not exceed two hundred dollars ($200) per month during the parent's or the spouse's lifetime if the spouse did not remarry before September 1, 1984. If the surviving spouse remarried before September 1, 1984, benefits ceased on the date of remarriage. The maximum monthly pension payable to dependent children is thirty dollars ($30) per child and ceases with the last payment before attaining eighteen (18) years of age.

(c) This subsection applies to survivors of employee beneficiaries who:

(1) died after December 31, 1989; and

(2) were covered by a benefit plan established under this section.

The monthly pension payable to dependent parents or surviving spouses must be not less than two hundred dollars ($200) for each month during the parent's or the spouse's lifetime. The monthly pension payable to each dependent child must be not less than thirty dollars ($30) for each child and ceases with the last payment before attaining eighteen (18) years of age.

(d) The county fiscal body may by ordinance provide an increase in the monthly pension of survivors of employee beneficiaries who die before January 1, 1990. However, the monthly pension that is provided under this subsection may not exceed the monthly pension that is provided to survivors whose monthly pensions are determined under subsection (c).

(e) In order to be eligible for a benefit under this section, the surviving spouse of an employee beneficiary who dies after August 31, 1984, must have been married to the employee beneficiary at the time of the employee's retirement or death in service.

(f) In addition to, or instead of, a modification of a surviving spouse's monthly pension under this section, a county fiscal body may approve a cost of living payment to a surviving spouse under section 23 of this chapter.

As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.203-1984, SEC.2; P.L.313-1989, SEC.7; P.L.314-1989, SEC.2; P.L.97-2005, SEC.2; P.L.42-2008, SEC.1.

IC 36-8-10-16.3

Treatment of certain payments as proper; reinstatement of monthly pension of certain surviving spouses

Sec. 16.3. (a) This section applies to a surviving spouse of an employee beneficiary who:

(1) died before July 1, 2005; and

(2) was a member of a retirement plan established under section 12 of this chapter.

(b) A monthly pension paid under section 16(c) of this chapter, before its amendment by P.L.97-2005, to a surviving spouse after the date the surviving spouse remarried and before July 1, 2005, shall be treated as properly paid.

(c) The monthly pension of a surviving spouse:

(1) who remarried after December 31, 1989; and

(2) whose monthly pension paid under section 16(c) of this chapter, before its amendment by P.L.97-2005, ceased on the date of remarriage;

shall be reinstated on July 1, 2005, under section 16 of this chapter, as amended by P.L.97-2005, and continue during the life of the surviving spouse.

As added by P.L.220-2011, SEC.674.

IC 36-8-10-16.5

Health insurance for surviving spouse and children

Sec. 16.5. (a) As used in this section, "dies in the line of duty" has the meaning set forth in IC 5-10-10-2.

(b) This section applies to the survivors of an eligible employee who dies in the line of duty.

(c) After December 31, 2003, the department that employed the eligible employee who died in the line of duty shall offer to provide and pay for health insurance coverage for the eligible employee's surviving spouse and for each natural child, stepchild, or adopted child of the eligible employee:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to an eligible employee, the health insurance provided to a surviving spouse or child under this subsection must be equal in coverage to that offered to an eligible employee. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the eligible employee is eligible for coverage under subdivision (1), (2), or (3).

As added by P.L.86-2003, SEC.10. Amended by P.L.97-2004, SEC.130.

IC 36-8-10-17

Police benefit fund

Sec. 17. (a) The death benefit, the disability benefit, and the dependents' pension may be operated as one (1) fund, known as the police benefit fund, under the terms of a supplementary trust agreement between the department and the trustee for the exclusive benefit of employee beneficiaries and their dependents.

(b) The trustee receives and holds as trustee for the uses and purposes set out in the supplementary trust agreement all money paid to it as trustee by the department or by other persons.

(c) The trustee may, under the terms of the supplementary trust

agreement, pay the necessary premiums for insurance, pay benefits, or pay both as provided by this chapter.

(d) The trustee shall hold, invest, and reinvest the police benefit fund in investments that are permitted by statute for the investment of trust funds and other investments that are specifically designated in the supplementary trust agreement.

(e) Within ninety (90) days after the close of the fiscal year, the trustee, with the assistance of the pension engineers, shall prepare and file with the department and the state insurance department a detailed annual report showing receipts, disbursements, and case histories, and making recommendations regarding the necessary contributions required to keep the program in operation. Contributions by the department shall be provided in the general appropriations to the department. However, these contributions are not required for plans established or modifications adopted after June 30, 1989, under sections 14 through 16 of this chapter unless the establishment or modification is approved by the county fiscal body. *As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.313-1989, SEC.8.*

IC 36-8-10-18
Repealed

(*Repealed by P.L.185-1996, SEC.18.)*

IC 36-8-10-19
Restrictions on alienation of benefits; fund expenses; payment of insurance premiums

Sec. 19. (a) Except as provided in subsection (c), a person entitled to an interest in or share of a pension or benefit from the trust funds may not, before the actual payment, anticipate it or sell, assign, pledge, mortgage, or otherwise dispose of or encumber it. In addition, the interest, share, pension, or benefit is not, before the actual payment, liable for the debts or liabilities of the person entitled to it, nor is it subject to attachment, garnishment, execution, levy, or sale on judicial proceedings, or transferable, voluntarily or involuntarily.

(b) The trustee may expend the sums from the fund that it considers proper for necessary expenses.

(c) This subsection does not apply to the sheriff of a county. Notwithstanding any other provision of this chapter, an employee beneficiary who is receiving a normal or disability monthly pension benefit under this chapter may, after June 30, 2007, authorize the trustee to pay a portion of the employee beneficiary's monthly pension benefit to an insurance provider for the purpose of paying a premium on a policy of insurance for accident, health, or long term care coverage for:

(1) the employee beneficiary;

(2) the employee beneficiary's spouse; or

(3) the employee beneficiary's dependents (as defined in Section 152 of the Internal Revenue Code).

As added by Acts 1981, P.L.309, SEC.61. Amended by P.L.180-2007, SEC.12.

IC 36-8-10-20
Repealed

(*Repealed by P.L.22-1984, SEC.2.)*

IC 36-8-10-20.1
County sheriffs' standard vehicle marking and uniform commission; establishment; adoption of rules; limitation of authority

Sec. 20.1. (a) A county sheriffs' standard vehicle marking and uniform commission is established. The commission consists of three (3) members, not more than two (2) of whom may be of the same political party. Members of the commission shall be appointed by the governor for four (4) year terms. Each member must be an elected and acting county sheriff. The governor shall fill a vacancy on the commission for the unexpired term. Members serve without compensation.

(b) The commission shall, by rules adopted under IC 4-22-2, establish the following for sheriffs and their full-time paid deputies:

(1) A uniform of standard design and color.

(2) A standard design and color of vehicle marking for all county owned vehicles used by the sheriff's department.

The rules adopted under this subsection must provide exceptions for unmarked cars and plainclothes deputies.

(c) All vehicles and uniforms purchased after the effective date of the rules adopted under subsection (b) must meet the standards established by the rules. The commission's authority is limited to establishing standards for:

(1) uniforms worn by county sheriffs and their full-time paid deputies; and

(2) vehicles used by the sheriff's department.

As added by P.L.224-1986, SEC.1.

IC 36-8-10-21
Application to certain counties; jail commissary fund; disposition of money from commissary sales; record of receipts and disbursements

Sec. 21. (a) This section applies to any county that has a jail commissary that sells merchandise to inmates.

(b) A jail commissary fund is established, referred to in this section as "the fund". The fund is separate from the general fund, and money in the fund does not revert to the general fund.

(c) The sheriff, or the sheriff's designee, shall deposit all money from commissary sales into the fund, which the sheriff or the sheriff's designee shall keep in a depository designated under IC 5-13-8.

(d) The sheriff, or the sheriff's designee, at the sheriff's or the sheriff's designee's discretion and without appropriation by the county fiscal body, may disburse money from the fund for:

(1) merchandise for resale to inmates through the commissary;
(2) expenses of operating the commissary, including, but not limited to, facilities and personnel;
(3) special training in law enforcement for employees of the sheriff's department;
(4) equipment installed in the county jail;
(5) equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, cameras and photographic equipment, animals, animal training, holding and feeding equipment and supplies, or attire used by an employee of the sheriff's department in the course of the employee's official duties;
(6) an activity provided to maintain order and discipline among the inmates of the county jail;
(7) an activity or program of the sheriff's department intended to reduce or prevent occurrences of criminal activity, including the following:
(A) Substance abuse.
(B) Child abuse.
(C) Domestic violence.
(D) Drinking and driving.
(E) Juvenile delinquency;
(8) expenses related to the establishment, operation, or maintenance of the sex and violent offender registry web site under IC 36-2-13-5.5; or
(9) any other purpose that benefits the sheriff's department that is mutually agreed upon by the county fiscal body and the county sheriff.

Money disbursed from the fund under this subsection must be supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1) through (8).

(e) The sheriff shall maintain a record of the fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record. The sheriff shall semiannually provide a copy of this record of receipts and disbursements to the county fiscal body. The semiannual reports are due on July 1 and December 31 of each year.
As added by Acts 1981, P.L.48, SEC.4. Amended by P.L.395-1987(ss), SEC.1; P.L.19-1987, SEC.51; P.L.80-2000, SEC.1; P.L.116-2002, SEC.28; P.L.216-2007, SEC.55.

IC 36-8-10-22
Application to certain counties; inmates' money to be held in trust; disbursements from trust; payments upon discharge or release of inmates; reimbursement for destroyed or lost property; record of trust receipts and disbursements

Sec. 22. (a) This section applies to any county that operates a county jail.

(b) The sheriff shall hold in trust separately for each inmate any money received from that inmate or from another person on behalf

of that inmate.

(c) If the inmate or his legal guardian requests a disbursement from the inmate's trust fund, the sheriff may make a disbursement for the personal benefit of the inmate, including but not limited to a disbursement to the county jail commissary.

(d) Upon discharge or release of an inmate from the county jail, the sheriff shall pay to that inmate or his legal guardian any balance remaining in his trust fund.

(e) If an inmate is found guilty of intentionally destroying or losing county property after a hearing conducted under IC 11-11-5-5, the sheriff may disburse from the inmate's trust fund or commissary account sums of money as reimbursement to the county for the inmate's intentional destruction or loss of county property, including but not limited to clothing, bedding, and other nondisposable items issued by the county to the inmate. Before disbursing money under this subsection, the sheriff shall adopt rules to administer this procedure.

(f) The sheriff shall maintain a record of each trust fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record.

As added by Acts 1981, P.L.48, SEC.5. Amended by P.L.72-1994, SEC.2; P.L.80-2000, SEC.2.

IC 36-8-10-23

Cost of living payments; ordinances and collective bargaining

Sec. 23. (a) This section applies to a county that adopts the provisions of this section by an ordinance of the county fiscal body.

(b) The county fiscal body may provide for:

(1) an annual cost of living payment to employee beneficiaries who are retired or have a disability, or both; or

(2) an ad hoc cost of living payment to employee beneficiaries who are retired or have a disability, or both. The amount of the ad hoc cost of living payment under this subdivision is not an increase in the base pension benefit calculated under section 12 or 12.1 of this chapter.

(c) In addition to, or instead of, a modification of a surviving spouse's monthly pension under section 16 of this chapter, the county fiscal body may provide for:

(1) an annual cost of living payment to a surviving spouse; or

(2) an ad hoc cost of living payment to a surviving spouse.

(d) In the case of an annual cost of living payment granted under subsection (b)(1) or (c)(1), the amount of the cost of living payment shall be determined each year by the pension engineers under this subsection. The pension engineers shall determine if there has been an increase in the Consumer Price Index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the Consumer Price Index for January, February, and March of the payment year with the same three (3) month period of the preceding year. If there has been an increase, the increase shall be stated as a percentage of the arithmetic mean for the three (3)

month period for the year preceding the payment year (the adjustment percentage). The adjustment percentage shall be rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%).

(e) In the case of a cost of living payment granted under subsection (b)(2) or (c)(2), the amount of the cost of living payment shall be determined by the county fiscal body and may be:

(1) a percentage increase, not to exceed the percentage determined under subsection (d); or

(2) a fixed dollar amount.

(f) A payment authorized under this section shall be made to each:

(1) authorized employee beneficiary who is retired or has a disability; or

(2) surviving spouse;

and may be made annually, semiannually, quarterly, or monthly.

(g) A cost of living payment granted under this section shall be funded by a direct appropriation or by maintaining a fully funded actuarially sound trust fund.

(h) A cost of living payment granted under this section is applicable only to the following:

(1) Employee beneficiaries who:

(A) are retired or have a disability; and

(B) are at least fifty-five (55) years of age.

(2) A surviving spouse.

(i) No provision of this section shall be made part of any ordinance or agreement concerning collective bargaining. No provision of this section shall be subject to bargaining under any statute, ordinance, or agreement.

As added by P.L.150-1992, SEC.1. Amended by P.L.1-1993, SEC.248; P.L.233-1997, SEC.3; P.L.99-2007, SEC.222; P.L.42-2008, SEC.2.

IC 36-8-10.5

Chapter 10.5. Minimum Training Requirements for Firefighters

IC 36-8-10.5-1

Application of chapter

Sec. 1. This chapter applies to:

(1) all full-time firefighters hired or rehired after January 1, 1988; and

(2) all volunteer firefighters elected or appointed to membership in a volunteer fire department after January 1, 1988.

As added by P.L.49-1987, SEC.2. Amended by P.L.1-1999, SEC.84.

IC 36-8-10.5-2

"Education board" defined

Sec. 2. As used in this chapter, "education board" refers to the board of firefighting personnel standards and education.

As added by P.L.49-1987, SEC.2.

IC 36-8-10.5-3

"Full-time firefighter" defined

Sec. 3. As used in this chapter, "full-time firefighter" means a full-time, fully paid firefighter employed by a political subdivision.

As added by P.L.49-1987, SEC.2.

IC 36-8-10.5-4

"Volunteer fire department" defined

Sec. 4. As used in this chapter, "volunteer fire department" has the meaning set forth in IC 36-8-12-2.

As added by P.L.49-1987, SEC.2. Amended by P.L.1-1999, SEC.85.

IC 36-8-10.5-5

"Volunteer firefighter" defined

Sec. 5. As used in this chapter, "volunteer firefighter" has the meaning set forth in IC 36-8-12-2.

As added by P.L.49-1987, SEC.2.

IC 36-8-10.5-6

Minimum training requirements

Sec. 6. (a) A full-time firefighter must successfully complete the minimum basic training requirements established by this chapter before the firefighter may perform the duties of a full-time firefighter for the political subdivision.

(b) A volunteer firefighter who has successfully completed the minimum basic training requirements established by this chapter may be elected or appointed to membership in more than one (1) volunteer fire department.

As added by P.L.49-1987, SEC.2. Amended by P.L.50-1998, SEC.2; P.L.1-1999, SEC.86.

IC 36-8-10.5-7
Training subject matter

Sec. 7. (a) The education board shall adopt rules under IC 4-22-2 establishing minimum basic training requirements for full-time firefighters and volunteer firefighters, subject to subsection (b) and section 7.5 of this chapter. The requirements must include training in the following areas:

(1) Orientation.
(2) Personal safety.
(3) Forcible entry.
(4) Ventilation.
(5) Apparatus.
(6) Ladders.
(7) Self-contained breathing apparatus.
(8) Hose loads.
(9) Streams.
(10) Basic recognition of special hazards.

(b) A person who fulfills the certification requirements for:

(1) Firefighter I, as described in 655 IAC 1-2.1-4; or
(2) Firefighter II, as described in 655 IAC 1-2.1-5;

is considered to comply with the requirements established under subsection (a).

(c) In addition to the requirements of subsections (a) and (d), the minimum basic training requirements for full-time firefighters and volunteer firefighters must include successful completion of a basic or inservice course of education and training on sudden infant death syndrome that is certified by the Indiana emergency medical services commission (created under IC 16-31-2-1) in conjunction with the state health commissioner.

(d) In addition to the requirements of subsections (a) and (c), the minimum basic training requirements for full-time and volunteer firefighters must include successful completion of an instruction course on vehicle emergency response driving safety. The education board shall adopt rules under IC 4-22-2 to operate this course.

(e) In addition to the requirements of subsections (a), (c), and (d), the minimum basic training requirements for full-time and volunteer firefighters must include successful completion of a basic or inservice course of education and training in interacting with individuals with autism that is certified by the Indiana emergency medical services commission (created under IC 16-31-2-1).

As added by P.L.49-1987, SEC.2. Amended by P.L.22-1994, SEC.5; P.L.62-2003, SEC.1; P.L.148-2007, SEC.7; P.L.93-2009, SEC.3; P.L.110-2009, SEC.17; P.L.1-2010, SEC.152.

IC 36-8-10.5-7.5
Time to complete training requirements; extensions

Sec. 7.5. (a) Except as provided in subsection (b), an individual whose employment by a fire department as a full-time firefighter begins after December 31, 2009, must complete the training for Firefighter I (as described in 655 IAC 1-2.1-4) and Firefighter II (as

described in 655 IAC 1-2.1-5) during the firefighter's first year of employment. The fire department that employs a firefighter shall report to the education board when the firefighter has completed the training requirements established by this subsection.

(b) The education board may grant a firefighter any number of extensions of six (6) months to complete the training required under subsection (a). An extension must be requested by the fire department that employs the firefighter. An extension may be requested for any reason, including the following:

(1) The firefighter has been attending training in accordance with section 8 of this chapter in any of the following:

(A) Hazardous materials.

(B) Paramedic training.

(C) Emergency medical technician training.

(D) Technical training.

(2) The firefighter was unable to complete the training due to economic reasons.

(c) The education board shall determine whether a firefighter receives an extension under this section.

As added by P.L.110-2009, SEC.18.

IC 36-8-10.5-8

Training location and personnel

Sec. 8. (a) The training may be conducted at:

(1) a location within the political subdivision employing a full-time firefighter;

(2) the headquarters of the volunteer fire department where a volunteer firefighter is seeking membership; or

(3) any other facility where the training is offered.

(b) The training must be conducted by personnel certified as instructors by the education board.

As added by P.L.49-1987, SEC.2. Amended by P.L.1-1999, SEC.87.

IC 36-8-10.5-9

Certification

Sec. 9. The education board shall certify fire personnel who successfully complete the minimum basic training requirements.

As added by P.L.49-1987, SEC.2.

IC 36-8-10.5-10

Tests for certification

Sec. 10. (a) This section applies to the following certifications:

(1) Mandatory training (as described in 655 IAC 1-4-2).

(2) Basic firefighter (as described in 655 IAC 1-2.1-3).

(3) Firefighter I (as described in 655 IAC 1-2.1-4).

(4) Firefighter II (as described in 655 IAC 1-2.1-5).

(b) Before January 2, 2012, the board may not mandate that the written tests for the certifications listed in subsection (a) be taken solely using a computer, the Internet, or another online arrangement.

As added by P.L.56-2011, SEC.1.

IC 36-8-11
Chapter 11. Fire Protection Districts

IC 36-8-11-0.1
Application of certain amendments to chapter
Sec. 0.1. The addition of section 26 of this chapter by P.L.83-1998 applies only to purchases that occur after June 30, 1998.
As added by P.L.220-2011, SEC.675.

IC 36-8-11-1
Repealed
(*Repealed by P.L.36-2000, SEC.11.)*

IC 36-8-11-2
Definitions
Sec. 2. As used in this chapter:
"Board" refers to the board of fire trustees of a fire protection district.
"Fiscal officer" means a bonded employee of the fire protection district charged with the faithful receipt and disbursement of the funds of the district.
"Freeholder" means an individual who holds land in fee, for life, or for some indeterminate period of time, whether or not in joint title.
"Interested person" includes a freeholder or corporation owning lands within the proposed or established fire protection district, a person whose property may be condemned or injured by the district, the proper officer of a municipality, an affected state agency, and all local plan commissions.
"Joint title" means joint tenancy, tenancy in common, or tenancy by the entireties.
"Primary county" refers to the county where the largest portion of a municipality is located if the municipality is located in two (2) counties.
"Secondary county" refers to the county where the smallest portion of a municipality is located if the municipality is located in two (2) counties.
As added by Acts 1981, P.L.309, SEC.63. Amended by P.L.36-2000, SEC.2.

IC 36-8-11-3
Repealed
(*Repealed by P.L.213-1986, SEC.12.)*

IC 36-8-11-4
Districts; establishment; authorized purposes
Sec. 4. (a) A county legislative body may establish fire protection districts for any of the following purposes:
(1) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the

boundaries of the district.

(2) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.

(3) Other purposes or functions related to fire protection and fire prevention.

(b) Any area may be established as a fire protection district, but one (1) part of a district may not be completely separate from another part. A municipality may be included in a district, but only if it consents by ordinance, unless a majority of the freeholders of the municipality have petitioned to be included in the district.

(c) Except as provided in subsection (d), the territory of a district may consist of:

(1) one (1) or more townships and parts of one (1) or more townships in the same county; or

(2) all of the townships in the same county.

The boundaries of a district need not coincide with those of other political subdivisions.

(d) The territory of a district may consist of a municipality that is located in more than one (1) county.

As added by Acts 1981, P.L.309, SEC.63. Amended by P.L.36-2000, SEC.3.

IC 36-8-11-5

Establishment of district by freeholders; procedure

Sec. 5. (a) Freeholders who desire the establishment of a fire protection district must initiate proceedings by filing a petition in the office of the county auditor of the county where the freeholder's land is located. The petition may also be filed by a municipality under an ordinance adopted by its legislative body in each county where the municipality is located.

(b) The petition must be signed:

(1) by at least twenty percent (20%), with a minimum of five hundred (500), of the freeholders owning land within the proposed district; or

(2) by a majority of those freeholders owning land within the proposed district;

whichever number is less.

(c) This subsection applies to a district that consists of a municipality located in two (2) counties. The petitions filed in each county as set forth in section 5.1 of this chapter shall be considered parts of one (1) petition. The signature requirement of subsection (b) applies to the sum of the signatures on all parts of the petition.

As added by Acts 1981, P.L.309, SEC.63. Amended by P.L.63-1991, SEC.3; P.L.36-2000, SEC.4.

IC 36-8-11-5.1

Multiple county district; establishment of district

Sec. 5.1. (a) This section applies to a district that consists of a municipality located in two (2) counties.

(b) This section does not apply to a merged district under section

23 of this chapter.

(c) Freeholders within the proposed district who desire the establishment of a fire protection district must initiate proceedings by filing a petition to establish the district with the county auditor of the county where the freeholder's land is located. Sections 6 and 7 of this chapter apply to a petition filed under this section. The number of freeholders who signed a petition shall be certified by the county auditor of the county that is the subject of the petition. If a petition is filed in both counties, the county auditor of the secondary county shall forward the petition to the primary county.

(d) The county auditor of the primary county shall present the petition to the legislative body of the primary county at its next regularly scheduled meeting or at a special meeting called for that purpose. Before or at the meeting, the legislative body shall determine whether the petition bears the necessary signatures and complies with requirements as to form and content. The legislative body may not dismiss a petition with the requisite signatures because of alleged defects without permitting amendments to correct errors in form or content.

(e) In determining whether the signers of a petition are freeholders, the names as they appear on the tax duplicates are prima facie evidence of the ownership of land.

(f) If the legislative body of the primary county determines that the petition conforms to the requirements of this chapter, the primary county or the secondary county, or both, may set a date for a public hearing on whether a fire protection district should, as a matter of public policy, be established in the area proposed in the petition. The district is established when both legislative bodies adopt an identical ordinance or resolution establishing the district.

As added by P.L.36-2000, SEC.5.

IC 36-8-11-6

Petitions; signatures of joint owners and corporations; circulation in counterparts

Sec. 6. (a) This section applies to petitions filed under either section 5 or section 9 of this chapter.

(b) If two (2) or more freeholders own the same land in joint title, they may be counted as only one (1) freeholder for the purpose of determining what constitutes twenty percent (20%) or a majority of the freeholders.

(c) A freeholder owning land in joint title may sign the petition and the signature shall be counted. However, if two (2) or more freeholders who own the same land in joint title sign the petition, their combined signatures count only as one (1) signature for the purposes of subsections (a) and (b).

(d) Any officer authorized by the corporation may sign the petition for a private corporation owning land within the proposed district. His signature is prima facie evidence of his authorization.

(e) The petition may be circulated in several counterparts and still be considered a single petition.

As added by Acts 1981, P.L.309, SEC.63. Amended by P.L.63-1991, SEC.4.

IC 36-8-11-7
Contents of petition to establish district

Sec. 7. A petition filed under section 5 of this chapter must state the following:

(1) A name for the proposed district that distinguishes the district from all other political subdivisions within or contiguous to the area included within the district.

(2) A description of the territory to be included, not necessarily by metes and bounds, but sufficiently accurate to inform the county legislative body and to apprise landowners of the possibility of the inclusion of their land within the district.

(3) A statement of the purposes for which the district is proposed to be established.

(4) A statement of the necessity and urgency of accomplishing the purposes.

(5) A statement that the creation of the district will be conducive to the public health, safety, or welfare, including a summary of the advantages to be derived from the creation of the district.

(6) A statement that the costs and damages of the district will probably be less than the benefits to be derived.

(7) Whether the petition is conditioned upon a grant of federal or state monies, and whether the conditions that are attached to the grant or grants are acceptable if the monies should be offered.

As added by Acts 1981, P.L.309, SEC.63.

IC 36-8-11-8
Petition to establish district; examination of signatures by legislative body; hearing; ordinance or resolution

Sec. 8. (a) After a petition is filed under section 5 of this chapter, the county auditor shall present it to the county legislative body at its next regularly scheduled meeting or at a special meeting called for that purpose. Before or at the meeting, the legislative body shall determine whether the petition bears the necessary signatures and complies with requirements as to form and content. The legislative body may not dismiss a petition with the requisite signatures because of alleged defects without permitting amendments to correct errors in form or content.

(b) In determining whether the signers of a petition are freeholders, the names as they appear on the tax duplicates are prima facie evidence of the ownership of land.

(c) If the legislative body determines that the petition conforms to the requirements of this chapter, it may set a date for a public hearing on whether a fire protection district should, as a matter of public policy, be established in the area proposed in the petition. The legislative body may also prepare an ordinance or resolution to

establish the district for its consideration, in accordance with applicable laws.
As added by Acts 1981, P.L.309, SEC.63.

IC 36-8-11-9
Petition against establishment of district

Sec. 9. (a) A petition against the establishment of the fire protection district may be presented to the county legislative body at or after a hearing on the petition to establish a district and before the adoption of an ordinance or resolution establishing the district.

(b) If the legislative body finds that it contains the signatures of fifty-one percent (51%) of the freeholders within the proposed district or of the freeholders who own two-thirds (2/3) of the real property within the proposed district, determined by assessed valuation, the legislative body shall dismiss the petition for the establishment of the district.
As added by Acts 1981, P.L.309, SEC.63.

IC 36-8-11-9.5
Multiple county district; petition against establishment of district

Sec. 9.5. (a) This section applies to a district that contains a municipality located in two (2) counties.

(b) This section does not apply to a merged district under section 23 of this chapter.

(c) The freeholders owning land within the proposed district may file a petition opposing the establishment of the district with the county auditor of the county where the freeholder's land is located. If a petition is filed in both counties, the county auditor of the secondary county shall forward the petition to the primary county and certify to the primary county the number of freeholders who signed the petition. A petition against the establishment of the fire protection district must be presented to the legislative body of the primary county at or after a hearing on the petition to establish a district and before the adoption of an ordinance or resolution establishing the district.

(d) If the legislative body of the primary county finds that the petition contains the signatures of fifty-one percent (51%) of the freeholders within the proposed district or of the freeholders who own two-thirds (2/3) of the real property within the proposed district, determined by assessed valuation, the legislative body shall dismiss the petition for the establishment of the district.
As added by P.L.36-2000, SEC.6.

IC 36-8-11-10
Limitation on filing new petition after dismissal

Sec. 10. If the petition is dismissed because the county legislative body finds the evidence does not support it, a new petition to establish a district under this chapter in essentially the same area may not be addressed to the legislative body for a period of two (2) years after the date of the order dismissing the original petition.

As added by Acts 1981, P.L.309, SEC.63.

IC 36-8-11-11
Addition of area to district; procedure

Sec. 11. To add area to a fire protection district already established, the same procedure must be followed as is provided for the establishment of a district. The petition must be addressed to the legislative body of each county in which the district is located.

As added by Acts 1981, P.L.309, SEC.63. Amended by P.L.36-2000, SEC.7.

IC 36-8-11-12
Board of fire trustees; appointment; terms of office; vacancies

Sec. 12. (a) Within thirty (30) days after the ordinance or resolution establishing the district becomes final, the county legislative body shall appoint a board of fire trustees. The trustees must be qualified by knowledge and experience in matters pertaining to fire protection and related activities in the district. A person who:

(1) is a party to a contract with the district; or

(2) is a member, an employee, a director, or a shareholder of any corporation or association that has a contract with the district;

may not be appointed or serve as a trustee. The legislative body shall appoint one (1) trustee from each township or part of a township contained in the district and one (1) trustee from each municipality contained in the district. If the number of trustees selected by this method is an even number, the legislative body shall appoint one (1) additional trustee so that the number of trustees is always an odd number. If the requirements of this section do not provide at least three (3) trustees, the legislative body shall make additional appointments so that there is a minimum of three (3) trustees.

(b) The original trustees shall be appointed as follows:

(1) One (1) for a term of one (1) year.

(2) One (1) for a term of two (2) years.

(3) One (1) for a term of three (3) years.

(4) All others for a term of four (4) years.

The terms expire on the first Monday of January of the year their appointments expire. As the terms expire, each new appointment is for a term of four (4) years.

(c) If a vacancy occurs on the board, the county legislative body shall appoint a trustee with the qualifications specified in subsection (a) for the unexpired term.

As added by Acts 1981, P.L.309, SEC.63. Amended by P.L.63-1991, SEC.5.

IC 36-8-11-13
Trustees; meetings

Sec. 13. (a) The board shall fix the time for holding regular meetings, but it shall meet at least once in the months of January, April, July, and October. The county legislative body may order that

regular meetings be held more frequently.

(b) Special meetings of the board may be called by the chairman or by two (2) trustees, upon written request to the secretary. At least three (3) days before a special meeting, the secretary shall send to all trustees a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if:

(1) the time of the special meeting has been fixed in a regular meeting; or

(2) all trustees were present at a meeting at which a special meeting was called.

As added by Acts 1981, P.L.309, SEC.63.

IC 36-8-11-14

Trustees; officers; quorum; approval of actions; compensation; offices; records

Sec. 14. (a) At the first regular meeting each year, the trustees of the board shall elect a chairman and vice chairman from their number. The vice chairman shall act as chairman during the absence or disability of the chairman.

(b) A majority of the trustees constitutes a quorum. An action of the board is official, however, only if it is authorized by a majority of the trustees at a regular or properly called special meeting.

(c) Each trustee may receive not more than twenty dollars ($20) a day for each day devoted to the work of the district. In addition, each trustee may be reimbursed for actual expenses, including traveling expense at a rate equivalent to that provided by statute for state employees. Claims for expense reimbursement must be accompanied by an itemized written statement and approved by a recorded motion of the board.

(d) At the time the county legislative body initially appoints the board, it shall order where the board will maintain its offices. The offices may not be changed without approval of the legislative body. The board shall arrange for office space and keep a record of all transactions and minutes of all meetings in the office. All records and minutes shall be kept available for public inspection.

As added by Acts 1981, P.L.309, SEC.63.

IC 36-8-11-15

Trustees; powers and duties

Sec. 15. (a) The board:

(1) has the same powers and duties as a township executive with respect to fire protection functions, including those duties and powers prescribed by IC 36-8-13, although all cooperative and joint actions permitted by that chapter must be undertaken according to this chapter;

(2) has the same powers and duties as a township executive relative to contracting with volunteer firefighting companies, as prescribed by IC 36-8-12 and IC 36-8-13;

(3) shall appoint, fix the compensation, and prescribe the duties of a fiscal officer, secretarial staff, persons performing special

and temporary services or providing legal counsel, and other personnel considered necessary for the proper functioning of the district; however, a person appointed as fiscal officer must be bonded by good and sufficient sureties in an amount ordered by the county legislative body to protect the district from financial loss;

(4) shall exercise general supervision of and make regulations for the administration of the district's affairs;

(5) shall prescribe uniform rules pertaining to investigations and hearings;

(6) shall supervise the fiscal affairs and responsibilities of the district;

(7) may delegate to employees of the district the authority to perform ministerial acts, except in cases in which final action of the board is necessary;

(8) shall keep accurate and complete records of all departmental proceedings, record and file all bonds and contracts, and assume responsibility for the custody and preservation of all papers and documents of the district;

(9) shall make an annual report to the executive and the fiscal body of the county that at least lists the financial transactions of the district and a statement of the progress in accomplishing the purposes for which the district has been established;

(10) shall adopt a seal and certify all official acts;

(11) may sue and be sued collectively by its legal name ("Board of Fire Trustees, _____ Fire Protection District"), with service of process made on the chairman of the board, but costs may not be taxed against the members individually in an action;

(12) may invoke any legal, equitable, or special remedy for the enforcement of this chapter or of proper action of the board taken in a court;

(13) shall prepare and submit to the fiscal body of the county an annual budget for operation and maintenance expenses and for the retirement of obligations of the district, subject to review and approval by the fiscal body;

(14) may, if advisable, establish one (1) or more advisory committees;

(15) may enter into agreements with and accept money from a federal or state agency and enter into agreements with a municipality located within or outside the district, whether or not the municipality is a part of the district, for a purpose compatible with the purposes for which the district exists and with the interests of the municipality;

(16) may accept gifts of money or other property to be used for the purposes for which the district is established;

(17) may levy taxes at a uniform rate on the real and personal property within the district;

(18) may issue bonds and tax anticipation warrants;

(19) may incur other debts and liabilities;

(20) may purchase or rent property;

(21) may sell services or property that are produced incident to the operations of the district making a fair and reasonable charge for it;
(22) may make contracts or otherwise enter into agreements with public or private persons and federal or state agencies for construction, maintenance, or operations of or in part of the district;
(23) may receive and disburse money; and
(24) may impose a false alarm fee or service charge under IC 36-8-13-4.

(b) Powers granted by this chapter may be used only to accomplish the purpose or purposes as stated in the ordinance or resolution establishing the district. However, an act of the board necessary and proper to accomplish the purposes for which the district is established is not invalid because it incidentally accomplishes a purpose other than one for which the district is established.

As added by Acts 1981, P.L.309, SEC.63. Amended by P.L.341-1987, SEC.3; P.L.82-2001, SEC.1.

IC 36-8-11-16
Taxing district; district considered municipal corporation

Sec. 16. All the real property within a fire protection district constitutes a taxing district for the purpose of levying taxes to pay for the construction, operation, and maintenance of district programs and facilities. A tax levied must be levied at a uniform rate upon all taxable property within the district. A fire protection district is a municipal corporation within the meaning of the Constitution of Indiana and all general statutes.

As added by Acts 1981, P.L.309, SEC.63.

IC 36-8-11-17
Bonds; authorization

Sec. 17. Bonds may be issued only against the taxable property of a fire protection district and may be paid in part by revenues derived from reasonable charges for services or property produced incident to the operation of the district. Bonds shall be issued in the same manner as conservancy district bonds are issued under IC 14-33-11.

As added by Acts 1981, P.L.309, SEC.63. Amended by P.L.1-1995, SEC.85.

IC 36-8-11-18
Annual budget; tax levy

Sec. 18. (a) The board shall annually budget the necessary money to meet the expenses of operation and maintenance of the district, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, bond redemption, and all other expenses lawfully incurred by the district. After estimating expenses and receipts of money, the board shall establish the tax levy required to fund the estimated budget.

(b) The budget must be approved by the fiscal body of the county, the county board of tax adjustment, and the department of local government finance.

(c) Upon approval by the department of local government finance, the board shall certify the approved tax levy to the auditor of the county having land within the district. The auditor shall have the levy entered on the county treasurer's tax records for collection. After collection of the taxes the auditor shall issue a warrant on the treasurer to transfer the revenues collected to the board, as provided by statute.

As added by Acts 1981, P.L.309, SEC.63. Amended by P.L.90-2002, SEC.491; P.L.224-2007, SEC.127; P.L.146-2008, SEC.780.

IC 36-8-11-19

No duplicate tax levies

Sec. 19. The department of local government finance, when approving a rate and levy fixed by the board, shall verify that a duplication of tax levies does not exist between a fire protection district and a municipality or township within the boundaries of the district, so that taxpayers do not bear two (2) levies for the same service, except as provided by section 20 of this chapter.

As added by Acts 1981, P.L.309, SEC.63. Amended by P.L.90-2002, SEC.492.

IC 36-8-11-20

Indebtedness incurred before establishment of district

Sec. 20. A unit that incurred indebtedness for fire protection services before the establishment of a fire protection district under this chapter shall continue to repay that indebtedness by levies within the boundaries of the unit until the indebtedness is paid in full.

As added by Acts 1981, P.L.309, SEC.63.

IC 36-8-11-21

Disbanding fire department not required

Sec. 21. This chapter does not require a municipality or township to disband its fire department unless its legislative body consents by ordinance.

As added by Acts 1981, P.L.309, SEC.63.

IC 36-8-11-22

Areas annexed by municipalities

Sec. 22. Any area that is part of a fire protection district and is annexed by a municipality that is not a part of the district ceases to be a part of the fire protection district when the municipality begins to provide fire protection services to the area.

As added by P.L.341-1987, SEC.4.

IC 36-8-11-22.1

Multiple county district; board of fire trustees

Sec. 22.1. (a) This section applies to a district that consists of a

municipality that is located in two (2) counties.

(b) This section does not apply to a merged district under section 23 of this chapter.

(c) Sections 6 and 7 of this chapter apply to the petition.

(d) The board of fire trustees for the district shall be appointed as prescribed by section 12 of this chapter. However, the legislative body of each county within which the district is located shall jointly appoint one (1) trustee from each township or part of a township contained in the district and one (1) trustee from the municipality contained in the district. The legislative body of each county shall jointly appoint a member to fill a vacancy.

(e) Sections 13, 14, and 15 of this chapter relating to the board of fire trustees apply to the board of the district. However, the county legislative bodies serving the district shall jointly decide where the board shall locate (or approve location of) its office.

(f) Sections 16, 17, 18, 19, and 21 of this chapter relating to the taxing district, bonds, annual budget, tax levies, and disbanding of fire departments apply to the district. However, the budget must be approved by the county fiscal body and county board of tax adjustment in each county in the district. In addition, the auditor of each county in the district shall perform the duties described in section 18(c) of this chapter.

As added by P.L.36-2000, SEC.8. Amended by P.L.224-2007, SEC.128; P.L.146-2008, SEC.781.

IC 36-8-11-23

Merger of districts

Sec. 23. (a) Any fire protection district may merge with one (1) or more protection districts to form a single district if at least one-eighth (1/8) of the aggregate external boundaries of the districts coincide.

(b) The legislative body of the county where at least two (2) districts are located (or if the districts are located in more than one (1) county, the legislative body of each county) shall, if petitioned by freeholders in the two (2) districts, adopt an ordinance merging the districts into a single fire protection district.

(c) Freeholders who desire the merger of at least two (2) fire protection districts must initiate proceedings by filing a petition in the office of the county auditor of each county where a district is located. The petition must be signed:

(1) by at least twenty percent (20%), with a minimum of five hundred (500) from each district, of the freeholders owning land within the district; or

(2) by a majority of the freeholders from the districts;

whichever is less.

(d) The petition described in subsection (c) must state the same items listed in section 7 of this chapter. Sections 6, 8, and 9 of this chapter apply to the petition and to the legislative body of each county in the proposed district.

(e) The board of fire trustees for each district shall form a single board, which shall continue to be appointed as prescribed by section

12 of this chapter. In addition, sections 13, 14, and 15 of this chapter relating to the board of fire trustees apply to the board of the merged district, except that if the merged district lies in more than one (1) county, the county legislative bodies serving the combined district shall jointly decide where the board shall locate (or approve relocation of) its office.

(f) Sections 16, 17, 18, 19, and 21 of this chapter relating to the taxing district, bonds, annual budget, tax levies, and disbanding of fire departments apply to a merged district. However, the budget must be approved by the county fiscal body and county board of tax adjustment in each county in the merged district. In addition, the auditor of each county in the district shall perform the duties described in section 18(c) of this chapter.

As added by P.L.341-1987, SEC.5. Amended by P.L.63-1991, SEC.6; P.L.224-2007, SEC.129; P.L.146-2008, SEC.782.

IC 36-8-11-24

Dissolution of districts

Sec. 24. (a) Proceedings to dissolve a fire protection district may be instituted by the filing of a petition with the county legislative body that formed the district. If the proceedings are for dissolution of a district to which section 5.1 of this chapter applies, the proceedings may be instituted by the filing of a petition with the primary county or the secondary county, or both.

(b) The petition must be signed:

(1) by at least twenty percent (20%), with a minimum of five hundred (500), of the freeholders owning land within the district; or

(2) by a majority of those freeholders owning land within the district;

whichever is less.

(c) Except as provided in subsection (d), the provisions of section 8 of this chapter concerning a petition to establish a district apply to a dissolution petition.

(d) If the district is established under section 5.1 of this chapter, the provisions of section 5.1 of this chapter apply to a petition to dissolve the district.

(e) Except as provided in subsection (f), a petition against the dissolution of the fire protection district may be presented to the county legislative body at or after a hearing on the petition to dissolve a district and before the adoption of an ordinance or resolution dissolving the district. If the legislative body finds that it contains the signatures of fifty-one percent (51%) of the freeholders within the district or of the freeholders who own two-thirds (2/3) of the real property within the district, determined by assessed valuation, the legislative body shall dismiss the petition for the dissolution of the district.

(f) If a district is established under section 5.1 of this chapter, the provisions of section 9.5 of this chapter apply to a petition to dissolve the district.

(g) If, after the public hearing, the legislative body determines that dissolution should occur, it shall adopt an ordinance dissolving the district. If the district is established under section 5.1 of this chapter, both legislative bodies of the counties containing the district must adopt ordinances dissolving the district after determining in a public hearing that the district should be dissolved.

(h) A dissolution takes effect three (3) months after the later of the adoption of the ordinance under subsection (g) or the payment of the district's debts and liabilities, including its liabilities under IC 34-13-2 and IC 34-13-3. The property owned by the district after payment of debts and liabilities shall be disposed of in the manner chosen by the county legislative body or county legislative bodies. Dissolution of a district does not affect the validity of any contract to which the district is a party.

(i) A person aggrieved by a decision made by the county legislative body or county legislative bodies under this section may, within thirty (30) days, appeal the decision to the circuit court for any county in which the district is located. The appeal is instituted by giving written notice to each county legislative body within which the district is located and filing with the circuit court clerk a bond in the sum of five hundred dollars ($500), with surety approved by the legislative body or legislative bodies. The bond must provide that the appeal will be duly prosecuted and that the appellants will pay all costs if the appeal is decided against them. When an appeal is instituted, the county legislative body or county legislative bodies shall file with the circuit court clerk a transcript of all proceedings in the case, together with all papers filed in the case. The county legislative body or county legislative bodies may not take further action in the case until the appeal is heard and determined. An appeal under this subsection shall be heard by the circuit court without a jury. Change of venue from the judge may be granted, but change of venue from the county may not be granted.

As added by P.L.341-1987, SEC.6. Amended by P.L.63-1991, SEC.7; P.L.36-2000, SEC.9.

IC 36-8-11-25
Repealed

(*Repealed by P.L.394-1987(ss), SEC.3.)*

IC 36-8-11-26
Purchase of firefighting equipment on installment conditional sale or mortgage contract

Sec. 26. After a sufficient appropriation for the purchase of firefighting apparatus and equipment, including housing, is made and is available, the district's fiscal officer, with the approval of the board and the county fiscal body, may purchase the firefighting apparatus and equipment for the district on an installment conditional sale or mortgage contract running for a period not exceeding:

(1) six (6) years; or

(2) fifteen (15) years for a district that:

(A) has a total assessed value of sixty million dollars ($60,000,000) or less, as determined by thedepartment of local government finance; and

(B) is purchasing the firefighting equipment with funding from the:

(i) state or its instrumentalities; or

(ii) federal government or its instrumentalities.

The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year.

As added by P.L.83-1998, SEC.2. Amended by P.L.90-2002, SEC.493; P.L.178-2002, SEC.133.

IC 36-8-11-27

Payment of line of duty health care expenses for firefighters

Sec. 27. (a) A fire protection district shall pay for the care of a full-time, paid firefighter who suffers:

(1) an injury; or

(2) contracts an illness;

during the performance of the firefighter's duties.

(b) The fire protection district shall pay for the following expenses incurred by a firefighter described in subsection (a):

(1) Medical and surgical care.

(2) Medicines and laboratory, curative, and palliative agents and means.

(3) X-ray, diagnostic, and therapeutic service, including service provided during the recovery period.

(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the fund used by the fire protection district for payment of the costs attributable to providing fire protection services in the fire protection district.

(d) A fire protection district that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for:

(1) an injury sustained because of; or

(2) an illness caused by;

the third party. The fire protection district's cause of action under this subsection is in addition to, and not instead of, the cause of action of the firefighter against the third party.

As added by P.L.150-2002, SEC.3.

IC 36-8-12

Chapter 12. Volunteer Fire Departments

IC 36-8-12-0.1

Application of certain amendments to chapter

Sec. 0.1. The formula added to section 6 of this chapter by P.L.70-1995 applies to insurance policies that are entered into or renewed after December 31, 1995.

As added by P.L.220-2011, SEC.676.

IC 36-8-12-1

Application of chapter

Sec. 1. Except as provided in section 10 of this chapter, this chapter applies to all units except counties.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.72-1992, SEC.4.

IC 36-8-12-2

Definitions

Sec. 2. As used in this chapter:

"Emergency medical services personnel" means individuals certified by the emergency medical services commission established by IC 16-31-2-1 who:

(1) as a result of a written application, have been elected or appointed to membership in a volunteer fire department; and

(2) have executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the individuals by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training.

"Employee" means a person in the service of another person under a written or implied contract of hire or apprenticeship.

"Employer" means:

(1) a political subdivision;

(2) an individual or the legal representative of a deceased individual;

(3) a firm;

(4) an association;

(5) a limited liability company;

(6) an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5(a); or

(7) a corporation or its receiver or trustee;

that uses the services of another person for pay.

"Essential employee" means an employee:

(1) who the employer has determined to be essential to the operation of the employer's daily enterprise; and

(2) without whom the employer is likely to suffer economic injury as a result of the absence of the essential employee.

"Nominal compensation" means annual compensation of not more

than twenty thousand dollars ($20,000).

"Public servant" has the meaning set forth in IC 35-31.5-2-261.

"Responsible party" has the meaning set forth in IC 13-11-2-191(e).

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

(1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;

(2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and

(3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

"Volunteer member" means a member of a volunteer emergency medical services association connected with a unit as set forth in IC 16-31-5-1(6).

As added by Acts 1981, P.L.309, SEC.64. Amended by Acts 1981, P.L.181, SEC.3; P.L.217-1989, SEC.6; P.L.70-1995, SEC.6; P.L.1-1996, SEC.91; P.L.1-1999, SEC.88; P.L.192-1999, SEC.1; P.L.119-2003, SEC.1; P.L.43-2005, SEC.2; P.L.127-2009, SEC.11; P.L.174-2009, SEC.2; P.L.114-2012, SEC.150.

IC 36-8-12-3

Agreements with units; authorization

Sec. 3. A unit may enter into an agreement with one (1) or more volunteer fire departments that maintain adequate firefighting service for the use and operation of firefighting apparatus and equipment owned by the volunteer fire department, including the service of the operators of the apparatus and equipment, so that the private and public property of the unit is saved from destruction by fire.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.1-1999, SEC.89.

IC 36-8-12-4

Agreements with units; consideration

Sec. 4. The contract between a unit and a volunteer fire department must provide that the unit pay to the department, as consideration for the contract, an amount of money that is determined by negotiation between them. This consideration must include the amounts that the unit is required to pay under this chapter for insurance premiums and clothing, automobile, and other allowances.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.1-1999, SEC.90.

IC 36-8-12-5
Clothing and automobile allowances; fees for membership in firefighters' association

Sec. 5. (a) Unless otherwise provided by contract, a unit served by a volunteer fire department shall pay to each active and participating member of the department:

(1) a clothing allowance of not less than one hundred dollars ($100) per year; and

(2) an automobile allowance of not less than one hundred dollars ($100) per year for the use of the member's automobile in the line of duty.

(b) A contract may also provide that fees for membership in a regularly organized volunteer firefighters' association be paid by the unit on behalf of the firefighters in the volunteer fire department.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.229-1996, SEC.2; P.L.1-1999, SEC.91.

IC 36-8-12-6
Units required to insure members of department; liability for failure to insure

Sec. 6. (a) Each unit that has a volunteer fire department shall procure insurance in the name of and for the benefit of each member of the department. However, if a contract or agreement exists between a unit and a volunteer fire department, the contract or agreement must provide for insurance of the volunteer firefighters and emergency medical services personnel in the department in the amounts and with the coverages required by this chapter. Unless the contract or agreement stipulates otherwise, all insurance coverage must be under a group plan, rather than in the name of each individual firefighter and member of the emergency medical services personnel. Either the unit or the volunteer fire department, according to the contractor agreement, may undertake procurement of required insurance, but in either case, the costs of coverage must be borne by the unit. If a volunteer fire department serves more than one (1) unit under a contract or agreement, each unit that the department serves shall pay the amount for the insurance coverage determined under the following formula:

STEP ONE: For each census block or other area in a unit that is served by more than one (1) volunteer fire department, divide the population of the area by the number of volunteer fire departments serving the area, and round the quotient to the nearest one thousandth (.001).

STEP TWO: Add the quotients determined under STEP ONE for the unit.

STEP THREE: Determine the sum of the STEP TWO amounts for all of the units served by the same volunteer fire department.

STEP FOUR: Divide the STEP TWO amount for a unit by the

STEP THREE amount and round the quotient to the nearest one thousandth (.001).

STEP FIVE: Multiply the costs of the insurance coverage for the volunteer fire department by the quotient determined under STEP FOUR, rounded to the nearest dollar.

(b) A diminution of insurance benefits may not occur under this section because of a change in the insurance carrier or a change as to who actually procures the required insurance.

(c) Each unit that has a volunteer fire department may procure an insurance policy for the benefit of auxiliary groups whose members could be injured while assisting the volunteer firefighters and emergency medical services personnel in the performance of their duties.

(d) Each unit that has a volunteer fire department may procure an insurance policy or any other type of instrument that provides retirement benefits as an incentive to volunteer firefighters and emergency medical services personnel for continued service.

(e) An insurance policy or other instrument containing any of the provisions authorized by subsection (d) may not be considered in the computation of nominal compensation for purposes of this chapter.

(f) A volunteer firefighter or member of the emergency medical services personnel who becomes covered by an insurance policy or other instrument containing any of the provisions authorized by subsection (d) does not thereby become eligible for membership in the public employees' retirement fund under IC 5-10.3.

(g) If a unit fails to provide the insurance for a volunteer firefighter or member of the emergency medical services personnel that this chapter requires it to provide, and a volunteer firefighter or member of the emergency medical services personnel suffers a loss of the type that the insurance would have covered, then the unit shall pay to that volunteer firefighter or member of the emergency medical services personnel the same amount of money that the insurance would have paid to the volunteer firefighter or member of the emergency medical services personnel.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.351-1987, SEC.1; P.L.268-1993, SEC.1; P.L.70-1995, SEC.7; P.L.1-1999, SEC.92; P.L.174-2009, SEC.3.

IC 36-8-12-7

Insurance; disability and medical expense coverage

Sec. 7. Each policy of insurance must provide for payment to a member of a volunteer fire department, for accidental injury or smoke inhalation caused by or occurring in the course of the performance of the duties of a volunteer firefighter or member of the emergency medical services personnel and for a cardiac disease event proximately caused within forty-eight (48) hours by or occurring in the course of the performance of the duties of a volunteer firefighter or member of the emergency medical services personnel while in an emergency situation, as follows:

(1) For total disability that prevents the member from pursuing

the member's usual vocation:

(A) after June 30, 2009, and before July 24, 2009, a weekly indemnity of not less than two hundred sixty-two dollars ($262); and

(B) after July 23, 2009, a weekly indemnity of not less than two hundred ninety dollars ($290);

up to a maximum of two hundred sixty (260) weeks. After July 23, 2009, the weekly indemnity may not be less than the Indiana minimum wage computed on the basis of a forty (40) hour week.

(2) For medical expenses, coverage for incurred expenses. However, the policy may not have medical expense limits of less than seventy-five thousand dollars ($75,000).

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.367-1983, SEC.1; P.L.348-1985, SEC.1; P.L.229-1996, SEC.3; P.L.1-1999, SEC.93; P.L.192-1999, SEC.2; P.L.174-2009, SEC.4.

IC 36-8-12-8

Insurance; death benefits; permanent disability; liability coverage; limitations on liability

Sec. 8. (a) The policy of insurance required by section 6 of this chapter must provide for the payment of a sum not less than one hundred fifty thousand dollars ($150,000) to the beneficiary, beneficiaries, or estate of a volunteer firefighter or member of the emergency medical services personnel if the firefighter or member of the emergency medical services personnel dies from an injury or smoke inhalation occurring while in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel or from a cardiac disease event proximately caused within forty-eight (48) hours by or occurring while in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel.

(b) The policy of insurance must provide for the payment of a sum not less than one hundred fifty thousand dollars ($150,000) to the volunteer firefighter or member of the emergency medical services personnel if the firefighter or member of the emergency medical services personnel becomes totally and permanently disabled for a continuous period of not less than two hundred sixty (260) weeks as a result of an injury or smoke inhalation occurring in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel.

(c) The policy of insurance must also provide for indemnification to a member of a volunteer fire department who becomes partially and permanently disabled or impaired as a result of an injury or smoke inhalation occurring in the performance of the firefighter's or member of the emergency medical services personnel's duties.

(d) For the purposes of this section, partial and permanent

disability or impairment shall be indemnified as a percentage factor of a whole person.

(e) In addition to other insurance provided volunteer firefighters or emergency medical services personnel under this chapter, each unit shall be covered by an insurance policy that provides a minimum of three hundred thousand dollars ($300,000) of insurance coverage for the liability of all of the unit's volunteer firefighters or emergency medical services personnel for bodily injury or property damage caused by the firefighters or emergency medical services personnel acting in the scope of their duties while on the scene of a fire or other emergency. The civil liability of a volunteer firefighter or member of the emergency medical services personnel for:

(1) an act that is within the scope of a volunteer firefighter's duties; or

(2) the failure to do an act that is within the scope of a volunteer firefighter's duties;

while performing emergency services at the scene of a fire or other emergency or while traveling in an emergency vehicle from the fire station to the scene of the fire or emergency or from the scene of a fire or emergency back to the fire station is limited to the coverage provided by the insurance policy purchased under this subsection. A volunteer firefighter or member of the emergency medical services personnel is not liable for punitive damages for any act that is within the scope of a volunteer firefighter's or member of the emergency medical services personnel's duties. However, if insurance as required under this subsection is not in effect to provide liability coverage for a volunteer firefighter or member of the emergency medical services personnel, the firefighter or member of the emergency medical services personnel is not subject to civil liability for an act or a failure to act as described in this subsection.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.367-1983, SEC.2; P.L.204-1984, SEC.1; P.L.200-1986, SEC.2; P.L.217-1989, SEC.7; P.L.172-1990, SEC.1; P.L.268-1993, SEC.2; P.L.1-1999, SEC.94; P.L.192-1999, SEC.3; P.L.174-2009, SEC.5.

IC 36-8-12-9

Insurance premiums; payment from general fund

Sec. 9. All expenses incurred for premiums of the insurance required by this chapter shall be paid out of the general fund of the unit in the same manner as other expenses in the unit are paid.

As added by Acts 1981, P.L.309, SEC.64.

IC 36-8-12-10

Volunteers; medical treatment and burial expense coverage; determinations; premium expenses

Sec. 10. (a) A:

(1) volunteer firefighter, a member of the emergency medical services personnel, or an emergency medical technician working in a volunteer capacity for a volunteer fire department or ambulance company is covered; and

(2) volunteer working for a hazardous materials response team may be covered;

by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

(b) If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

(c) This subsection applies to all units, including counties. All expenses incurred for premiums of the insurance allowed under this section may be paid from the unit's general fund in the same manner as other expenses in the unit are paid.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.198-1988, SEC.1; P.L.3-1989, SEC.230; P.L.172-1990, SEC.2; P.L.72-1992, SEC.5; P.L.1-1999, SEC.95; P.L.174-2009, SEC.6.

IC 36-8-12-10.5

Employees of political subdivisions; volunteer firefighting or volunteer member activity

Sec. 10.5. (a) This section does not apply to an employee of the state subject to IC 4-15-10-7.

(b) This section applies to an employee of a political subdivision who:

(1) is a volunteer firefighter or volunteer member; and

(2) has notified the employee's employer in writing that the employee is a volunteer firefighter or volunteer member.

(c) The political subdivision employer may not discipline an employee:

(1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment;

(2) for leaving the employee's duty station to respond to a fire or an emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the employee has reported to work; or

(3) for:

(A) an injury; or

(B) an absence from work because of an injury;

that occurs while the employee is engaged in emergency firefighting or other emergency response.

However, for each instance of emergency firefighting activity or other emergency response that results in an injury to an employee, subdivision (3) applies only to the period of the employee's absence from work that does not exceed six (6) months from the date of the injury.

(d) The political subdivision employer may require an employee who has been absent from employment as set forth in subsection (c) to present a written statement from the fire chief or other officer in charge of the volunteer fire department, or officer in charge of the

volunteer emergency medical services association, at the time of the absence or injury indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence or injury.

(e) The political subdivision employer may require an employee who is injured or absent from work as described in subsection (c)(3) to provide evidence from a physician or other medical authority showing:

(1) treatment for the injury at the time of the absence; and

(2) a connection between the injury and the employee's emergency firefighting or other emergency response activities.

(f) To the extent required by federal or state law, information obtained under subsection (e) by a political subdivision employer must be:

(1) retained in a separate medical file created for the employee; and

(2) treated as a confidential medical record.

(g) An employee who is disciplined by the employer in violation of subsection (c) may bring a civil action against the employer in the county of employment. In the action, the employee may seek the following:

(1) Payment of back wages.

(2) Reinstatement to the employee's former position.

(3) Fringe benefits wrongly denied or withdrawn.

(4) Seniority rights wrongly denied or withdrawn.

An action brought under this subsection must be filed within one (1) year after the date of the disciplinary action.

(h) A public servant who permits or authorizes an employee of a political subdivision under the supervision of the public servant to be absent from employment as set forth in subsection (c) is not considered to have committed a violation of IC 35-44.1-1-3(b).

As added by P.L.49-2004, SEC.1. Amended by P.L.43-2005, SEC.3; P.L.63-2009, SEC.2; P.L.126-2012, SEC.64.

IC 36-8-12-10.7

Employees of private employers; volunteer firefighting or volunteer member activity

Sec. 10.7. (a) This section applies to an employee of a private employer who:

(1) is a volunteer firefighter or volunteer member; and

(2) has notified the employee's employer in writing that the employee is a volunteer firefighter or volunteer member.

(b) Except as provided in subsection (c), the employer may not discipline an employee:

(1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment;

(2) for leaving the employee's duty station to respond to a fire or emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in

response to a fire or an emergency call received after the employee has reported to work; or

(3) for:

(A) an injury; or

(B) an absence from work because of an injury;

that occurs while the employee is engaged in emergency firefighting or other emergency response.

However, for each instance of emergency firefighting activity or other emergency response that results in an injury to an employee, subdivision (3) applies only to the period of the employee's absence from work that does not exceed six (6) months from the date of the injury.

(c) After the employer has received the notice required under subsection (a)(2), the employer may reject the notification from the employee on the grounds that the employee is an essential employee to the employer. If the employer has rejected the notification of the employee:

(1) subsection (b) does not apply to the employee; and

(2) the employee must promptly notify the:

(A) fire chief or other officer in charge of the volunteer fire department; or

(B) the officer in charge of the volunteer emergency medical services association;

of the rejection of the notice of the employee who is a volunteer firefighter or a volunteer member.

(d) The employer may require an employee who has been absent from employment as set forth in subsection (b) to present a written statement from the fire chief or other officer in charge of the volunteer fire department, or officer in charge of the emergency medical services association, at the time of the absence or injury indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence or injury.

(e) The employer may require an employee who is injured or absent from work as described in subsection (b)(3) to provide evidence from a physician or other medical authority showing:

(1) treatment for the injury at the time of the absence; and

(2) a connection between the injury and the employee's emergency firefighting or other emergency response activities.

(f) To the extent required by federal or state law, information obtained under subsection (e) by an employer must be:

(1) retained in a separate medical file created for the employee; and

(2) treated as a confidential medical record.

As added by P.L.43-2005, SEC.4. Amended by P.L.63-2009, SEC.3.

IC 36-8-12-10.9

Notice of absence; remuneration

Sec. 10.9. (a) The employer may require an employee who will be absent from employment as set forth in:

(1) section 10.5(c)(1); or

(2) section 10.7(b)(1);

of this chapter to notify the employer before the scheduled start time for the absence from employment to be excused by the employer.

(b) The employer is not required to pay salary or wages to an employee who has been absent from employment as set forth in section 10.5(c) or 10.7(b) of this chapter for the time away from the employee's duty station. The employee may seek remuneration for the absence from employment by the use of:

(1) vacation leave;

(2) personal time;

(3) compensatory time off; or

(4) in the case of an absence from employment as set forth in section 10.5(c)(3) or 10.7(b)(3) of this chapter, sick leave.

(c) An employer shall administer an absence from employment as set forth in section 10.5(c)(3) or 10.7(b)(3) of this chapter in a manner consistent with the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), as amended and in effect on January 1, 2009.

As added by P.L.43-2005, SEC.5. Amended by P.L.63-2009, SEC.4; P.L.1-2010, SEC.153.

IC 36-8-12-11

Blue lights on private vehicles; authorization; violations

Sec. 11. (a) Members of volunteer fire departments may display blue lights on their privately owned vehicles while en route to scenes of emergencies or to the fire station in the line of duty subject to the following conditions:

(1) A light must have a light source of at least thirty-five (35) watts.

(2) All lights must be placed on the:

(A) top of the vehicle;

(B) dashboard inside a vehicle, shielded to prevent distracting the driver; or

(C) front of the vehicle upon the bumper or at bumper level.

(3) No more than four (4) blue light assemblies may be displayed on one (1) vehicle, and each blue light assembly must be of the flashing or revolving type.

(4) A blue light assembly may contain multiple bulbs.

(5) A blue light may not be a part of the regular head lamps displayed on the vehicles. Alternately flashing head lamps may be used as a supplemental warning device. Strobe lights or flashers may be installed into the light fixtures on the vehicle other than the alternating head lamps. The strobe lights or flashers may be either white or blue, with the exception of red to the rear.

(b) In order for a volunteer firefighter to display a blue light on a vehicle, the volunteer firefighter must secure a written permit from the chief of the volunteer fire department to use the blue light and must carry the permit at all times when the blue light is displayed.

(c) A person who is not a member of a volunteer fire department

may not display an illuminated blue light on a vehicle.

(d) A permittee of the owner of a vehicle lawfully equipped with a blue light may operate the vehicle only if the blue light is not illuminated.

(e) A person who violates subsection (a), (b), (c), or (d) commits a Class C infraction. If the violator is a member of a volunteer fire department, the chief of the department shall discipline the violator under fire department rules and regulations.

(f) This section does not grant a vehicle displaying blue lights the right-of-way under IC 9-21-8-35 or exemption from traffic rules under IC 9-21-1-8. A driver of a vehicle displaying a blue light shall obey all traffic rules.

(g) This section shall not be construed to include a vehicle displaying a blue light and driven by a member of a volunteer fire department as an authorized emergency vehicle (as defined in IC 9-13-2-6).

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.88-1990, SEC.4; P.L.2-1991, SEC.108; P.L.99-1991, SEC.4; P.L.1-1999, SEC.96; P.L.6-2001, SEC.1; P.L.153-2002, SEC.2.

IC 36-8-12-12

Nonfire emergency activities; duties of fire chief

Sec. 12. When a volunteer fire department is responding to a fire call and there is no other fire department with overriding jurisdiction present, the fire chief, or in his absence the ranking officer, shall direct all nonfire emergency activities at the scene until a law enforcement officer arrives on the scene.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.1-1999, SEC.97.

IC 36-8-12-13

Charges; owners of property or vehicle involved in fire or spill; failure to pay; administrative fees

Sec. 13. (a) Except as provided in subsection (b), the volunteer fire department that responds first to an incident may impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined in IC 13-11-2-191(e)) that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)):

(1) that is responded to by the volunteer fire department; and

(2) that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up.

A second or subsequently responding volunteer fire department may not impose a charge on an owner or responsible party under this section, although it may be entitled to reimbursement from the first responding volunteer fire department in accordance with an interlocal or other agreement.

(b) A volunteer fire department that is funded, in whole or in part:

(1) by taxes imposed by a unit; or

(2) by a contract with a unit;

may not impose a charge under subsection (a) on a natural person who resides or pays property taxes within the boundaries of the unit described in subdivision (1) or (2), unless the spill or the chemical or hazardous material fire poses an imminent threat to persons or property.

(c) The volunteer fire department shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under section 16 of this chapter. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

(1) deposited in the township firefighting fund established in IC 36-8-13-4;

(2) used to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus; or

(3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(d) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(e) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(f) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

(g) The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a) and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.

As added by P.L.315-1989, SEC.1. Amended by P.L.18-1990, SEC.294; P.L.70-1995, SEC.8; P.L.2-1996, SEC.293; P.L.1-1996, SEC.92; P.L.50-1998, SEC.3; P.L.1-1999, SEC.98; P.L.107-2007, SEC.15; P.L.127-2009, SEC.12; P.L.182-2009(ss), SEC.435; P.L.1-2010, SEC.154; P.L.208-2011, SEC.1.

IC 36-8-12-15

Liability limits; punitive damages

Sec. 15. The combined aggregate liability of a volunteer fire department for an act or failure to act that is within the scope of the department's duties does not exceed three hundred thousand dollars ($300,000) for injury to or death of one (1) person in any one (1) occurrence and does not exceed five million dollars ($5,000,000) for injury to or death of all persons in that occurrence. A volunteer fire department is not liable for punitive damages.

As added by P.L.217-1989, SEC.8. Amended by P.L.1-1999, SEC.99.

IC 36-8-12-16
Schedule of charges for service; conditions for collection; reports; failure to pay

Sec. 16. (a) A volunteer fire department that provides service within a jurisdiction served by the department may establish a schedule of charges for the services that the department provides not to exceed the state fire marshal's recommended schedule for services. The volunteer fire department or its agent may collect a service charge according to this schedule from the owner of property that receives service if the following conditions are met:

(1) At the following times, the department gives notice under IC 5-3-1-4(d) in each political subdivision served by the department of the amount of the service charge for each service that the department provides:

(A) Before the schedule of service charges is initiated.

(B) When there is a change in the amount of a service charge.

(2) The property owner has not sent written notice to the department to refuse service by the department to the owner's property.

(3) The bill for payment of the service charge:

(A) is submitted to the property owner in writing within thirty (30) days after the services are provided;

(B) includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report;

(C) must contain verification that the bill has been approved by the chief of the volunteer fire department; and

(D) must contain language indicating that correspondence from the property owner and any question from the property owner regarding the bill should be directed to the department.

(4) Payment is remitted directly to the governmental unit providing the service.

(b) A volunteer fire department shall use the revenue collected from the fire service charges under this section:

(1) for the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services;

(2) for deposit in the township firefighting fund established under IC 36-8-13-4; or

(3) to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(c) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(d) An agent who processes fees on behalf of a fire department

shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(e) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

(f) If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the schedule of service charges established under subsection (a) before the schedule of service charges is initiated in that political subdivision.

(g) A volunteer fire department that:

(1) has contracted with a political subdivision to provide fire protection or emergency services; and

(2) charges for services under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of service charges collected during the previous calendar year and how those funds have been expended.

(h) The state fire marshal shall annually prepare and publish a recommended schedule of service charges for fire protection services.

(i) The volunteer fire department or its agent may maintain a civil action to recover an unpaid service charge under this section and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.

As added by P.L.63-1991, SEC.8. Amended by P.L.70-1995, SEC.9; P.L.2-1996, SEC.294; P.L.1-1996, SEC.93; P.L.1-1998, SEC.213; P.L.50-1998, SEC.4; P.L.1-1999, SEC.100; P.L.240-2001, SEC.2; P.L.107-2007, SEC.16; P.L.3-2008, SEC.266; P.L.182-2009(ss), SEC.436; P.L.208-2011, SEC.2.

IC 36-8-12-17

False alarm service charges

Sec. 17. (a) If a political subdivision has not imposed its own false alarm fee or service charge, a volunteer fire department that provides service within the jurisdiction may establish a service charge for responding to false alarms. The volunteer fire department may collect the false alarm service charge from the owner of the property if the volunteer fire department dispatches firefighting apparatus or personnel to a building or premises in the township in response to:

(1) an alarm caused by improper installation or improper maintenance; or

(2) a drill or test, if the fire department is not previously notified that the alarm is a drill or test.

However, if the owner of property that constitutes the owner's residence establishes that the alarm is under a maintenance contract with an alarm company and that the alarm company has been notified of the improper installation or maintenance of the alarm, the alarm

company is liable for the payment of the fee or service charge.

(b) Before establishing a false alarm service charge, the volunteer fire department must provide notice under IC 5-3-1-4(d) in each political subdivision served by the department of the amount of the false alarm service charge. The notice required by this subsection must be given:

(1) before the false alarm service charge is initiated; and

(2) before a change in the amount of the false alarm service charge.

(c) A volunteer fire department may not collect a false alarm service charge from a property owner or alarm company unless the department's bill for payment of the service charge:

(1) is submitted to the property owner in writing within thirty (30) days after the false alarm; and

(2) includes a copy of a fire incident report in the form prescribed by the state fire marshal.

(d) A volunteer fire department shall use the money collected from the false alarm service charge imposed under this section:

(1) for the purchase of equipment, buildings, and property for fire fighting, fire protection, or other emergency services;

(2) for deposit in the township firefighting fund established under IC 36-8-13-4; or

(3) to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(e) If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the false alarm service charge established under subsection (a) before the service charge is initiated in that political subdivision.

(f) A volunteer fire department that:

(1) has contracted with a political subdivision to provide fire protection or emergency services; and

(2) imposes a false alarm service charge under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of false alarm charges collected during the previous calendar year and how those funds have been expended.

(g) The volunteer fire department may maintain a civil action to recover unpaid false alarm service charges imposed under this section and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.

As added by P.L.82-2001, SEC.2. Amended by P.L.107-2007, SEC.17; P.L.208-2011, SEC.3.

IC 36-8-12-18
Confidential information; exceptions

Sec. 18. (a) A volunteer fire department may declare the following records confidential for purposes of IC 5-14-3:

(1) Personnel files of members of the volunteer fire department.

(2) Files of applicants to the volunteer fire department.

However, all personnel file information shall be made available to an affected member or the member's representative.

(b) Notwithstanding subsection (a), a volunteer fire department may not declare the following information contained in files described in subsection (a) confidential:

(1) The name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former members of the volunteer fire department.

(2) Information relating to the status of any formal charges against a member.

(3) The factual basis for a disciplinary action in which final action has been taken and that resulted in the member being suspended, demoted, or discharged.

(c) This section does not apply to disclosure of personnel information generally on all members or for groups of members without the request being particularized by member name.

As added by P.L.101-2006, SEC.38.

IC 36-8-12-19

Suspension or termination of EMS personnel; right to hearing and appeal

Sec. 19. (a) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.

(b) If a medical director takes any of the following actions against a member of the emergency medical services personnel, the medical director shall provide to the member and to the chief of the member's volunteer fire department a written explanation of the reasons for the action taken by the medical director:

(1) The medical director refuses or fails to supervise or otherwise provide medical control and direction to the member.

(2) The medical director refuses or fails to attest to the competency of the member to perform emergency medical services.

(3) The medical director suspends the member from performing emergency medical services.

(c) Before a volunteer fire department takes an action that affects the member's appointment with the volunteer fire department as the result of a medical director's action described in subsection (b), the member is entitled to a hearing and appeal concerning the medical director's action as provided in IC 36-8-3-4. The safety board of the unit that entered into an agreement with the volunteer fire department under section 3 of this chapter shall hear the member's appeal

provided by this subsection.

(d) If the medical director's action that is the subject of an appeal under subsection (c) is based on a health care decision made by the member in performing emergency medical services, the safety board conducting the hearing shall consult with an independent medical expert to determine whether the member followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

(1) must be a physician trained in emergency medical services; and

(2) may not be affiliated with the same hospital as the medical director.

As added by P.L.13-2010, SEC.5.

IC 36-8-12.2

Chapter 12.2. Hazardous Materials Emergency Action Reimbursement

IC 36-8-12.2-1

"Facility" defined

Sec. 1. As used in this chapter, "facility" has the meaning set forth in 327 IAC 2-6.1-4(7), as in effect on January 1, 2001.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-2

"Fire department" defined

Sec. 2. As used in this chapter, "fire department" means a fire department that:

(1) is established under IC 36-8-2-3 or IC 36-8-13-3(a)(1); and

(2) employs:

(A) both full-time paid members and volunteer members; or

(B) only full-time paid members.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-3

"Hazardous materials emergency" defined

Sec. 3. As used in this chapter, "hazardous materials emergency" has the meaning set forth in IC 13-11-2-97.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-4

"Mode of transportation" defined

Sec. 4. As used in this chapter, "mode of transportation" has the meaning set forth in 327 IAC 2-6.1-4(10), as in effect on January 1, 2001.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-5

"Responsible party" defined

Sec. 5. As used in this chapter, "responsible party" has the meaning set forth in IC 13-11-2-191(e).

As added by P.L.33-2001, SEC.3. Amended by P.L.127-2009, SEC.13.

IC 36-8-12.2-6

Imposition of service charges and administrative fees

Sec. 6. (a) A fire department may impose a charge on a person that is a responsible party with respect to a hazardous materials emergency that:

(1) the fire department responded to;

(2) members of that fire department assisted in containing, controlling, or cleaning up;

(3) with respect to the release or imminent release of hazardous materials at a facility, involves a quantity of hazardous

materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-5, as in effect on January 1, 2001; and

(4) with respect to the release or imminent release of hazardous materials from a mode of transportation, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-6, as in effect on January 1, 2001.

(b) The owner or responsible party shall remit payment directly to the governmental unit providing the service.

(c) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(d) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(e) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

As added by P.L.33-2001, SEC.3. Amended by P.L.182-2009(ss), SEC.437.

IC 36-8-12.2-7

Service charge billed to responsible party

Sec. 7. A fire department imposing a charge under this chapter may bill the responsible party for the total value of the assistance provided, as determined from the state fire marshal's schedule of service charges issued under IC 36-8-12-16(h).

As added by P.L.33-2001, SEC.3. Amended by P.L.182-2009(ss), SEC.438.

IC 36-8-12.2-8

General fund of unit; hazardous materials response fund

Sec. 8. (a) Money collected under this chapter must be deposited in one (1) of the following:

(1) The general fund of the unit that established the fire department under IC 36-8-2-3 or IC 36-8-13-3(a)(1).

(2) A hazardous materials response fund established under section 8.1 of this chapter by a city or town having a fire department established under IC 36-8-2-3.

(b) Money collected under this chapter may be used only for the following:

(1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter.

(2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under this chapter.

(3) Payment to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under this chapter.

As added by P.L.33-2001, SEC.3. Amended by P.L.173-2003, SEC.37.

IC 36-8-12.2-8.1
Establishing hazardous materials response fund; fund administration

Sec. 8.1. (a) The fiscal body of each city or town that establishes a fire department under IC 36-8-2-3 may, by ordinance or resolution, establish a hazardous materials response fund.

(b) The hazardous materials response fund shall be administered by the unit's fiscal officer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

As added by P.L.173-2003, SEC.38.

IC 36-8-12.2-9
Billing for services of fire department

Sec. 9. (a) A fire department may not bill under this chapter for services provided that duplicate services provided by another governmental entity.

(b) The responsible party billed for services under this chapter may elect to reimburse the fire department by providing replacement materials that are of equal or greater value than those expended by the fire department in responding to the emergency.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-10
Actions for reimbursement

Sec. 10. A fire department that imposes a service charge under this chapter and maintains an action for reimbursement under IC 13-25-6-5 may recover all costs of the action, including attorney's fees.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.2-11
Penalties

Sec. 11. A responsible party is subject to a penalty for failure to pay the full amount of a charge made under this chapter within sixty (60) days after the issuance of the bill for payment by the fire department. The amount of the penalty is ten percent (10%) of the amount of the charge that remains unpaid on the due date.

As added by P.L.33-2001, SEC.3.

IC 36-8-12.5
Repealed

(*Repealed by P.L.268-1993, SEC.3.)*

IC 36-8-13

Chapter 13. Township Fire Protection and Emergency Services

IC 36-8-13-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 5 of this chapter by P.L.83-1998 apply only to purchases that occur after June 30, 1998.
As added by P.L.220-2011, SEC.677.

IC 36-8-13-1

Application of chapter

Sec. 1. This chapter applies to all townships. However, this chapter does not apply to a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1.
As added by Acts 1981, P.L.309, SEC.65. Amended by P.L.227-2005, SEC.49.

IC 36-8-13-2

Establishment of fire protection; procedure

Sec. 2. If a majority of the owners of taxable real property residing within and owning real property within that part of a township located outside the corporate boundaries of a municipality petition the township executive and legislative body to provide fire protection in that part of the township, the executive and legislative body shall grant the petition and proceed without delay to provide for fire protection. The executive and legislative body shall determine which of the methods in section 3 of this chapter for providing fire protection in townships will be followed.
As added by Acts 1981, P.L.309, SEC.65.

IC 36-8-13-3

Authorized methods of providing fire protection; preference for employment

Sec. 3. (a) The executive of a township, with the approval of the legislative body, may do the following:

(1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area. Preference in employment under this section shall be given according to the following priority:

(A) A war veteran who has been honorably discharged from the United States armed forces.

(B) A person whose mother or father was a:

(i) firefighter of a unit;

(ii) municipal police officer; or

(iii) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

The executive of a township may give a preference for employment under this section to a person who was employed full-time or part-time by another township to provide fire protection and emergency services and has been laid off by the township. The executive of a township may also give a preference for employment to a firefighter laid off by a city under IC 36-8-4-11. A person described in this subdivision may not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have some part of the municipal territory within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.

(2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of

a year.

(c) This subsection applies only to a township that:

(1) is located in a county containing a consolidated city;

(2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and

(3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities if before August 1 of the year preceding the first calendar year to which this subsection applies the township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality. The resolution must identify the included towns to which the resolution applies. In a township providing services to a municipality under this section, the legislative body of the township may opt out of participation under this subsection by adoptinga resolution before July 1 of a year. A copy of a resolution adopted under this subsection shall be submitted to the executive of each included town covered by the resolution, the county auditor, and the department of local government finance.

As added by Acts 1981, P.L.309, SEC.65. Amended by P.L.269-1993, SEC.1; P.L.2-1995, SEC.136; P.L.54-1996, SEC.2; P.L.1-1999, SEC.101; P.L.90-2002, SEC.494; P.L.95-2003, SEC.3; P.L.97-2004, SEC.131; P.L.182-2009(ss), SEC.439; P.L.110-2010, SEC.37.

IC 36-8-13-4

Township firefighting fund; tax levy; donations

Sec. 4. (a) Each township shall annually establish a township firefighting fund which is to be the exclusive fund used by the township for the payment of costs attributable to providing fire protection or emergency services under the methods prescribed in section 3 of this chapter and for no other purposes. The money in the fund may be paid out by the township executive with the consent of the township legislative body.

(b) Each township may levy, for each year, a tax for the township firefighting fund. Other than a township providing fire protection or emergency services or both to municipalities in the township under section 3(b) or 3(c) of this chapter, the tax levy is on all taxable real and personal property in the township outside the corporate boundaries of municipalities. Subject to the levy limitations contained in IC 6-1.1-18.5, the township levy is to be in an amount sufficient to pay all costs attributable to fire protection and emergency services that are not paid from other revenues available to the fund. The tax rate and levy shall be established in accordance with the procedures set forth in IC 6-1.1-17.

(c) In addition to the tax levy and service charges received under

IC 36-8-12-13 and IC 36-8-12-16, the executive may accept donations to the township for the purpose of firefighting and other emergency services and shall place them in the fund, keeping an accurate record of the sums received. A person may also donate partial payment of any purchase of firefighting or other emergency services equipment made by the township.

(d) If a fire department serving a township dispatches fire apparatus or personnel to a building or premises in the township in response to:

(1) an alarm caused by improper installation or improper maintenance; or

(2) a drill or test, if the fire department is not previously notified that the alarm is a drill or test;

the township may impose a fee or service charge upon the owner of the property. However, if the owner of property that constitutes the owner's residence establishes that the alarm is under a maintenance contract with an alarm company and that the alarm company has been notified of the improper installation or maintenance of the alarm, the alarm company is liable for the payment of the fee or service charge.

(e) The amount of a fee or service charge imposed under subsection (d) shall be determined by the township legislative body. All money received by the township from the fee or service charge must be deposited in the township's firefighting fund.

As added by Acts 1981, P.L.309, SEC.65. Amended by P.L.352-1987, SEC.1; P.L.316-1989, SEC.1; P.L.343-1989(ss), SEC.23; P.L.63-1991, SEC.9; P.L.269-1993, SEC.2; P.L.70-1995, SEC.10; P.L.54-1996, SEC.3; P.L.82-2001, SEC.3.

IC 36-8-13-4.5

Payment of township provided fire protection or emergency services; sources of funds; sufficiency of levy; donations

Sec. 4.5. (a) This section applies to a township that provides fire protection or emergency services or both to a municipality in the township under section 3(b) or 3(c) of this chapter.

(b) With the consent of the township legislative body, the township executive shall pay the expenses for fire protection and emergency services in the township, both inside and outside the corporate boundaries of participating municipalities, from any combination of the following township funds, regardless of when the funds were established:

(1) The township firefighting fund under section 4 of this chapter.

(2) The cumulative building and equipment fund under IC 36-8-14.

(3) The debt fund under sections 6 and 6.5 of this chapter.

(c) Subject to the levy limitations contained in IC 6-1.1-18.5, the tax rate and levy for the township firefighting fund, the cumulative building and equipment fund, or the debt fund is to be in an amount sufficient to pay all costs attributable to fire protection or emergency

services that are provided to the township and the participating municipalities that are not paid from other available revenues. The tax rate and levy for each fund shall be established in accordance with the procedures set forth in IC 6-1.1-17 and apply both inside and outside the corporate boundaries of participating municipalities.

(d) The township executive may accept donations for the purpose of firefighting and emergency services. The township executive shall place donations in the township firefighting fund. A person may donate partial payment of a purchase of firefighting or emergency services equipment made by the township.

As added by P.L.269-1993, SEC.3. Amended by P.L.1-1994, SEC.181; P.L.1-1994, SEC.182; P.L.37-1994, SEC.2; P.L.54-1996, SEC.4.

IC 36-8-13-4.6

Maximum permissible property tax levy; adjustment where township imposes levy to pay fire protection and emergency services expenses

Sec. 4.6. (a) For townships and municipalities that elect to have the township provide fire protection and emergency services under section 3(b) of this chapter, the department of local government finance shall adjust each township's and each municipality's maximum permissible levy in the year following the year in which the change is elected, as determined under IC 6-1.1-18.5-3, to reflect the change from providing fire protection under a contract between the municipality and the township to allowing the township to impose a property tax levy on the taxable property located within the corporate boundaries of each municipality. Each municipality's maximum permissible property tax levy shall be reduced by the amount of the municipality's property tax levy that was imposed by the municipality to meet the obligations to the township under the fire protection contract. The township's maximum permissible property tax levy shall be increased by the product of:

(1) one and five-hundredths (1.05); multiplied by

(2) the amount the township received:

(A) in the year in which the change is elected; and

(B) as fire protection contract payments from all municipalities whose levy is decreased under this section.

(b) For purposes of determining a township's or municipality's maximum permissible ad valorem property tax levy under IC 6-1.1-18.5-3 for years following the first year after the year in which the change is elected, a township's or municipality's maximum permissible ad valorem property tax levy is the levy after the adjustment made under subsection (a).

As added by P.L.269-1993, SEC.4. Amended by P.L.2-1995, SEC.137; P.L.90-2002, SEC.495.

IC 36-8-13-4.7

Township providing fire protection and emergency services; maximum permissible property tax levy

Sec. 4.7. (a) For a township that elects to have the township provide fire protection and emergency services under section 3(c) of this chapter, the department of local government finance shall adjust the township's maximum permissible levy in the year following the year in which the change is elected, as determined under IC 6-1.1-18.5-3, to reflect the change from providing fire protection or emergency services under a contract between the municipality and the township to allowing the township to impose a property tax levy on the taxable property located within the corporate boundaries of each municipality. For the ensuing calendar year, the township's maximum permissible property tax levy shall be increased by the product of:

(1) one and five-hundredths (1.05); multiplied by

(2) the amount the township contracted or billed to receive, regardless of whether the amount was collected:

(A) in the year in which the change is elected; and

(B) as fire protection or emergency service payments from the municipalities or residents of the municipalities covered by the election under section 3(c) of this chapter.

The maximum permissible levy for a general fund or other fund of a municipality covered by the election under section 3(c) of this chapter shall be reduced for the ensuing calendar year to reflect the change to allowing the township to impose a property tax levy on the taxable property located within the corporate boundaries of the municipality. The total reduction in the maximum permissible levies for all electing municipalities must equal the amount that the maximum permissible levy for the township is increased under this subsection for contracts or billings, regardless of whether the amount was collected, less the amount actually paid from sources other than property tax revenue.

(b) For purposes of determining a township's and each municipality's maximum permissible ad valorem property tax levy under IC 6-1.1-18.5-3 for years following the first year after the year in which the change is elected, a township's and each municipality's maximum permissible ad valorem property tax levy is the levy after the adjustment made under subsection (a).

(c) The township may use the amount of a maximum permissible property tax levy computed under this section in setting budgets and property tax levies for any year in which the election in section 3(c) of this chapter is in effect. A county board of tax adjustment may not reduce a budget or tax levy solely because the budget or levy is based on the maximum permissible property tax levy computed under this section.

(d) Section 4.6 of this chapter does not apply to a property tax levy or a maximum property tax levy subject to this section.

As added by P.L.54-1996, SEC.5. Amended by P.L.90-2002, SEC.496; P.L.224-2007, SEC.130; P.L.146-2008, SEC.783.

IC 36-8-13-5

Purchase of firefighting apparatus and equipment; installment

contracts

Sec. 5. After a sufficient appropriation has been made and approved and is available for the purchase of firefighting apparatus and equipment, including housing, the township executive, with the approval of the township legislative body, may purchase it for the township on an installment conditional sale or mortgage contract running for a period not exceeding:

(1) six (6) years; or

(2) fifteen (15) years for a township that:

(A) has a total assessed value of sixty million dollars ($60,000,000) or less, as determined by the department of local government finance; and

(B) is purchasing the firefighting equipment with funding from the:

(i) state or its instrumentalities; or

(ii) federal government or its instrumentalities.

The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year.

As added by Acts 1981, P.L.309, SEC.65. Amended by P.L.83-1998, SEC.3; P.L.90-2002, SEC.497; P.L.178-2002, SEC.134.

IC 36-8-13-6

Purchase of firefighting apparatus and equipment; loans; tax levy

Sec. 6. (a) Subject to section 6.5 of this chapter, the executive and legislative body, on behalf of the township, may also borrow the necessary money from a financial institution in Indiana to make the purchase on the same terms. They shall, on behalf of the township, execute and deliver to the institution the negotiable note or bond of the township for the sum borrowed. The note or bond must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding six (6) years.

(b) The first installment of principal and interest on a contract, chattel mortgage, note, or bond is due on the next January 1 or July 1 following the first tax collection for which it is possible for the township to levy a tax. The executive and legislative body shall appropriate and levy a tax each year sufficient to pay the obligation according to its terms. An obligation of the township executed under this chapter is a valid and binding obligation of the township, notwithstanding any tax limitation, debt limitation, bonding, borrowing, or other statute to the contrary.

As added by Acts 1981, P.L.309, SEC.65. Amended by P.L.41-1993, SEC.50.

IC 36-8-13-6.5

Objection by taxpayers; department of local government finance hearing and action; appeal

Sec. 6.5. (a) If the executive and the legislative body determine that money should be borrowed under section 6 of this chapter, not less than ten (10) taxpayers in the township who disagree with the

determination may file a petition in the office of the county auditor not more than thirty (30) days after notice of the determination is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the borrowing to be unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the county where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the township and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing.

(e) A:

(1) taxpayer who signed a petition filed under subsection (a); or

(2) township against which a petition under subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

As added by P.L.41-1993, SEC.51. Amended by P.L.90-2002, SEC.498; P.L.256-2003, SEC.38.

IC 36-8-13-7

Purchase of firefighting apparatus and equipment; procedure

Sec. 7. (a) All purchases of firefighting apparatus and equipment shall be made in the manner provided by statute for the purchase of township supplies. If the amount involved is sufficient to require notice under statutes for bids in connection with the purchase of apparatus or equipment, the notice must offer all bidders the opportunity of proposing to sell the apparatus and equipment to the township upon a conditional sale or mortgage contract.

(b) A bidder proposing to sell on a conditional sale or mortgage contract shall state in his bid the proposed interest rate and terms of it, to be considered by the township executive and legislative body in determining the best bid received.

(c) All bids submitted must specify the cash price at which the bidder proposes to sell the apparatus or equipment to the township so that the executive and legislative body may determine whether it is in the best interest of the township to purchase the apparatus or equipment on the terms of a conditional sale or mortgage contract proposed by the bidder or to purchase it for cash if sufficient funds

are available or can be raised by negotiating a loan with a financial institution in accordance with this section.
As added by Acts 1981, P.L.309, SEC.65.

IC 36-8-13-8
Township fire departments; insurance coverage

Sec. 8. A township having a regularly organized fire department employing full-time firefighters may procure at the township's expense:

(1) an insurance policy for each member of the department insuring the member against the loss of his life or dismemberment while in the performance of his regularly assigned duties; and

(2) group insurance providing supplemental income protection for a member of the department who has been injured during the course of his employment.

The insurance coverage shall be selected with the consent of the members and is supplemental to other benefits provided the injured member by law.
As added by Acts 1981, P.L.309, SEC.65.

IC 36-8-13-9
Payment of line of duty health care expenses for firefighters

Sec. 9. (a) A township shall pay for the care of a full-time, paid firefighter who suffers:

(1) an injury; or

(2) contracts an illness;

during the performance of the firefighter's duty.

(b) The township shall pay for the following expenses incurred by a firefighter described in subsection (a):

(1) Medical and surgical care.

(2) Medicines and laboratory, curative, and palliative agents and means.

(3) X-ray, diagnostic, and therapeutic service, including during the recovery period.

(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the township firefighting fund established by section 4 of this chapter.

(d) A township that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The township's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the firefighter against the third party.
As added by P.L.150-2002, SEC.4.

IC 36-8-13.5

Chapter 13.5. Township Fire Department Employment Policies

IC 36-8-13.5-1

Application

Sec. 1. This chapter applies to all townships except a township in which the fire department of the township has been consolidated under IC 36-3-1-6.1.

As added by P.L.65-2008, SEC.4.

IC 36-8-13.5-2

Inapplicable to volunteer fire department

Sec. 2. This chapter does not apply to a volunteer fire department under IC 36-8-12.

As added by P.L.65-2008, SEC.4.

IC 36-8-13.5-3

"Member of a township fire department"

Sec. 3. As used in this chapter, "member of a township fire department" does not include a volunteer firefighter under IC 36-8-12-2.

As added by P.L.65-2008, SEC.4.

IC 36-8-13.5-4

Residency within county or contiguous county

Sec. 4. A member of a township fire department must reside in Indiana within:

(1) the county in which the township is located; or

(2) a county that is contiguous to the county in which the township is located.

As added by P.L.65-2008, SEC.4.

IC 36-8-13.5-5

Township with a population of less than 7,500; resolution requiring residency within county or a certain distance from township

Sec. 5. A township with a population of less than seven thousand five hundred (7,500) may adopt a resolution that requires a member of the township fire department to satisfy all of the following:

(1) Reside within:

(A) the county in which the township is located; or

(B) a distance from the township stated in the resolution.

(2) Have adequate means of transportation into the township.

(3) Maintain in the member's residence telephone service with the township.

As added by P.L.65-2008, SEC.4.

IC 36-8-13.5-6

Township with a population of less than 7,500; resolution requiring residency within the township for five years

Sec. 6. This section applies to a township that:

(1) has a population of less than seven thousand five hundred (7,500); and

(2) adopted a resolution to establish the requirements described in this section before September 1, 1984.

A township may require, in addition to the requirements of section 5 of this chapter, that a member of the township fire department reside within the township until the member has served in the department for five (5) years.

As added by P.L.65-2008, SEC.4.

IC 36-8-13.5-7

Township with a population of less than 7,500; exemption for members not in compliance on date resolution adopted

Sec. 7. A resolution adopted under section 5 or 6 of this chapter may not require a member of a township fire department to comply with section 5(1) of this chapter if the member resides:

(1) outside the county; or

(2) a distance outside the township greater than stated in the resolution;

on the date the resolution is adopted.

As added by P.L.65-2008, SEC.4.

IC 36-8-14

Chapter 14. Cumulative Firefighting Building and Equipment Fund

IC 36-8-14-1

Application of chapter

Sec. 1. This chapter applies to all units except counties.

As added by Acts 1981, P.L.309, SEC.66.

IC 36-8-14-2

Purposes of fund; authorization

Sec. 2. (a) As used in this section, "emergency medical services" has the meaning set forth in IC 16-18-2-110.

(b) As used in this section, "volunteer fire department" has the meaning set forth in IC 36-8-12-2.

(c) The legislative body of a unit or the board of fire trustees of a fire protection district may provide a cumulative building and equipment fund under IC 6-1.1-41 for the following purposes:

(1) The:

(A) purchase, construction, renovation, or addition to buildings; or

(B) purchase of land;

used by the fire department or a volunteer fire department serving the unit.

(2) The purchase of firefighting equipment for use of the fire department or a volunteer fire department serving the unit, including making the required payments under a lease rental with option to purchase agreement made to acquire the equipment.

(3) In a municipality, the purchase of police radio equipment.

(4) The:

(A) purchase, construction, renovation, or addition to a building;

(B) purchase of land; or

(C) purchase of equipment;

for use of a provider of emergency medical services under IC 16-31-5 to the unit establishing the fund.

(d) In addition to the requirements of IC 6-1.1-41, before a cumulative fund may be established by a township fire protection district, the county legislative body which appoints the trustees of the fire protection district must approve the establishment of the fund.

As added by Acts 1981, P.L.309, SEC.66. Amended by P.L.316-1989, SEC.2; P.L.2-1993, SEC.205; P.L.171-1994, SEC.1; P.L.17-1995, SEC.22; P.L.1-1999, SEC.102; P.L.140-2002, SEC.2.

IC 36-8-14-3

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-8-14-4

Tax levy; deposit of money

Sec. 4. (a) To provide for the cumulative building and equipment fund established under this chapter, the legislative body may levy a tax on all taxable property within the taxing district in compliance with IC 6-1.1-41. The tax rate may not exceed three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of assessed valuation of property in the taxing district.

(b) As the tax is collected, it shall be deposited in a qualified public depository or depositories and held in a special fund to be known as the "building or remodeling, firefighting, and police radio equipment fund" in the case of a municipality or as the "building or remodeling and fire equipment fund" in the case of a township or fire protection district.

As added by Acts 1981, P.L.309, SEC.66. Amended by P.L.316-1989, SEC.3; P.L.171-1994, SEC.2; P.L.17-1995, SEC.23; P.L.6-1997, SEC.213.

IC 36-8-15

Chapter 15. Public Safety Communications Systems and Computer Facilities Districts

IC 36-8-15-1

Application of chapter

Sec. 1. This chapter applies to the following counties:

(1) A county having a consolidated city.

(2) A county having a population of more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000).

(3) A county that adopts an ordinance providing for the county to be governed by this chapter.

However, sections 9.5, 15, 16, 17, and 18 of this chapter apply only to a county having a consolidated city.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.1; P.L.173-1990, SEC.1; P.L.12-1992, SEC.174; P.L.170-2002, SEC.164; P.L.148-2007, SEC.8; P.L.195-2007, SEC.9; P.L.119-2012, SEC.221.

IC 36-8-15-2

"Board" defined

Sec. 2. As used in this chapter, "board" means the following:

(1) In a county having a consolidated city, a board established by and operated as set forth in an ordinance of the city-county legislative body.

(2) In a county not having a consolidated city, the board of commissioners.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.2; P.L.2-1989, SEC.49.

IC 36-8-15-3

"Communications system" defined

Sec. 3. As used in this chapter, "communications system" means any system:

(1) designed for the transmission of writing, signs, signals, pictures, data, and sounds of all kinds by any means, device, or apparatus; and

(2) intended for use only by public safety agencies for public purposes.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-4

"Computer" defined

Sec. 4. As used in this chapter, "computer" means computer hardware and computer software.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-5

"District" defined

Sec. 5. As used in this chapter, "district" refers to the public communications systems and computer facilities district created by section 7 of this chapter.
As added by P.L.82-1985, SEC.3.

IC 36-8-15-6
"Facility" defined

Sec. 6. As used in this chapter, "facility" means computers and communication systems or any necessary appurtenances and improvements thereto, including real and personal property required to house such facilities and all equipment, apparatus, devices, and instrumentalities required for the proper operation of the facility or facilities.
As added by P.L.82-1985, SEC.3.

IC 36-8-15-7
Creation of district

Sec. 7. (a) This subsection applies to a county having a consolidated city. The _____ (name of consolidated city) _____ public safety communications systems and computer facilities district is created in the county as a special taxing district of the consolidated city. The territory of the district includes the entire county.

(b) This subsection applies to a county not having a consolidated city. The _____ (name of county) _____ public safety communications systems district may be created in the county as a special taxing district by an ordinance adopted before July 1 of a year by the county legislative body. The territory of the district includes the unincorporated area of the county, plus any municipality in the county in which the legislative body before July 1 of a year adopts an ordinance to join the district and to have its public safety agencies served by the district.

(c) This subsection applies to a county not having a consolidated city. The legislative body of any township in the county may, by adopting a resolution before July 1 of a year, authorize a township agency to be served by the district.

(d) An ordinance or resolution adopted under subsection (b) or (c) may be rescinded before July 1 of a year.
As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.3.

IC 36-8-15-8
Purposes

Sec. 8. The purposes of the district are the following:

(1) To provide and maintain modern, dependable, and efficient public safety communications systems within the district for the purpose of promoting the expeditious delivery of public services to the residents and taxpayers throughout the district in order to assure the public health, safety, morals, and general welfare.

(2) In a county having a consolidated city, to provide computers

for the efficient functioning of governmental offices for the benefit of the residents and taxpayers throughout the district.

These purposes are public purposes for which public money may be spent and private property may be provided. The general assembly finds and declares that the facilities needed to accomplish these purposes are local public improvements.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.4.

IC 36-8-15-9

Governing body; powers; establishment of a public safety communications commission

Sec. 9. (a) The board is the governing body of the district.

(b) The board may do the following:

(1) Finance, purchase, acquire, lease, erect, install, construct, equip, upgrade, operate, and maintain facilities.

(2) Sue, be sued, plead, and be impleaded.

(3) Condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with facilities.

(4) Acquire real or personal property by gift, devise, or bequest, and hold, use, or dispose of that property for purposes authorized by this chapter.

(5) Design, order, contract for, construct, and equip any facilities.

(6) Employ architects, engineers, attorneys, auditors, clerks, construction managers, and other employees necessary for the financing, erection, and equipping of facilities.

(7) Make and enter into all contracts and agreements necessary or incidental to accomplishing the purposes of the district.

(c) In a county not having a consolidated city, the board shall establish a public safety communications commission representing the public safety agencies that are served by the district. The members of this commission are:

(1) one (1) person appointed by the county executive;

(2) one (1) person appointed by the county fiscal body;

(3) one (1) person appointed by the executive of each city in the district; and

(4) the county sheriff.

Members serve for four (4) year terms. The county legislative body shall provide by ordinance for the length of each initial term so that the result is staggered terms for commission members.

(d) In a county not having a consolidated city, the chief law enforcement and fire safety officers of each participating unit shall constitute a technical advisory committee to advise the board and the public safety communications commission upon request.

(e) In a county not having a consolidated city, the commission established under this section shall operate any public safety communications system established under this chapter. In a county having a consolidated city, the board shall operate any public safety communications system established under this chapter.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.5; P.L.2-1989, SEC.50.

IC 36-8-15-9.5
Combined or shared communications systems

Sec. 9.5. (a) This section applies to a county having a consolidated city.

(b) The communications system may be combined or shared with the public service radio system.

(c) The board may do the following for the combined or shared system:

(1) Authorize expenditures from the district's operational funds.

(2) Exercise all of the powers listed in section 9 of this chapter.

(d) The board may not do the following for the combined or shared system:

(1) Authorize expenditures for facilities or services related only to public service radio.

(2) Have authority over planning or other decisions for public service radio.

As added by P.L.173-1990, SEC.2.

IC 36-8-15-10
Resolution stating necessity and purpose; plans and specifications; estimated cost

Sec. 10. Whenever the board determines that:

(1) it is necessary for the general welfare of the persons residing within the district; and

(2) it will be of public utility and benefit to the property in the district to undertake and carry out any project of purchasing, acquiring, erecting, installing, constructing, equipping, or upgrading of facilities within the district;

the board shall adopt a resolution stating the necessity of the project and the board's purpose in proceeding with the project. The board, as a part of the resolution, shall adopt the plans and specifications proposed for the entire project and shall determine the estimated cost of all work and all acquisitions necessary to carry out the project.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-11
Resolution; public inspection; notice

Sec. 11. (a) The resolution and all matters included with the resolution shall be filed and open to inspection by the public at the office of the board.

(b) The board shall give notice of:

(1) the adoption and general purport of the resolution;

(2) the fact that the resolution and included material have been prepared and are on file in the office of the board and may be inspected; and

(3) the fact that on a date named, the board will receive and hear objections from any persons interested in or who will be

affected by the proposed project.

The notice shall be published in accordance with IC 5-3-1.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-12

Objections; hearing

Sec. 12. At or before the time fixed for the hearing designated in the notice published under section 11 of this chapter, any person interested in or who will be affected by the proposed project may file with the board a written objection against the proposed project, in whole or in part. At the hearing the board:

(1) shall hear all persons who are interested in the proceedings;

(2) shall finally determine whether the proposed project, in whole or in part, is necessary for the general welfare of the persons residing within the district and will be a public utility and benefit to the property in the district; and

(3) may confirm, modify, or rescind the resolution.

The decision shall be entered in the records of the board.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-13

Letting of contracts; modification of projects

Sec. 13. After final approval of the resolution by the board, the board shall proceed with the project, or any part thereof, and shall let all contracts, upon separate plans and specifications, in accordance with IC 5-22, IC 36-1-10, IC 36-1-12, and IC 36-9-13. The projects authorized may be modified by the board if it considers modification necessary to carry out the purpose of the resolution, so long as the modifications do not increase the estimate of the total cost of the project as adopted in the final resolution. All other changes must be processed as new resolutions.

As added by P.L.82-1985, SEC.3. Amended by P.L.2-1989, SEC.51; P.L.49-1997, SEC.82.

IC 36-8-15-14

Special benefit tax

Sec. 14. All taxable property located within the district is subject to a special benefit tax for the purpose of providing money to pay the total cost of the project, including all necessary incidental expenses of programming, planning, and designing the project. The tax shall constitute the amount of benefits resulting to all of that property from the project and shall be levied as provided in this chapter.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-15

Bonds; issuance; amount

Sec. 15. (a) For the purpose of raising money to pay for any real or personal property to be acquired for a project within the district or to pay for the purchasing, acquiring, erecting, installing, constructing, equipping, or upgrading of a facility within the district,

and in anticipation of the special benefit tax, the board may cause bonds to be issued in the name of the consolidated city (in counties having a consolidated city) for the benefit of the district. In a county having a consolidated city, the bonds shall be issued in accordance with IC 36-3-5-8.

(b) The bonds may be in an amount not to exceed the estimated cost of all real and personal property to be acquired and the estimated cost of the facilities, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction and all costs of programming, planning, and designing the facilities. The expenses to be covered in the amount of the bond issue include all expenses of every kind actually incurred preliminary to the acquisition of property and the installation of the facilities, such as the cost of necessary records, engineering expenses, publication of notices, salaries, the letting of contracts, and the sale of bonds.

(c) The bonds issued may not exceed the estimates for the project as determined in the resolution adopted by the board under section 12 of this chapter.

(d) Any surplus of bond proceeds remaining after all costs and expenses have been fully paid shall be paid into the public communications systems and computer facilities district bond fund. The board may appropriate the proceeds of the bonds.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.6.

IC 36-8-15-15.1

Lease of facilities; financing; hearings; notice; objections

Sec. 15.1. (a) A board may enter into a lease of any facility that may be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed fifty (50) years. The lease may provide for payments to be made by the board from special benefits taxes levied under section 14 of this chapter and any other revenue available to the board, or any combination of these sources.

(b) A lease may provide that payments by the board to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the board only after a public hearing by the board at which all interested parties are given the opportunity to be heard. Notice of the hearing must be given by publication in accordance with IC 5-3-1. After the public hearing, the board may adopt a resolution authorizing the execution of the lease on behalf of the unit if the board finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of the unit's residents. A lease approved by a resolution of the board must be approved by an ordinance of the fiscal body of the unit.

(d) Upon execution of a lease providing for payments by the board in whole or in part from the levy of special benefits taxes under section 14 of this chapter and upon approval of the lease by the fiscal body, the board shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be. Upon the filing of the petition, the county auditor shall immediately certify a copy of it, together with any other data necessary in order to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for the hearing in the district, which must be not less than five (5) or more than thirty (30) days after the time of the hearing is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the fiscal body, the board, and the first fifty (50) petitioners on the petition by a letter signed by the commissioner or deputy commissioner of the department and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease and as to whether the payments under it are fair and reasonable, is final.

(e) A board entering into a lease that is payable from revenues or other available funds of the board may:

(1) pledge the revenue to make payments under the lease as provided in IC 5-1-14-4; and

(2) establish a special fund to make the payments.

Lease rentals may be limited to money in the special fund so that the obligations of the board to make the lease rental payments are not considered a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, no approvals of a governmental body or an agency are required before the board enters into a lease under this section.

(g) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease. However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or to enjoin performance must be brought within thirty (30)

days after the decision of the department.

(h) If a board exercises an option to buy a leased facility from a lessor, the board may subsequently sell the leased facility, without regard to any other statutes, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the board through an auction, appraisal, or arms length negotiation. The board shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. An action to contest the sale must be brought within fifteen (15) days after the hearing.

As added by P.L.2-1989, SEC.52. Amended by P.L.90-2002, SEC.499.

IC 36-8-15-15.2

Persons authorized to lease facilities

Sec. 15.2. (a) Any of the following persons may lease facilities referred to in section 15.1 of this chapter to a board:

(1) A not-for-profit or for-profit corporation organized under Indiana law or admitted to do business in Indiana.

(2) An authority established under IC 36-9-13.

(b) Notwithstanding any other law, a lessor under this section and section 15.1 of this chapter is a qualified entity for purposes of IC 5-1.4-1-10.

As added by P.L.2-1989, SEC.53.

IC 36-8-15-16

Bonds; limitation on total issue; nature of bonds

Sec. 16. (a) The total issue of bonds under section 15 of this chapter, for purposes of the district, including bonds already issued or to be issued, may not exceed one percent (1%) of the adjusted value of the taxable property within the district, as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void.

(b) Bonds issued under section 15 of this chapter are not, in any respect, corporate obligations or indebtedness of the consolidated city but constitute an indebtedness of the district. The bonds and interest on them are payable only out of revenues of the district. Bonds must recite these terms upon their face.

As added by P.L.82-1985, SEC.3. Amended by P.L.6-1997, SEC.214.

IC 36-8-15-17

Proceeds; disposition; public communications systems and computer facilities district bond fund

Sec. 17. All proceeds from the sale of bonds issued under section 15 of this chapter shall be kept as a separate and specific fund to be known as the public communications systems and computer facilities district bond fund. The bond fund shall be used to pay for the cost of acquisition of real and personal property, the cost of the installation of the facilities, and all costs and expenses incurred in connection therewith, and no part may be used for any other purpose. The bond

fund shall be deposited at interest with a depository or depositories of other public funds of the consolidated city, and all interest collected on it belongs to the bond fund.
As added by P.L.82-1985, SEC.3.

IC 36-8-15-18
Counties having consolidated cities; special property tax; disposition of revenue; public communications systems and computer facilities district revenue fund

Sec. 18. (a) This section applies to a county having a consolidated city.

(b) For the purpose of raising money to pay off bonds issued under section 15 of this chapter and any interest on them, the county fiscal body may levy each year a special tax upon all of the property located within the district, in such manner as to meet and pay the principal of the bonds as they severally mature, together with all accruing interest on them. Other revenues and funds may be annually allocated by statute or ordinance to be applied to reduction of the bonds and their interest for the next succeeding year, but to the extent that money on hand is insufficient for payments required in the next succeeding year, the special tax shall be levied.

(c) The tax collected and all other allocated money shall be accumulated and kept in a separate fund to be known as the public communications systems and computer facilities district revenue fund, and shall be applied to the payment of the district bonds and interest as they severally mature and fiscal agency charges for making such payments and to no other purposes. All accumulations may be deposited, at interest, with one (1) of the depositories of other funds of the consolidated city, and all interest collected belongs to the fund.
As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.7.

IC 36-8-15-19 Version a
Operational funding; ad valorem property tax; funding by distribution under IC 6-3.5-6-17 in lieu of tax; election by ordinance; adjustment of property tax limits; reduction of tax of units joining or withdrawing from district

Note: This version of section effective until 7-1-2012. See also following version of this section, effective 7-1-2012.

Sec. 19. (a) This subsection applies to a county that has a population of more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000). For the purpose of raising money to fund the operation of the district, the county fiscal body may impose, for property taxes first due and payable during each year after the adoption of an ordinance establishing the district, an ad valorem property tax levy on property within the district. The property tax rate for that levy may not exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation.

(b) This subsection applies to a county having a consolidated city. The county fiscal body may elect to fund the operation of the district

from part of the certified distribution, if any, that the county is to receive during a particular calendar year under IC 6-3.5-6-17. To make such an election, the county fiscal body must adopt an ordinance before September 1 of the immediately preceding calendar year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to fund the operation of the district. If the county fiscal body adopts such an ordinance, it shall immediately send a copy of the ordinance to the county auditor.

(c) Subject to subsections (d), (e), and (f), if an ordinance or resolution is adopted changing the territory covered by the district or the number of public agencies served by the district, the department of local government finance shall, for property taxes first due and payable during the year after the adoption of the ordinance, adjust the maximum permissible ad valorem property tax levy limits of the district and the units participating in the district.

(d) If a unit by ordinance or resolution joins the district or elects to have its public safety agencies served by the district, the department of local government finance shall reduce the maximum permissible ad valorem property tax levy of the unit for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amount budgeted by the unit for public safety communication services in the year in which the ordinance was adopted. If such an ordinance or resolution is adopted, the district shall refer its proposed budget, ad valorem property tax levy, and property tax rate for the following year to the department of local government finance, which shall review and set the budget, levy, and rate as though the district were covered by IC 6-1.1-18.5-7.

(e) If a unit by ordinance or resolution withdraws from the district or rescinds its election to have its public safety agencies served by the district, the department of local government finance shall reduce the maximum permissible ad valorem property tax levy of the district for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amounts being levied by the district within that unit. If such an ordinance or resolution is adopted, the unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for public safety communication services to the department of local government finance, which shall review and set the budget, levy, and rate as though the unit were covered by IC 6-1.1-18.5-7.

(f) The adjustments provided for in subsections (c), (d), and (e) do not apply to a district or unit located in a particular county if the county fiscal body of that county does not impose an ad valorem property tax levy under subsection (a) to fund the operation of the district.

(g) A county that has adopted an ordinance under section 1(3) of this chapter may not impose an ad valorem property tax levy on property within the district to fund the operation or implementation of the district.

As added by P.L.225-1986, SEC.8. Amended by P.L.32-1986, SEC.9; P.L.6-1997, SEC.215; P.L.148-2007, SEC.9; P.L.195-2007, SEC.10; P.L.224-2007, SEC.131; P.L.3-2008, SEC.267; P.L.146-2008, SEC.784; P.L.182-2009(ss), SEC.440; P.L.119-2012, SEC.222.

IC 36-8-15-19 Version b

Operational funding; ad valorem property tax; funding by distribution under IC 6-3.5-6-17 in lieu of tax; election by ordinance; adjustment of property tax limits; reduction of tax of units joining or withdrawing from district

Note: This version of section effective 7-1-2012. See also preceding version of this section, effective until 7-1-2012.

Sec. 19. (a) This subsection applies to a county that has a population of more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000). For the purpose of raising money to fund the operation of the district, the county fiscal body may impose, for property taxes first due and payable during each year after the adoption of an ordinance establishing the district, an ad valorem property tax levy on property within the district. The property tax rate for that levy may not exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation.

(b) This subsection applies to a county having a consolidated city. The county fiscal body may elect to fund the operation of the district from part of the certified distribution, if any, that the county is to receive during a particular calendar year under IC 6-3.5-6-17. To make such an election, the county fiscal body must adopt an ordinance before November 1 of the immediately preceding calendar year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to fund the operation of the district. If the county fiscal body adopts such an ordinance, it shall immediately send a copy of the ordinance to the county auditor.

(c) Subject to subsections (d), (e), and (f), if an ordinance or resolution is adopted changing the territory covered by the district or the number of public agencies served by the district, the department of local government finance shall, for property taxes first due and payable during the year after the adoption of the ordinance, adjust the maximum permissible ad valorem property tax levy limits of the district and the units participating in the district.

(d) If a unit by ordinance or resolution joins the district or elects to have its public safety agencies served by the district, the department of local government finance shall reduce the maximum permissible ad valorem property tax levy of the unit for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amount budgeted by the unit for public safety communication services in the year in which the ordinance was adopted. If such an ordinance or resolution is adopted, the district shall refer its proposed budget, ad valorem property tax levy, and property tax rate for the following year to the department of local government finance, which shall

review and set the budget, levy, and rate as though the district were covered by IC 6-1.1-18.5-7.

(e) If a unit by ordinance or resolution withdraws from the district or rescinds its election to have its public safety agencies served by the district, the department of local government finance shall reduce the maximum permissible ad valorem property tax levy of the district for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amounts being levied by the district within that unit. If such an ordinance or resolution is adopted, the unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for public safety communication services to the department of local government finance, which shall review and set the budget, levy, and rate as though the unit were covered by IC 6-1.1-18.5-7.

(f) The adjustments provided for in subsections (c), (d), and (e) do not apply to a district or unit located in a particular county if the county fiscal body of that county does not impose an ad valorem property tax levy under subsection (a) to fund the operation of the district.

(g) A county that has adopted an ordinance under section 1(3) of this chapter may not impose an ad valorem property tax levy on property within the district to fund the operation or implementation of the district.

As added by P.L.225-1986, SEC.8. Amended by P.L.32-1986, SEC.9; P.L.6-1997, SEC.215; P.L.148-2007, SEC.9; P.L.195-2007, SEC.10; P.L.224-2007, SEC.131; P.L.3-2008, SEC.267; P.L.146-2008, SEC.784; P.L.182-2009(ss), SEC.440; P.L.119-2012, SEC.222; P.L.137-2012, SEC.122.

IC 36-8-16
Repealed

(*Repealed by P.L.132-2012, SEC.11.)*

IC 36-8-16.5 Version a

Chapter 16.5. Enhanced Wireless Emergency Telephone Service

Note: This version of chapter effective until 7-1-2012. See also following repeal of this chapter, effective 7-1-2012.

IC 36-8-16.5-51 Version a

Limitation on number of PSAPs in a county after December 31, 2014; exceptions; establishing new PSAPs on or after March 15, 2008, prohibited; interlocal agreements; other parties; plans required

Note: This version of section effective until 7-1-2012. See also following repeal of this chapter, effective 7-1-2012.

Sec. 51. (a) For purposes of this section, a PSAP includes a public safety communications system operated and maintained under IC 36-8-15.

(b) As used in this section, "PSAP operator" means:

(1) a political subdivision; or

(2) an agency;

that operates a PSAP. The term does not include any entity described in subsection (c)(1) through (c)(3).

(c) Subject to subsection (d), after December 31, 2014, a county may not contain more than two (2) PSAPs. However, a county may contain one (1) or more PSAPs in addition to the number of PSAPs authorized by this section, as long as any additional PSAPs are operated:

(1) by a state educational institution;

(2) by an airport authority established for a county having a consolidated city; or

(3) in a county having a consolidated city, by an excluded city (as defined in IC 36-3-1-7).

(d) If, on March 15, 2008, a county does not contain more than one (1) PSAP, not including any PSAP operated by an entity described in subsection (c)(1) through (c)(3), an additional PSAP may not be established and operated in the county on or after March 15, 2008, unless the additional PSAP is established and operated by:

(1) a state educational institution;

(2) in the case of a county having a consolidated city, an airport authority established for the county; or

(3) the municipality having the largest population in the county or an agency of that municipality.

(e) Before January 1, 2015, each PSAP operator in a county that contains more than the number of PSAPs authorized by subsection (c) shall enter into an interlocal agreement under IC 36-1-7 with every other PSAP operator in the county to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(f) An interlocal agreement required under subsection (e) may include as parties, in addition to the PSAP operators required to enter into the interlocal agreement under subsection (e), any of the

following that seek to be served by a county's authorized PSAPs after December 31, 2014:

(1) Other counties contiguous to the county.

(2) Other political subdivisions in a county contiguous to the county.

(3) Other PSAP operators in a county contiguous to the county.

(g) An interlocal agreement required under subsection (e) must provide for the following:

(1) A plan for the:

(A) consolidation;

(B) reorganization; or

(C) elimination;

of one (1) or more of the county's PSAPs, as necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(2) A plan for funding and staffing the PSAP or PSAPs that will serve:

(A) the county; and

(B) any areas contiguous to the county, if additional parties described in subsection (f) participate in the interlocal agreement;

after December 31, 2014.

(3) Subject to any applicable state or federal requirements, protocol to be followed by the county's PSAP or PSAPs in:

(A) receiving incoming 911 calls; and

(B) dispatching appropriate public safety agencies to respond to the calls;

after December 31, 2014.

(4) Any other matters that the participating PSAP operators or parties described in subsection (f), if any, determine are necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(h) This section may not be construed to require a county to contain a PSAP.

As added by P.L.137-2008, SEC.11. Amended by P.L.173-2011, SEC.12; P.L.6-2012, SEC.254.

IC 36-8-16.5 Version b

Repealed

(*Repealed by P.L.132-2012, SEC.12.)*

Note: This repeal of chapter effective 7-1-2012. See also preceding version of this chapter, effective until 7-1-2012.

IC 36-8-16.6

Chapter 16.6. Enhanced Prepaid Wireless Telecommunications Service Charge

IC 36-8-16.6-1

"Board"

Sec. 1. As used in this chapter, "board" refers to the statewide 911 board established by IC 36-8-16.7-24.

As added by P.L.113-2010, SEC.151. Amended by P.L.132-2012, SEC.13.

IC 36-8-16.6-2

"Consumer"

Sec. 2. As used in this chapter, "consumer" means a person that purchases prepaid wireless telecommunications service from a seller. The term includes a prepaid user.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-3

"Department"

Sec. 3. As used in this chapter, "department" refers to the department of state revenue.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-4

"Enhanced prepaid wireless charge"

Sec. 4. As used in this chapter, "enhanced prepaid wireless charge" means the charge that a seller is required to collect from a consumer under section 12 of this chapter.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-5

"Fund"

Sec. 5. As used in this chapter, "fund" refers to the statewide 911 fund established by IC 36-8-16.7-29.

As added by P.L.113-2010, SEC.151. Amended by P.L.132-2012, SEC.14.

IC 36-8-16.6-6

"Prepaid user"

Sec. 6. As used in this chapter, "prepaid user" refers to a user of prepaid wireless telecommunications service who:

(1) is issued an Indiana telephone number or an Indiana identification number for the service; or

(2) purchases prepaid wireless telecommunications service in a retail transaction that is sourced to Indiana (as determined under IC 6-2.5-12-16).

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-7

"Prepaid wireless telecommunications service"

Sec. 7. As used in this chapter, "prepaid wireless telecommunications service" means a prepaid wireless calling service (as defined in IC 6-2.5-1-22.4) that allows a user of the service to reach emergency services by dialing the digits nine (9) one (1) one (1).

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-8

"Provider"

Sec. 8. As used in this chapter, "provider" means a person or entity that offers prepaid wireless telecommunications service.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-9

"Retail transaction"

Sec. 9. As used in this chapter, "retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-10

"Seller"

Sec. 10. As used in this chapter, "seller" means a person that sells prepaid wireless telecommunications service to another person.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-11

Enhanced prepaid wireless charge; initial charge; increase; federal government exempt

Sec. 11. (a) The board shall impose an enhanced prepaid wireless charge on each retail transaction that occurs after June 30, 2010. The amount of the initial charge imposed under this section may not exceed one-half (1/2) of the monthly wireless emergency enhanced 911 fee assessed under IC 36-8-16.5-25.5 (before its repeal on July 1, 2012). The board shall increase the amount of the charge imposed under this section so that the amount of the charge imposed after June 30, 2012, under this section equals fifty cents ($0.50).

(b) Subject to legislative approval, after the increase described in subsection (a) and after June 30, 2012, the board may increase the enhanced prepaid wireless charge to ensure adequate revenue for the board to fulfill its duties and obligations under this chapter and IC 36-8-16.7.

(c) A consumer that is the federal government or an agency of the federal government is exempt from the enhanced prepaid wireless charge imposed under this section.

As added by P.L.113-2010, SEC.151. Amended by P.L.132-2012, SEC.15.

IC 36-8-16.6-12

Collection of fee by seller

Sec. 12. (a) A seller shall collect the enhanced prepaid wireless charge from the consumer with respect to each retail transaction.

(b) The seller shall disclose to the consumer the amount of the enhanced prepaid wireless charge. The seller may separately state the amount of the enhanced prepaid wireless charge on an invoice, a receipt, or a similar document that the seller provides to the consumer in connection with the retail transaction.

(c) Subject to section 15 of this chapter, a seller shall remit enhanced prepaid wireless charges to the department at the time and in the manner prescribed by the department.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-13

Consumer's liability for charge; seller's obligation to remit charges collected

Sec. 13. The enhanced prepaid wireless charge is the liability of the consumer and not of the seller or a provider. However, a seller is liable to remit to the department all enhanced prepaid wireless charges that the seller collects from consumers under section 12 of this chapter, including all charges that the seller is considered to collect where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

As added by P.L.113-2010, SEC.151. Amended by P.L.132-2012, SEC.16.

IC 36-8-16.6-14

Exclusion of fee from calculation of certain taxes and other charges

Sec. 14. The amount of the enhanced prepaid wireless charge that is collected by a seller from a consumer, whether or not separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, may not be included in the base for determining a tax, fee, surcharge, or other charge that is imposed by the state, a political subdivision, or any other governmental agency.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-15

Seller's allowance for collection

Sec. 15. A seller may deduct and retain one percent (1%) of enhanced prepaid wireless charges that the seller collects from consumers to reimburse the direct costs incurred by the seller in collecting and remitting enhanced prepaid wireless charges.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-16

Audits of seller records

Sec. 16. (a) A seller is subject to the same audit and appeal procedures with respect to the collection and remittance of enhanced prepaid wireless charges as with collection and remittance of the

state gross retail tax under IC 6-2.5.

(b) An audit under subsection (a) must be conducted jointly by the department of state revenue and the board.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-17

Administrative guidance concerning collection

Sec. 17. (a) The department, in conjunction and coordination with the board, shall establish procedures:

(1) governing the collection and remittance of enhanced prepaid wireless charges in accordance with the procedures established under IC 6-8.1 concerning listed taxes; and

(2) allowing a seller to document that a sale of prepaid wireless telecommunications service is not a retail transaction.

(b) A procedure established under subsection (a)(1):

(1) must take into consideration the differences between large and small sellers, including smaller sales volumes; and

(2) may establish lower thresholds for the remittance of enhanced prepaid wireless charges by small sellers.

For purposes of this subsection, a small seller is a seller that sells less than one hundred dollars ($100) of prepaid wireless telecommunications service each month.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-18

Department's duty to deposit remitted charges in fund; board to administer money in fund

Sec. 18. (a) The department shall deposit all remitted enhanced prepaid wireless charges in the fund.

(b) The board shall administer money deposited in the fund under this section in the same manner as it administers statewide 911 fees assessed under IC 36-8-16.7-32.

As added by P.L.113-2010, SEC.151. Amended by P.L.132-2012, SEC.17.

IC 36-8-16.6-19

Limitation on liability of seller

Sec. 19. A seller of prepaid wireless telecommunications service is not liable for damages to a person resulting from or incurred in connection with the following:

(1) Providing or failing to provide 911 or wireless 911 services.

(2) Identifying or failing to identify the telephone number, address, location, or name associated with a person or device that accesses or attempts to access 911 or wireless 911 service.

(3) Providing lawful assistance to an investigative or law enforcement officer of the United States, a state, or a political subdivision of a state in connection with a lawful investigation or other law enforcement activity by the law enforcement officer.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-20
Limitation on additional fees

Sec. 20. (a) An additional fee relating to the provision of 911 service with respect to prepaid wireless telecommunications service may not be levied by a state agency or local unit of government.

(b) The enhanced prepaid wireless charge imposed by section 12 of this chapter is not considered an additional charge relating to the provision of 911 service for purposes of IC 36-8-16.7-32(d).

As added by P.L.113-2010, SEC.151. Amended by P.L.132-2012, SEC.18.

IC 36-8-16.6-21
Collection of fees directly from purchaser or consumer

Sec. 21. The following are not required to take legal action to enforce the collection of an enhanced prepaid wireless charge that is imposed on a consumer:

(1) A provider.
(2) A seller.

However, the department or the board may initiate a collection action. A court finding for the department or the board, as applicable, in an action may award reasonable costs and attorney's fees associated with the collection action.

As added by P.L.113-2010, SEC.151.

IC 36-8-16.6-22
Repealed

(*Repealed by P.L.132-2012, SEC.19.)*

IC 36-8-16.7

Chapter 16.7. Statewide 911 Services

IC 36-8-16.7-1

"Affiliate"

Sec. 1. As used in this chapter, "affiliate" has the meaning set forth in IC 23-1-43-1. The term includes a parent company or a subsidiary.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-2

"Automatic location information"

Sec. 2. As used in this chapter, "automatic location information" means information that is transmitted while enhanced 911 service is provided and that permits emergency service providers to identify the geographic location of the calling party.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-3

"Automatic number identification"

Sec. 3. As used in this chapter, "automatic number identification" has the meaning set forth in 47 CFR 20.3.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-4

"Board"

Sec. 4. As used in this chapter, "board" refers to the statewide 911 board established by section 24 of this chapter.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-5

"CMRS"

Sec. 5. As used in this chapter, "CMRS" refers to commercial mobile radio service (as defined in 47 CFR 20.3).

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-6

"CMRS provider"

Sec. 6. As used in this chapter, "CMRS provider" means a person that offers CMRS to users in Indiana.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-7

"Communications service"

Sec. 7. (a) As used in this chapter, "communications service" means any service that:

(1) uses telephone numbers or IP addresses or their functional equivalents or successors;

(2) allows access to, or a connection or interface with, a 911 system through the activation or enabling of a device,

transmission medium, or technology that is used by a customer to dial, initialize, or otherwise activate the 911 system, regardless of the particular device, transmission medium, or technology employed;

(3) provides or enables real time or interactive communications, other than machine to machine communications; and

(4) is available to a prepaid user or a standard user.

(b) The term includes the following:

(1) Internet protocol enabled services and applications that are provided through wireline, cable, wireless, or satellite facilities, or any other facility or platform that is capable of connecting a 911 communication to a PSAP.

(2) A multiline telephone system.

(3) CMRS.

(4) Interconnected VOIP service and voice over power lines.

(5) Integrated telecommunications service (as defined in 47 CFR 400.2).

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-8
"Customer"

Sec. 8. (a) As used in this chapter, except as provided in subsection (b), "customer" means:

(1) the person or entity that contracts with a provider for communications service; or

(2) if the end user of communications service is not the contracting party, the end user of the communications service.

However, subdivision (2) applies only for the purpose of determining the place of primary use.

(b) The term does not include:

(1) a reseller of communications service; or

(2) a provider other than the customer's provider that has an arrangement with the customer's provider to serve the customer outside the licensed service area of the customer's provider.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-9
"Enhanced 911 service"

Sec. 9. (a) As used in this chapter, "enhanced 911 service" means a communications service that uses the three (3) digit number 911 to send:

(1) automatic number identification or its functional equivalent or successor; and

(2) automatic location information or its functional equivalent or successor;

for reporting police, fire, medical, or other emergency situations.

(b) The term includes both Phase I and Phase II enhanced 911 services, as described in 47 CFR 20.18.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-10
"Exchange access facility"

Sec. 10. As used in this chapter, "exchange access facility" means the access from a particular service user's premises to a telephone system.

(b) The term includes:

(1) an access line;

(2) a private branch exchange (PBX) trunk; and

(3) a centrex line trunk equivalent;

that is provided by the service supplier. The term also includes a mobile telephone system access trunk, whether the trunk is provided by a telephone company or a radio common carrier. In the case of a service user receiving interconnected VoIP service, the term refers to the Internet protocol compatible customer premises equipment that enables the service user to access the interconnected VoIP service.

(c) The term does not include:

(1) a service supplier owned and operated telephone pay station line;

(2) a wide area telecommunications service (WATS) line;

(3) a foreign exchange (FX) line; or

(4) an incoming only line.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-11
"Executive director"

Sec. 11. As used in this chapter, "executive director" refers to the executive director of the board.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-12
"Fund"

Sec. 12. As used in this chapter, "fund" refers to the statewide 911 fund established by section 29 of this chapter.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-13
"Interconnected VOIP service"

Sec. 13. As used in this chapter, "interconnected VOIP service" has the meaning set forth in 47 CFR 9.3.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-14
"Local exchange carrier"

Sec. 14. As used in this chapter, "local exchange carrier" has the meaning set forth in 47 U.S.C. 153.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-15
"Multiline telephone system"

Sec. 15. As used in this chapter, "multiline telephone system"

means a voice communications service system that includes the following:

(1) Common control units.

(2) Telephone sets.

(3) Control hardware and software.

(4) Adjunct systems.

The term includes network and premises based systems as classified by FCC Part 68 (47 CFR part 68) Requirements.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-16

"Place of primary use"

Sec. 16. As used in this chapter, "place of primary use" means the street address representative of where a customer's use of communications service primarily occurs, which must be:

(1) the residential street address or the primary business street address of the customer or, in the case of a subscriber of interconnected VOIP service, the subscriber's registered location (as defined in 47 CFR 9.3);

(2) within the licensed service area of the customer's provider; and

(3) in the case of:

(A) mobile communications service, determined in the manner provided in IC 6-8.1-15; and

(B) nonmobile communications service, determined in the manner provided in IC 6-2.5-12.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-17

"Prepaid user"

Sec. 17. As used in this chapter, "prepaid user" has the meaning set forth in IC 36-8-16.6-6.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-18

"Proprietary information"

Sec. 18. As used in this chapter, "proprietary information" includes the following:

(1) Customer lists and related information, including information subject to protection under 47 U.S.C. 222.

(2) Technology descriptions, technical information, or trade secrets (as defined in IC 24-2-3-2).

(3) Information that:

(A) concerns the actual or developmental costs of 911 systems; and

(B) is developed, produced, or received internally by a provider or by a provider's employees, directors, officers, or agents.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-19
"Provider"

Sec. 19. (a) As used in this chapter, "provider" means a person or entity, or an affiliate of a person or an entity, that:

(1) offers communications service to users in Indiana; and

(2) provides, or is required by the Federal Communications Commission to provide, a user with direct access to a PSAP through the placement of a 911 communication.

(b) The term includes the following:

(1) Facilities based and nonfacilities based resellers of communications service.

(2) Any other provider of communications service through wireline or wireless means, regardless of whether the provider is subject to regulation by the Indiana utility regulatory commission.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-20
"PSAP"

Sec. 20. As used in this chapter, "PSAP" refers to a public safety answering point:

(1) that operates on a twenty-four (24) hour basis; and

(2) whose primary function is to receive incoming requests for emergency assistance and relay those requests to an appropriate responding public safety agency.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-21
"Standard user" or "user"

Sec. 21. As used in this chapter, "standard user" or "user" refers to:

(1) a communications service user who pays retrospectively for the service and has an Indiana billing address for the service; and

(2) in the case of a nonmobile communications service user, an exchange access facility used in Indiana.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-22
"Statewide 911 system"

Sec. 22. (a) As used in this chapter, "statewide 911 system" means a communications system that uses the three (3) digit number 911 to send:

(1) automatic number identification or its functional equivalent or successor; and

(2) automatic location information or its functional equivalent or successor;

for reporting police, fire, medical, or other emergency situations.

(b) The term includes the following:

(1) A wireless 911 emergency telephone system funded under

IC 36-8-16.5 (before its repeal on July 1, 2012).

(2) An emergency notification system.

(c) The term does not include a wireline enhanced emergency telephone system funded under IC 36-8-16 (before its repeal on July 1, 2012).

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-23

"VOIP provider"

Sec. 23. As used in this chapter, "VOIP provider" means a provider that offers interconnected VOIP service to users in Indiana.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-24

Statewide 911 board; establishment; recommendations to governor; membership; state treasurer as chair; terms; residency; proxy voting prohibited

Sec. 24. (a) The statewide 911 board is established to develop, implement, and oversee the statewide 911 system. The board is a body corporate and politic, and though it is separate from the state, the exercise by the board of its powers constitutes an essential governmental function.

(b) The following recommendations must be made to the governor concerning the membership of the board:

(1) The executive committees of:

(A) the Indiana chapter of the National Emergency Number Association (NENA); and

(B) the Indiana chapter of the Association of Public Safety Communication Officials International (APCO);

shall jointly recommend three (3) individuals, at least one (1) of whom must have budget experience at the local level.

(2) The facilities based CMRS providers authorized to provide CMRS in Indiana shall jointly recommend one (1) individual.

(3) The Indiana Association of County Commissioners shall recommend one (1) individual who is a county commissioner in Indiana.

(4) The Indiana Sheriffs' Association shall recommend one (1) individual who is a county sheriff in Indiana.

(5) The Indiana Telecommunications Association shall recommend two (2) individuals as follows:

(A) One (1) individual representing a local exchange carrier that serves less than fifty thousand (50,000) local exchange access lines in Indiana.

(B) One (1) individual representing a local exchange carrier that serves at least fifty thousand (50,000) local exchange access lines in Indiana.

(6) The Indiana Cable Telecommunications Association shall recommend one (1) individual representing a VOIP provider.

(7) The Indiana Association of Cities and Towns shall recommend one (1) individual representing municipalities.

(c) The board consists of the following thirteen (13) members:

(1) The treasurer of state or the treasurer's designee. The treasurer of state or the treasurer's designee is chairperson of the board for a term concurrent with the treasurer of state's term of office. However, the treasurer of state's designee serves at the pleasure of the treasurer of state.

(2) Three (3) members for a term of three (3) years who are appointed by the governor after considering the recommendations submitted under subsection (b)(1) by the executive committees of NENA and APCO. At least one (1) member appointed under this subdivision must have budget experience at the local level.

(3) One (1) facilities based CMRS member who is appointed by the governor after considering the recommendation submitted under subsection (b)(2) by the facilities based CMRS providers authorized to provide CMRS in Indiana. A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (6), (7), or (8).

(4) One (1) county commissioner member appointed by the governor after considering the recommendation submitted under subsection (b)(3) by the Indiana Association of County Commissioners.

(5) One (1) county sheriff member appointed by the governor after considering the recommendation submitted under subsection (b)(4) by the Indiana Sheriffs' Association.

(6) One (1) member who represents a local exchange carrier that serves less than fifty thousand (50,000) local exchange access lines in Indiana and who is appointed by the governor after considering the recommendation of the Indiana Telecommunications Association under subsection (b)(5)(A). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (7), or (8).

(7) One (1) member who represents a local exchange carrier that serves at least fifty thousand (50,000) local exchange access lines in Indiana and who is appointed by the governor after considering the recommendation of the Indiana Telecommunications Association under subsection (b)(5)(B). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (6), or (8).

(8) One (1) member who represents a VOIP provider and who is appointed by the governor after considering the recommendation of the Indiana Cable Telecommunications Association under subsection (b)(6). A member appointed under this subdivision may not be affiliated with the same business entity as a member appointed under subdivision (3), (6), or (7).

(9) One (1) member who represents municipalities and is appointed by the governor after considering the

recommendation of the Indiana Association of Cities and Towns submitted under subsection (b)(7).

(10) The state fire marshal or the state fire marshal's designee.

(11) The superintendent of the state police department or the superintendent's designee.

(d) This subsection applies to a member appointed by the governor under subsection (c)(2) through (c)(9). The governor shall ensure that the terms of the initial members appointed by the governor are staggered so that the terms of not more than five (5) members expire in a single calendar year. After the initial appointments, subsequent appointments shall be for three (3) year terms. A vacancy on the board shall be filled for the vacating member's unexpired term in the same manner as the original appointment, and a member of the board is eligible for reappointment. In making an appointment under subsection (c)(2) through (c)(9), the governor shall take into account the various geographical areas of Indiana, including rural and urban areas. A member appointed by the governor serves at the pleasure of the governor.

(e) A member must be a resident of Indiana.

(f) A member may not vote by proxy.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-25

Board quorum; meetings subject to open door law

Sec. 25. A majority of the members of the board constitutes a quorum for the purposes of taking action. A meeting of the board is subject to IC 5-14-1.5.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-26

Board members; expense reimbursement

Sec. 26. (a) Each member of the board who is not a state employee is not entitled to receive the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the board who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-27

Powers of board; contracts for communications service and

equipment; Indiana transparency Internet web site

Sec. 27. (a) The board may do the following to implement this chapter:

(1) Sue and be sued.

(2) Adopt and alter an official seal.

(3) Adopt and enforce bylaws and rules for:

(A) the conduct of board business; and

(B) the use of board services and facilities.

(4) Subject to subsection (c), acquire, hold, use, and otherwise dispose of the board's income, revenues, funds, and money.

(5) Subject to subsections (b) and (c), enter into contracts, including contracts:

(A) for professional services;

(B) for purchase of supplies or services; and

(C) to acquire office space.

(6) Subject to subsection (c), hire staff.

(7) Adopt rules under IC 4-22-2 to implement this chapter.

(8) Develop, maintain, and update a statewide 911 plan.

(9) Subject to subsection (c), administer the statewide 911 fund established by section 29 of this chapter.

(10) Administer and distribute the statewide 911 fee in accordance with section 37 of this chapter.

(11) Subject to subsection (c), administer statewide 911 grants in accordance with state and federal guidelines.

(12) Obtain from each PSAP operating statistics and other performance measurements, including call statistics by category and emergency medical dispatching (EMD) certifications.

(13) Take other necessary or convenient actions to implement this chapter that are not inconsistent with Indiana law.

(b) A contract for the purchase of communications service or equipment by the board must be awarded through an invitation for bids or a request for proposals as described in IC 5-22. The board shall enter into a cooperative agreement with the Indiana department of administration for the department to administer the board's purchases under this chapter using the department's purchasing agents.

(c) The board shall be considered a state agency for purposes of IC 5-14-3.5. Subject to IC 5-14-3.5-4, the following shall be posted to the Indiana transparency Internet web site in accordance with IC 5-14-3.5-2:

(1) Expenditures by the board, including expenditures for contracts, grants, and leases.

(2) The balance of the statewide 911 fund established by section 29 of this chapter.

(3) A listing of the board's real and personal property that has a value of more than twenty thousand dollars ($20,000).

The board shall cooperate with and provide information to the auditor of state as required by IC 5-14-3.5-8.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-28
Executive director; duties; salary

Sec. 28. (a) The board shall appoint an executive director of the board to do the following:

(1) Administer, manage, and direct employees of the board.

(2) Approve salaries and allowable expenses for board members, employees, and consultants.

(3) Attend board meetings and record all proceedings of the board. However, the executive director is not considered a member of the board for any purpose, including voting or establishing a quorum.

(4) Maintain books, documents, and papers filed with the board, including minutes.

(5) Perform other duties as directed by the board.

(b) The board shall determine the salary and other compensation of the executive director.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-29
Statewide 911 fund; investments; money not subject to transfer, reversion, or reassignment; money continuously appropriated

Sec. 29. (a) The statewide 911 fund is established for the purposes of creating and maintaining a uniform statewide 911 system. The board shall administer the fund. The expenses of administering the fund must be paid from money in the fund.

(b) The fund consists of the following:

(1) The statewide 911 fee assessed on users under section 32 of this chapter.

(2) Appropriations made by the general assembly.

(3) Grants and gifts intended for deposit in the fund.

(4) Interest, premiums, gains, or other earnings on the fund.

(5) Enhanced prepaid wireless charges collected and remitted under IC 36-8-16.6-12.

(6) Money from any other source that is deposited in or transferred to the fund.

(c) The treasurer of state may invest money in the fund in the same manner as other funds of the state may be invested under IC 5-13.

(d) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money in the fund:

(1) does not revert at the end of any state fiscal year but remains available for the purposes of the fund in subsequent state fiscal years, notwithstanding IC 4-13-2-19 or any other law; and

(2) is not subject to transfer to any other fund or to transfer, assignment, or reassignment for any other use or purpose by:

(A) the state board of finance notwithstanding IC 4-9.1-1-7, IC 4-13-2-23, or any other law; or

(B) the budget agency or any other state agency notwithstanding IC 4-12-1-12 or any other law.

(e) Money in the fund is continuously appropriated for the

purposes of the fund.
As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-30
Annual audit of fund by state board of accounts; annual review of 911 service by board; reports to budget committee

Sec. 30. (a) The state board of accounts shall audit the fund on an annual basis to determine whether the fund is being managed in accordance with this chapter. For each of the two (2) state fiscal years ending:

(A) June 30, 2013; and
(B) June 30, 2014;

the state board of accounts shall submit, not later than November 1 of each year during which the particular state fiscal year ends, a report of the audit required by this subsection to the budget committee for the budget committee's review. A report submitted under this subsection must be in an electronic format under IC 5-14-6.

(b) On an annual basis, and in conjunction with the board's review under section 38(d) of this chapter of the state board of accounts' annual audit of PSAPs, the board shall review 911 service in Indiana, including the collection, disbursement, and use of the statewide 911 fee assessed under section 32 of this chapter. The purpose of the review is to ensure that the statewide 911 fee:

(1) does not exceed the amount reasonably necessary to provide adequate and efficient 911 service; and
(2) is used only for the purposes set forth in this chapter.

(c) For each of the two (2) calendar years ending:

(A) December 31, 2013; and
(B) December 31, 2014;

the board shall submit, not later than March 1 of the year immediately following the particular calendar year, a summary report of the board's findings under the review required by subsection (b) to the budget committee for the budget committee's review. A report submitted under this subsection must be in an electronic format under IC 5-14-6.
As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-31
Use of third party to process checks and distribute funds

Sec. 31. The board may retain an independent, third party accounting firm or fiscal agent for purposes of processing checks and distributing funds as directed by the board and as allowed by this chapter. The board shall pay for these services as an administrative cost of the board.
As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-32
Monthly statewide 911 fee; initial fee; adjustments; additional fees prohibited; exemptions

Sec. 32. (a) Except as provided in subsections (c) and (e), and subject to subsection (b) and section 48(e) of this chapter, the board shall assess a monthly statewide 911 fee on each standard user that is a customer having a place of primary use in Indiana at a rate that:

(1) ensures full recovery of the amount needed for the board to make distributions to county treasurers consistent with this chapter; and

(2) provides for the proper development, operation, and maintenance of a statewide 911 system.

The amount of the initial fee assessed under this subsection is ninety cents ($0.90).

(b) The board may adjust the statewide 911 fee to ensure adequate revenue for the board to fulfill the board's duties and obligations under this chapter, subject to the following:

(1) The fee may not be raised or lowered more than one (1) time in a calendar year.

(2) The fee:

(A) may not be raised by an amount that is less than or equal to ten cents ($0.10) without review by the budget committee; and

(B) may not be raised or lowered by an amount that is more than ten cents ($0.10) without legislative approval.

(c) The fee assessed under this section does not apply to a prepaid user in a retail transaction under IC 36-8-16.6.

(d) An additional fee relating to the provision of 911 service may not be levied by a state agency or local unit of government. An enhanced prepaid wireless charge (as defined in IC 36-8-16.6-4) is not considered an additional fee relating to the provision of wireless 911 service for purposes of this section.

(e) A user is exempt from the fee if the user is any of the following:

(1) The federal government or an agency of the federal government.

(2) The state or an agency or instrumentality of the state.

(3) A political subdivision (as defined in IC 36-1-2-13) or an agency of a political subdivision.

(4) A user that accesses communications service solely through a wireless data only service plan.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-33

Provider's duty to collect and remit fee; report to board; cost reimbursement

Sec. 33. (a) As part of the provider's normal monthly billing process, a provider:

(1) shall collect the fee from each standard user that is a customer having a place of primary use in Indiana; and

(2) may list the fee as a separate line item on each bill.

If a provider receives a partial payment for a monthly bill from a standard user, the provider shall apply the payment against the

amount the standard user owes to the provider before applying the payment against the fee. A provider may not prorate the monthly 911 fee collected from a user.

(b) Subject to subsection (c), a provider shall remit statewide 911 fees collected under this section to the board at the time and in the manner prescribed by the board. However, the board shall require a provider to report to the board, no less frequently than on an annual basis, the amount of fees collected from all of the provider's customers described in subsection (a)(1) and remitted to the board under this section. The board may require a provider to submit a report required under this subsection at the same time that the provider remits fees to the board under this section. The board shall deposit all remitted statewide 911 fees in the fund.

(c) A provider may deduct and retain an amount not to exceed one percent (1%) of statewide 911 fees that the provider collects from users to reimburse the direct costs incurred by the provider in collecting and remitting statewide 911 fees.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-34

User's liability for fee; provider's obligation to remit fees collected

Sec. 34. The statewide 911 fee is the liability of the user and not of a provider. However, a provider is liable to remit to the board all statewide 911 fees that the provider collects from users.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-35

Fee not to be included in base for taxes and other charges

Sec. 35. The amount of a statewide 911 fee that is collected by a provider from a user, whether separately stated on an invoice, receipt, or other document, may not be included in the base for measuring any tax, surcharge, or other charge that is imposed by the state, a political subdivision, or other government agency.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-36

Provider not required to enforce fee collection; collection action by board

Sec. 36. A provider is not required to take legal action to enforce the collection of the 911 fee for which a user is billed. However, the board may initiate a collection action. A court finding for the board in the action may award reasonable costs and attorney fees associated with the collection action.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-37

Board's administration of fund; board's expenses; distribution to counties

Sec. 37. (a) Subject to subsection (b), the board shall administer the fund in the following manner:

(1) In each state fiscal year, the board may retain the lesser of:
(A) ten percent (10%) of the statewide 911 fees deposited in the fund in the previous state fiscal year; or
(B) the amount of fees deposited in the fund in the previous state fiscal year that would provide for the operating expenses of the statewide 911 system during the state fiscal year for which the fees are retained;
to pay the board's expenses in administering this chapter and to develop, operate, and maintain a statewide 911 system. The board may decrease the amount of fees retained by the board under this subdivision.
(2) After retaining the amount set forth in subdivision (1), the board shall distribute to the counties, in a manner determined by the board, the remainder of the statewide 911 fees in the fund. However, with respect to any state fiscal year beginning after June 30, 2012, the board shall first ensure a distribution to each county in an amount that is equal to the average annual amount distributed to all PSAPs in the county under IC 36-8-16 (before its repeal on July 1, 2012) and to the county under IC 36-8-16.5 (before its repeal on July 1, 2012) during the three (3) state fiscal years ending:
(A) June 30, 2009;
(B) June 30, 2010; and
(C) June 30, 2011;
increased by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the twelve (12) months preceding the state fiscal year for which the distribution is made.
(3) If any statewide 911 fees remain in the fund after the distributions ensured under subdivision (2), the board shall distribute the fees as follows:
(A) Ninety percent (90%) of the fees shall be distributed to the counties based upon each county's percentage of the state's population.
(B) Ten percent (10%) of the fees shall be distributed equally among the counties.

(b) The board may not distribute money in the fund in a manner that impairs the ability of the board to fulfill its management and administrative obligations under this chapter.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-38

Permitted uses of distribution by PSAPs; annual reports to board by PSAPs; state board of accounts annual audit of PSAP expenditures; review by board; reports to budget committee; county 911 funds

Sec. 38. (a) A PSAP may use a distribution from a county under this chapter only for the following:
(1) The lease, purchase, or maintenance of communications service equipment.

(2) Necessary system hardware and software and data base equipment.

(3) Personnel expenses, including wages, benefits, training, and continuing education, only to the extent reasonable and necessary for the provision and maintenance of:

(A) the statewide 911 system; or

(B) a wireline enhanced emergency telephone system funded under IC 36-8-16 (before its repeal on July 1, 2012).

(4) Operational costs, including costs associated with:

(A) utilities;

(B) maintenance;

(C) equipment designed to provide backup power or system redundancy, including generators; and

(D) call logging equipment.

(5) An emergency notification system that is approved by the board under section 40 of this chapter.

(6) Connectivity to the Indiana data and communications system (IDACS).

(7) Rates associated with communications service providers' enhanced emergency communications system network services.

(8) Mobile radio equipment used by first responders, other than radio equipment purchased under subdivision (9) as a result of the narrow banding requirements specified by the Federal Communications Commission.

(9) Up to fifty percent (50%) of the costs associated with the narrow banding or replacement of radios or other equipment as a result of the narrow banding requirements specified by the Federal Communications Commission.

(b) A PSAP may not use a distribution from a county under this chapter for the following:

(1) The construction, purchase, renovation, or furnishing of PSAP buildings.

(2) Vehicles.

(c) Not later than January 31 of each year, each PSAP shall submit to the board a report of the following:

(1) All expenditures made during the immediately preceding calendar year from distributions under this chapter.

(2) Call data and statistics for the immediately preceding calendar year, as specified by the board and collected in accordance with any reporting method established or required by the board.

(d) Beginning in 2013, the state board of accounts annually shall audit the expenditures of distributions under this chapter made during the immediately preceding calendar year by each PSAP that receives distributions under this chapter. In conducting an audit under this subsection, the state board of accounts shall determine, in conjunction with the board, whether the expenditures made by each PSAP are in compliance with subsections (a) and (b). The board shall review and further audit any ineligible expenditure identified by the state board of accounts under this subsection or through any other

report. If the board verifies that the expenditure did not comply with this section, the board shall ensure that the fund is reimbursed in the dollar amount of the noncomplying expenditure from any source of funding, other than a fund described in subsection (f), that is available to the PSAP or to a unit in which the PSAP is located.

(e) For each of the two (2) calendar years ending:

(A) December 31, 2013; and

(B) December 31, 2014;

the state board of accounts shall submit, not later than March 1 of the year immediately following the particular calendar year, a summary report of the audits required by subsection (d) for the particular calendar year to the budget committee for the budget committee's review. A report submitted under this subsection must be in an electronic format under IC 5-14-6.

(f) A distribution under section 37(a)(2) of this chapter must be deposited by the treasurer of the county in a separate fund set aside for the purposes allowed by subsections (a) and (b). The fund must be known as the _____ (insert name of county) 911 fund. The county treasurer may invest money in the fund in the same manner that other money of the county may be invested, but income earned from the investment must be deposited in the fund set aside under this subsection.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-39

Providers' duty to coordinate with board and provide information; board's use of confidential information

Sec. 39. (a) In cooperation with the board, a provider shall designate a person to coordinate with and provide all relevant information to the board to assist the board in carrying out its duties under this chapter.

(b) A provider shall provide the automatic number identification and any other information, including updates, required by the board to the county, the municipality, an authorized agent of a county or municipality, or the board or the board's authorized agent for purposes of establishing and maintaining a 911 system data base. The board may use confidential information received under this subsection solely for the purpose of providing statewide 911 service.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-40

Emergency notification systems; establishment by county; board approval required; provider's duty to provide user data

Sec. 40. (a) As used in this section, "emergency notification system" means an enhanced 911 system capability that provides communications service users within the territory served by a PSAP with a warning, delivered through a device or medium by which users receive communications service from a provider, of an emergency situation through a computerized warning system that uses 911 data base information and technology.

(b) With approval of the board, a county may establish an emergency notification system. If the board approves the establishment of an emergency notification system in a county, a PSAP in the county may use funds distributed to it under this chapter to establish and operate an emergency notification system under this section.

(c) A provider shall provide to a PSAP the necessary user data to enable the PSAP to implement an emergency notification system under this section. The provision of data under this subsection is subject to section 41 of this chapter. In providing data under this subsection, the provider shall provide the following information for each service user in the PSAP's service territory:

(1) The service address of the user.

(2) The class of service provided to the user.

(3) A designation of listed, unlisted, or nonpublished with respect to any telephone number (or other functionally equivalent identification number) associated with the user's service or account.

The provider shall provide this data to the PSAP on a quarterly basis. The provider may charge a reasonable fee to the PSAP for the administrative costs of providing the data.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-41

Providers' duty to provide user data to PSAPs; permissible uses by PSAP; violations; contracts between providers and users

Sec. 41. (a) A provider shall, upon request, provide to a PSAP the necessary user data to enable the PSAP to implement and operate a 911 system. User data provided to a PSAP for the purpose of implementing or updating a 911 system may be used only to identify:

(1) a user;

(2) a user's place of primary use; or

(3) the information described in both subdivisions (1) and (2);

and may not be used or disclosed by the PSAP, or its agents or employees, for any other purpose unless the data is used or disclosed under a court order. A person who recklessly, knowingly, or intentionally violates this subsection commits a Class A misdemeanor.

(b) After May 31, 1988, a contract entered into between a provider and a user who has an unlisted or nonpublished telephone number (or other functionally equivalent identification number) may not include a provision that prohibits the provider from providing the user's telephone number (or other functionally equivalent identification number) to a PSAP for inclusion in a 911 system data base. A provider (other than a provider who, before June 1, 1988, has contracted to not divulge a subscriber's unlisted or nonpublished telephone number (or other functionally equivalent identification number)) shall provide a requesting PSAP with the name, telephone number (or other functionally equivalent identification number), and place of primary use for each user of the provider. A PSAP may not

release a telephone number (or other functionally equivalent identification number) required to be provided under this subsection to any person except as provided in subsection (a).

(c) A provider may amend or terminate a contract with a user if:

(1) the contract contains a provision that prohibits the provider from providing the user's telephone number (or other functionally equivalent identification number) to a PSAP for inclusion in a 911 system data base;

(2) the exclusion of the telephone number (or other functionally equivalentidentification number) from the data base would negate the purpose of this chapter; and

(3) the user is notified of the proposed amendment or termination of a contract at least one hundred eighty (180) days before the provider takes action.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-42

Confidentiality of proprietary information

Sec. 42. (a) All proprietary information submitted to the board or the treasurer of state, or to the budget committee under section 48 of this chapter, is confidential. Notwithstanding any other law, proprietary information submitted under this chapter is not subject to subpoena, and proprietary information submitted under this chapter may not be released to a person other than to the submitting provider without the permission of the submitting provider.

(b) General information collected by the board or the treasurer of state may be released or published only in aggregate amounts that do not identify or allow identification of numbers of users or revenues attributable to an individual provider.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-43

Immunity from civil or criminal liability

Sec. 43. Notwithstanding any other law:

(1) the board;

(2) a PSAP;

(3) a political subdivision;

(4) a provider;

(5) an employee, director, officer, or agent of a PSAP, a political subdivision, or a provider; or

(6) an employee or member of the board, the board chair, the executive director, or an employee, agent, or representative of the board chair;

is not liable for damages in a civil action or subject to criminal prosecution resulting from death, injury, or loss to persons or property incurred by any person in connection with establishing, developing, implementing, maintaining, operating, and providing 911 service, except in the case of willful or wanton misconduct.

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-44
Permissible uses of 911 service

Sec. 44. A person may not use 911 service except to make emergency calls that may result in the dispatch of the appropriate response for fire suppression and rescue, emergency medical or ambulance services, hazardous material, disaster or major emergency occurrences, and law enforcement activities.
As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-45
Automatic dialing of 911 prohibited; violations

Sec. 45. (a) This section does not apply to a person that connects to a 911 network using automatic crash notification technology subject to an established protocol.

(b) A person may not connect to a 911 network an automatic alarm, automatic dialer, or other automated alerting device that:

(1) causes the number 911 to be automatically dialed; or

(2) provides through a prerecorded message information regarding obtaining 911 emergency service.

(c) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.
As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-46
Knowing or intentional placement of 911 calls for prohibited purposes

Sec. 46. A person who knowingly or intentionally places a 911 call:

(1) for a purpose other than obtaining public safety assistance or emergency services; or

(2) to avoid communications service charges or fees;

commits a Class A misdemeanor.
As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-47
Counties prohibited from containing more than two PSAPs after December 31, 2014; exceptions; interlocal agreements; parties; required plans and protocols; noncomplying counties; distributions of fees prohibited

Sec. 47. (a) For purposes of this section, a PSAP includes a public safety communications system operated and maintained under IC 36-8-15.

(b) As used in this section, "PSAP operator" means:

(1) a political subdivision; or

(2) an agency;

that operates a PSAP. The term does not include any entity described in subsection (c)(1) through (c)(3).

(c) Subject to subsection (d), after December 31, 2014, a county may not contain more than two (2) PSAPs. However, a county may contain one (1) or more PSAPs in addition to the number of PSAPs

authorized by this section, as long as any additional PSAPs are operated:

(1) by a state educational institution;

(2) by an airport authority established for a county having a consolidated city; or

(3) in a county having a consolidated city, by an excluded city (as defined in IC 36-3-1-7).

(d) If, on March 15, 2008, a county does not contain more than one (1) PSAP, not including any PSAP operated by an entity described in subsection (c)(1) through (c)(3), an additional PSAP may not be established and operated in the county on or after March 15, 2008, unless the additional PSAP is established and operated by:

(1) a state educational institution;

(2) in the case of a county having a consolidated city, an airport authority established for the county; or

(3) the municipality having the largest population in the county or an agency of that municipality.

(e) Before January 1, 2015, each PSAP operator in a county that contains more than the number of PSAPs authorized by subsection (c) shall enter into an interlocal agreement under IC 36-1-7 with every other PSAP operator in the county to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(f) An interlocal agreement required under subsection (e) may include as parties, in addition to the PSAP operators required to enter into the interlocal agreement under subsection (e), any of the following that seek to be served by a county's authorized PSAPs after December 31, 2014:

(1) Other counties contiguous to the county.

(2) Other political subdivisions in a county contiguous to the county.

(3) Other PSAP operators in a county contiguous to the county.

(g) An interlocal agreement required under subsection (e) must provide for the following:

(1) A plan for the:

(A) consolidation;

(B) reorganization; or

(C) elimination;

of one (1) or more of the county's PSAPs, as necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(2) A plan for funding and staffing the PSAP or PSAPs that will serve:

(A) the county; and

(B) any areas contiguous to the county, if additional parties described in subsection (f) participate in the interlocal agreement;

after December 31, 2014.

(3) Subject to any applicable state or federal requirements,

protocol to be followed by the county's PSAP or PSAPs in:

(A) receiving incoming 911 calls; and

(B) dispatching appropriate public safety agencies to respond to the calls;

after December 31, 2014.

(4) Any other matters that the participating PSAP operators or parties described in subsection (f), if any, determine are necessary to ensure that the county does not contain more than the number of PSAPs authorized by subsection (c) after December 31, 2014.

(h) This section may not be construed to require a county to contain a PSAP.

(i) After December 31, 2014, if a county contains more than the number of PSAPs authorized by subsection (c), the county may not receive a distribution under section 37 of this chapter until the county complies with subsection (c).

As added by P.L.132-2012, SEC.20.

IC 36-8-16.7-48

Budget committee's review of statewide 911 system; considerations; report of findings to legislative council; recommendation on continuation of fee after June 30, 2015; expiration of fee absent recommendation

Sec. 48. (a) The budget committee shall review the statewide 911 system governed by this chapter for the two (2) calendar years ending:

(1) December 31, 2013; and

(2) December 31, 2014.

(b) In conducting the review required by this section, the budget committee may examine the following:

(1) Whether the fund is being administered by the board in accordance with this chapter. In performing a review under this subdivision, the budget committee may consider the audit reports submitted to the budget committee by the state board of accounts under section 30(a) of this chapter.

(2) The collection, disbursement, and use of the statewide 911 fee assessed under section 32 of this chapter. In performing a review under this subdivision, the budget committee may:

(A) examine whether the statewide 911 fee:

(i) is being assessed in an amount that is reasonably necessary to provide adequate and efficient 911 service; and

(ii) is being used only for the purposes set forth in this chapter; and

(B) consider:

(i) the reports submitted to the budget committee by the board under section 30(c) of this chapter; and

(ii) the audit reports submitted to the budget committee by the state board of accounts under section 38(e) of this chapter.

(3) The report submitted to the budget committee by the Indiana advisory commission on intergovernmental relations under IC 4-23-24.2-5(b).

(4) Any other data, reports, or information the budget committee determines is necessary to review the statewide 911 system governed by this chapter.

(c) Subject to section 42 of this chapter, the board, the state board of accounts, political subdivisions, providers, and PSAPs shall provide to the budget committee all relevant data, reports, and information requested by the budget committee to assist the budget committee in carrying out its duties under this section.

(d) After conducting the review required by this section, the budget committee shall, not later than June 1, 2015, report its findings to the legislative council. The budget committee's findings under this subsection:

(1) must include a recommendation as to whether the statewide 911 fee assessed under section 32 of this chapter should continue to be assessed and collected under this chapter after June 30, 2015; and

(2) if the budget committee recommends under subdivision (1) that the statewide 911 fee assessed under section 32 of this chapter should continue to be assessed and collected under this chapter after June 30, 2015, may include recommendations for the introduction in the general assembly of any legislation that the budget committee determines is necessary to ensure that the statewide 911 system governed by this chapter is managed in a fair and fiscally prudent manner.

A report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(e) If the budget committee does not recommend in its report under subsection (d) that the statewide 911 fee assessed under section 32 of this chapter should continue to be assessed and collected under this chapter after June 30, 2015, the statewide 911 fee assessed under section 32 of this chapter expires July 1, 2015, and may not be assessed or collected after June 30, 2015.

As added by P.L.132-2012, SEC.20.

IC 36-8-17

Chapter 17. Fire Safety Inspections; Arson Investigations

IC 36-8-17-1

"Commission" defined

Sec. 1. As used in this chapter, "commission" refers to the fire prevention and building safety commission.

As added by P.L.245-1987, SEC.21.

IC 36-8-17-2

"Fire department" defined

Sec. 2. As used in this chapter, "fire department" means a paid fire department or a volunteer fire department that renders fire prevention or fire protection services to a political subdivision.

As added by P.L.245-1987, SEC.21. Amended by P.L.1-1999, SEC.103.

IC 36-8-17-3

"Fire safety law" defined

Sec. 3. As used in this chapter, "fire safety law" means any law, including rules and orders of the commission, safeguarding life or property from the hazards of fire or explosion.

As added by P.L.245-1987, SEC.21.

IC 36-8-17-4

"Division" defined

Sec. 4. As used in this chapter, "division" refers to the division of fire and building safety.

As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006, SEC.576.

IC 36-8-17-5

Compliance with order directing fire department to assist division of fire and building safety

Sec. 5. (a) The fire chief and the designees of the fire chief in every fire department are assistants to the state fire marshal.

(b) A fire department shall comply with an order issued by the division under IC 22-14-2-4 that directs the fire department to assist the division.

(c) This section also applies to a fire department established by the board of trustees of Purdue University under IC 21-39-7.

As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006, SEC.577; P.L.29-2011, SEC.3.

IC 36-8-17-6

Enforcement of fire safety laws

Sec. 6. A fire department may enforce under this chapter any fire safety law that is applicable to the jurisdiction served by the fire department.

As added by P.L.245-1987, SEC.21.

IC 36-8-17-7

Fire investigations; notice of crime; report; powers of fire department; subpoenas; discovery orders

Sec. 7. (a) A fire department shall investigate and determine the causes and circumstances surrounding each fire occurring within the territory served by the fire department. The fire department shall begin the investigation when the fire occurs. The fire department shall immediately notify the division if the fire chief believes that a crime may have been committed and shall submit a written report to the division concerning every investigation at the end of each month. The fire department shall submit the report on the form prescribed by the division and shall include the following information in the report:

(1) A statement of the facts relating to the cause and origin of the fire.

(2) The extent of damage caused by the fire.

(3) The amount of insurance on the property affected by the fire.

(4) Other information required in the commission's rules.

(b) To carry out this section, a fire department may:

(1) enter and inspect any real or personal property at a reasonable hour;

(2) cooperate with the prosecuting attorney and assist the prosecuting attorney with any criminal investigation;

(3) request that the office subpoena witnesses under IC 22-14-2-8 or order the production of books, documents, and other papers;

(4) give oaths and affirmations;

(5) take depositions and conduct hearings; and

(6) separate witnesses and otherwise regulate the course of proceedings.

(c) Subpoenas, discovery orders, and protective orders issued under this section shall be enforced under IC 4-21.5-6-2.

As added by P.L.245-1987, SEC.21. Amended by P.L.222-1989, SEC.19; P.L.1-2006, SEC.578.

IC 36-8-17-8

Inspection program; reports

Sec. 8. (a) A fire department serving an area that does not include a city may engage in an inspection program to promote compliance with fire safety laws. Upon the request of an owner or a primary lessee who resides in a private dwelling, the fire department may inspect the interior of the private dwelling to determine compliance with IC 22-11-18-3.5. The fire department shall maintain a written report for each inspection. These reports shall be made available to the division upon request.

(b) The fire department serving an area that includes a city shall inspect every place and public way within the jurisdiction of the city, except the interiors of private dwellings, for compliance with the fire safety laws. Upon the request of an owner or a primary lessee who resides in a private dwelling, the fire department may inspect the

interior of the private dwelling to determine compliance with IC 22-11-18-3.5. Except as otherwise provided in the rules adopted by the commission, the fire chief of the fire department shall specify the schedule under which places and public ways are inspected and may exclude a class of places or public ways from inspection under this section, if the fire chief determines that the public interest will be served without inspection. The fire department shall maintain a written report for each inspection. The fire department shall submit monthly reports to the division, on forms prescribed by the division, containing the following information:

(1) The total number of inspections made.

(2) The total number of defects found, classified as required by the office.

(3) The total number of orders issued for correction of each class of defect.

(4) The total number of orders complied with.

(c) A volunteer fire department may carry out inspections under this section only through an individual who is certified under IC 22-14-2-6(c).

As added by P.L.245-1987, SEC.21. Amended by P.L.1-1999, SEC.104; P.L.1-2006, SEC.579; P.L.17-2008, SEC.6.

IC 36-8-17-9

Orders to cease and correct violations; emergency or temporary orders

Sec. 9. (a) A fire department may issue orders under IC 4-21.5-3-6 to require a person to cease and correct a violation of the fire safety laws. The order must grant a reasonable time in which to correct a violation of law covered by the order.

(b) A fire department may issue an emergency or temporary order under IC 4-21.5-4 if the fire department determines that conduct or a condition of property:

(1) presents a clear and immediate hazard of death or serious bodily injury to any person other than a trespasser;

(2) is prohibited without a permit, registration, certification, release, authorization, variance, exemption, or other license required under IC 22-14 or another statute administered by the division and the license has not been issued; or

(3) will conceal a violation of law.

(c) An emergency or other temporary order issued under subsection (b) must be approved by the state fire marshal. The approval may be communicated orally to the fire department. However, the division shall maintain a written record of the approval.

(d) An order under IC 4-21.5-3-6 or IC 4-21.5-4 may include the following, singly or in combination:

(1) Require a person who has taken a substantial step toward violating a fire safety law or has violated a fire safety law to cease and correct the violation.

(2) Require a person who has control over property that is

affected by a violation to take reasonable steps to:

(A) protect persons and property from the hazards of the violation; and

(B) correct the violation.

(3) Require persons to leave an area that is affected by a violation and prohibit persons from entering the area until the violation is corrected.

As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006, SEC.580.

IC 36-8-17-10

Informal review of order; time to appeal; modification or reversal of order

Sec. 10. (a) The division shall give a person who:

(1) is aggrieved by an order issued under section 9 of this chapter; and

(2) requests review of the order in verbal or written form;

an opportunity to informally discuss the order with the division. Review under this subsection does not suspend the running of the time period in which a person must petition under IC 4-21.5-3-7 to appeal the order.

(b) The division may, on its own initiative or at the request of any person, modify or reverse an order issued under section 9 of this chapter.

As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006, SEC.581.

IC 36-8-17-11

Appeal of orders; administrative proceedings

Sec. 11. (a) An order issued under section 9 or 10 of this chapter may be appealed to the commission under IC 4-21.5-3-7. A decision to deny a request to modify or reverse an order issued under section 10 of this chapter is not appealable.

(b) If an order issued under section 9 or 10 of this chapter is appealed, the commission or its designee shall conduct all administrative proceedings under IC 4-21.5. In its proceedings, the commission may modify or reverse the order.

As added by P.L.245-1987, SEC.21.

IC 36-8-17-12

Enforcement of orders

Sec. 12. The division may enforce an order issued under this chapter under IC 4-21.5-6.

As added by P.L.245-1987, SEC.21. Amended by P.L.1-2006, SEC.582.

IC 36-8-17-13

Rules to implement chapter

Sec. 13. The commission may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.245-1987, SEC.21.

IC 36-8-17.5
Chapter 17.5. Pre-Planning Inspections

IC 36-8-17.5-1
"Fire department" defined
Sec. 1. As used in this chapter, "fire department" has the meaning set forth in IC 36-8-17-2.
As added by P.L.20-1999, SEC.1.

IC 36-8-17.5-2
"Pre-planning inspection" defined
Sec. 2. As used in this chapter, "pre-planning inspection" means an inspection of a Class 1 structure (as defined in IC 22-12-1-4) in a place or public way performed by the fire department to determine firefighting strategies necessary to minimize the hazard to firefighters responding to any fire or explosion at the structure, including:
(1) identifying the structural components, contents, and operations, including:
(A) floor plans; and
(B) the location of:
(i) employees;
(ii) fire alarm and suppression systems;
(iii) entrances and exits; and
(iv) utilities; and
(2) identifying and locating hazardous materials.
As added by P.L.20-1999, SEC.1.

IC 36-8-17.5-3
Places subject to inspections
Sec. 3. A fire department may make a pre-planning inspection of every place and public way within the jurisdiction of the political subdivision that the fire department serves, except the interiors of private dwellings, for the purpose of advising the fire department on issues affecting a fire suppression response.
As added by P.L.20-1999, SEC.1.

IC 36-8-17.5-4
Access for inspections
Sec. 4. (a) A fire department shall be allowed entry and access to every place or public way within the jurisdiction of the political subdivision that the fire department serves, except the interiors of private dwellings, for the purpose of making a pre-planning inspection under this chapter.
(b) A fire department shall notify the occupant or owner of a Class 1 structure seven (7) days in advance of performing a pre-planning inspection. The notification may be oral or in writing.
As added by P.L.20-1999, SEC.1.

IC 36-8-18
Chapter 18. Animal Control Centers

IC 36-8-18-1
Applicability of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by P.L.37-1988, SEC.27.

IC 36-8-18-2
Bonds or notes to relocate animal control center

Sec. 2. The city-county legislative body may issue bonds or notes to relocate, acquire, construct, and equip an animal control center if relocation of an existing center is, in the discretion of the works board, necessary or desirable to operate any existing or planned public works.

As added by P.L.37-1988, SEC.27.

IC 36-8-18-3
Debt service on bonds or notes

Sec. 3. Debt service on bonds or notes issued under this chapter may be paid from any funds of the works board available to pay the debt service, as determined by the city-county legislative body as set forth in IC 5-1-14-4.

As added by P.L.37-1988, SEC.27.

IC 36-8-19

Chapter 19. Fire Protection Territories

IC 36-8-19-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 8.7 of this chapter by P.L.83-1998 applies only to purchases that occur after June 30, 1998.

As added by P.L.220-2011, SEC.678.

IC 36-8-19-0.3

Legalization of certain resolutions adopted before July 1, 2007

Sec. 0.3. A resolution adopted by a township under this chapter before July 1, 2007, that would have been valid under this chapter, as in effect on July 1, 2007, is legalized and validated.

As added by P.L.220-2011, SEC.679.

IC 36-8-19-1

Application of chapter

Sec. 1. Except as provided in section 1.5 of this chapter, this chapter applies to any geographic area that is established as a fire protection territory.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.1; P.L.227-2005, SEC.50.

IC 36-8-19-1.5

Consolidation of fire departments in county containing consolidated city

Sec. 1.5. (a) If the fire department of a township is consolidated under IC 36-3-1-6.1, after the effective date of the consolidation the township may not establish a fire protection territory under this chapter.

(b) A fire protection territory that is established before the effective date of the consolidation in a township in which the township's fire department is consolidated under IC 36-3-1-6.1 becomes part of the geographic area in which the fire department of a consolidated city provides fire protection services.

As added by P.L.227-2005, SEC.51. Amended by P.L.1-2006, SEC.583.

IC 36-8-19-2

"Participating unit" defined

Sec. 2. As used in this chapter, "participating unit" refers to a unit that adopts an ordinance or a resolution under section 6 of this chapter.

As added by P.L.37-1994, SEC.3. Amended by P.L.47-2007, SEC.1.

IC 36-8-19-3

"Provider unit" defined

Sec. 3. As used in this chapter, "provider unit" refers to the participating unit that is responsible for providing the fire protection

services within the territory.
As added by P.L.37-1994, SEC.3.

IC 36-8-19-4
"Territory" defined

Sec. 4. As used in this chapter, "territory" refers to a fire protection territory established under this chapter.
As added by P.L.37-1994, SEC.3.

IC 36-8-19-5
Fire protection territory of contiguous units; establishment; purposes; boundaries

Sec. 5. (a) Subject to subsections (b) and (c), the legislative bodies of at least two (2) contiguous units may establish a fire protection territory for any of the following purposes:

(1) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the territory.

(2) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.

(3) Other purposes or functions related to fire protection and fire prevention.

(b) Not more than one (1) unit within the proposed territory may be designated as the provider unit for the territory.

(c) The boundaries of a territory need not coincide with those of other political subdivisions.
As added by P.L.37-1994, SEC.3.

IC 36-8-19-6
Ordinance or resolution for establishing territory; public hearing requirements

Sec. 6. (a) To establish a fire protection territory, the legislative bodies of each unit desiring to become a part of the proposed territory must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that meets the following requirements:

(1) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other units desiring to become a part of the proposed territory.

(2) The ordinance or resolution is adopted after January 1 but before April 1.

(3) The ordinance or resolution authorizes the unit to become a party to an agreement for the establishment of a fire protection territory.

(4) The ordinance or resolution is adopted after the legislative body holds a public hearing to receive public comment on the proposed ordinance or resolution. The legislative body must give notice of the hearing under IC 5-3-1.

(b) Before the legislative body of a unit may adopt an ordinance

or a resolution under this section to form a territory, the legislative body must do the following:

(1) Hold a public hearing, at least thirty (30) days before adopting the ordinance or resolution, at which the legislative body makes available to the public the following information:

(A) The property tax levy, property tax rate, and budget to be imposed or adopted during the first year of the proposed territory for each of the units that would participate in the proposed territory.

(B) The estimated effect of the proposed reorganization in the following years on taxpayers in each of the units that would participate in the proposed territory, including the expected property tax rates, property tax levies, expenditure levels, service levels, and annual debt service payments.

(C) The estimated effect of the proposed reorganization on other units in the county in the following years and on local option income taxes, excise taxes, and property tax circuit breaker credits.

(D) A description of the planned services and staffing levels to be provided in the proposed territory.

(E) A description of any capital improvements to be provided in the proposed territory.

(2) Hold at least one (1) additional public hearing before adopting an ordinance or a resolution to form a territory, to receive public comment on the proposed ordinance or resolution.

The public hearings required under this subsection are in addition to the public hearing required under subsection (a)(4). The legislative body must give notice of the hearings under IC 5-3-1.

(c) The notice required for a hearing under subsection (b)(2) shall include all of the following:

(1) A list of the provider unit and all participating units in the proposed territory.

(2) The date, time, and location of the hearing.

(3) The location where the public can inspect the proposed ordinance or resolution.

(4) A statement as to whether the proposed ordinance or resolution requires uniform tax rates or different tax rates within the territory.

(5) The name and telephone number of a representative of the unit who may be contacted for further information.

(6) The proposed levies and tax rates for each participating unit.

(d) The ordinance or resolution adopted under this section shall include at least the following:

(1) The boundaries of the proposed territory.

(2) The identity of the provider unit and all other participating units desiring to be included within the territory.

(3) An agreement to impose:

(A) a uniform tax rate upon all of the taxable property within the territory for fire protection services; or

(B) different tax rates for fire protection services for the units desiring to be included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory.

(4) The contents of the agreement to establish the territory.

(e) An ordinance or a resolution adopted under this section takes effect July 1 of the year the ordinance or resolution is adopted.

As added by P.L.37-1994, SEC.3. Amended by P.L.240-2001, SEC.3; P.L.47-2007, SEC.2; P.L.49-2012, SEC.1.

IC 36-8-19-6.3

Restrictions on voting on proposed ordinance or resolution

Sec. 6.3. A member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to become a party to an agreement to join or establish a fire protection territory if that member is also an employee of:

(1) another unit that is a participating unit in the fire protection territory; or

(2) another unit that is proposing to become a participating unit in the fire protection territory.

As added by P.L.172-2011, SEC.159.

IC 36-8-19-6.5

Agreement to change provider unit

Sec. 6.5. (a) The legislative bodies of all participating units in a territory may agree to change the provider unit of the territory from one (1) participating unit to another participating unit. To change the provider unit, the legislative body of each participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that agrees to and specifies the new provider unit. The provider unit may not be changed unless all participating units agree on the participating unit that will become the new provider unit. The participating units may not change the provider unit more than one (1) time in any year.

(b) The following apply to an ordinance or a resolution adopted under this section to change the provider unit of the territory:

(1) The ordinance or resolution must be adopted after January 1 but before April 1 of a year.

(2) The ordinance or resolution takes effect January 1 of the year following the year in which the ordinance or resolution is adopted.

As added by P.L.182-2009(ss), SEC.441.

IC 36-8-19-7

Tax levy rate; different tax rates authorized

Sec. 7. (a) A tax levied under this chapter may be levied at:

(1) a uniform rate upon all taxable property within the territory; or

(2) different rates for the participating units included within the territory, so long as a tax rate applies uniformly to all of a unit's

taxable property within the territory.

(b) If a uniform tax rate is levied upon all taxable property within a territory upon the formation of the territory, different tax rates may be levied for the participating units included within the territory in subsequent years.

As added by P.L.37-1994, SEC.3. Amended by P.L.240-2001, SEC.4; P.L.172-2011, SEC.160.

IC 36-8-19-7.5

Local option and excise tax distributions to participating units

Sec. 7.5. (a) This section applies to:

(1) county adjusted gross income tax, county option income tax, and county economic development income tax distributions; and

(2) excise tax distributions;

made after December 31, 2009.

(b) For purposes of allocating any county adjusted gross income tax, county option income tax, and county economic development income tax distributions or excise tax distributions that are distributed based on the amount of a taxing unit's property tax levies, each participating unit in a territory is considered to have imposed a part of the property tax levy imposed for the territory. The part of the property tax levy imposed for the territory for a particular year that shall be attributed to a participating unit is equal to the amount determined in the following STEPS:

STEP ONE: Determine the total amount of all property taxes imposed by the participating unit in the year before the year in which a property tax levy was first imposed for the territory.

STEP TWO: Determine the sum of the STEP ONE amounts for all participating units.

STEP THREE: Divide the STEP ONE result by the STEP TWO result.

STEP FOUR: Multiply the STEP THREE result by the property tax levy imposed for the territory for the particular year.

As added by P.L.182-2009(ss), SEC.442.

IC 36-8-19-8

Fire protection territory fund; establishment; purposes; budget; tax levies

Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to

transfer money out of the fund at any time.

(b) The fund consists of the following:

(1) All receipts from the tax imposed under this section.

(2) Any money transferred to the fund by the provider unit as authorized under subsection (d).

(3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.

(4) Any money transferred to the fund by a participating unit under section 8.6 of this chapter.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. Except as provided in IC 6-1.1-18.5-10.5, after estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

(1) the levy in the following year shall be increased by the amount required to be transferred; and

(2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. Each participating unit must agree to the amount to be transferred by adopting an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies an identical amount to be transferred.

(f) The tax under this section is subject to the tax levy limitations imposed under IC 6-1.1-18.5-10.5.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.2; P.L.82-2001, SEC.4; P.L.240-2001, SEC.5; P.L.47-2007, SEC.3; P.L.128-2008, SEC.7; P.L.182-2009(ss), SEC.443.

IC 36-8-19-8.5

Equipment replacement fund; property tax levy; maximum property tax rate

Sec. 8.5. (a) Participating units may agree to establish an

equipment replacement fund under this section to be used to purchase fire protection equipment, including housing, that will be used to serve the entire territory. To establish the fund, the legislative bodies of each participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that meets the following requirements:

(1) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other participating units under this section.

(2) The ordinance or resolution is adopted after January 1 but before April 1.

(3) The ordinance or resolution authorizes the provider unit to establish the fund.

(4) The ordinance or resolution includes at least the following:

(A) The name of each participating unit and the provider unit.

(B) An agreement to impose a uniform tax rate upon all of the taxable property within the territory for the equipment replacement fund.

(C) The contents of the agreement to establish the fund.

An ordinance or a resolution adopted under this section takes effect July 1 of the year the ordinance or resolution is adopted.

(b) If a fund is established, the participating units may agree to:

(1) impose a property tax to provide for the accumulation of money in the fund to purchase fire protection equipment;

(2) incur debt to purchase fire protection equipment and impose a property tax to retire the loan; or

(3) transfer an amount from the fire protection territory fund to the fire equipment replacement fund not to exceed five percent (5%) of the levy for the fire protection territory fund for that year;

or any combination of these options. The property tax rate for the levy imposed under this section may not exceed three and thirty-three hundredths cents ($0.0333) per one hundred dollars ($100) of assessed value. Before debt may be incurred, the fiscal body of a participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies the amount and purpose of the debt. The ordinance or resolution must be identical to the other ordinances and resolutions adopted by the participating units. In addition, the department of local government finance must approve the incurrence of the debt using the same standards as applied to the incurrence of debt by civil taxing units.

(c) Money in the fund may be used by the provider unit only for those purposes set forth in the agreement among the participating units that permits the establishment of the fund.

As added by P.L.326-1995, SEC.3. Amended by P.L.36-2000, SEC.10; P.L.90-2002, SEC.500; P.L.256-2003, SEC.39; P.L.47-2007, SEC.4.

IC 36-8-19-8.6

Transfer of money from participating unit to fire protection territory fund or fire protection territory equipment replacement fund

Sec. 8.6. (a) A participating unit may adopt an ordinance or a resolution to transfer any money belonging to the participating unit to:

(1) the fire protection territory fund established under section 8 of this chapter;

(2) the fire protection territory equipment replacement fund established under section 8.5 of this chapter; or

(3) both funds described in subdivisions (1) and (2).

(b) An ordinance or a resolution adopted under this section must state both of the following:

(1) The amount of money transferred to either fund.

(2) The source of the money.

(c) The transfer of money from a participating unit to a fire protection territory before July 1, 2008, is legalized.

As added by P.L.128-2008, SEC.8.

IC 36-8-19-8.7

Purchase of firefighting equipment on installment conditional sale or mortgage contract

Sec. 8.7. After a sufficient appropriation for the purchase of firefighting apparatus and equipment, including housing, is made and is available, the participating units, with the approval of the fiscal body of each participating unit, may purchase the firefighting apparatus and equipment for the territory on an installment conditional sale or mortgage contract running for a period not exceeding:

(1) six (6) years; or

(2) fifteen (15) years for a territory that:

(A) has a total assessed value of sixty million dollars ($60,000,000) or less, as determined by the department of local government finance; and

(B) is purchasing the firefighting equipment with funding from the:

(i) state or its instrumentalities; or

(ii) federal government or its instrumentalities.

The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year.

As added by P.L.83-1998, SEC.4. Amended by P.L.90-2002, SEC.501; P.L.178-2002, SEC.135.

IC 36-8-19-9

Avoidance of duplication of tax levies; preexisting indebtedness

Sec. 9. (a) The department of local government finance, when approving a rate and levy fixed by the provider unit, shall verify that a duplication of tax levies does not exist within participating units, so that taxpayers do not bear two (2) levies for the same service,

except as provided by subsection (b) or (c).

(b) A unit that incurred indebtedness for fire protection services before becoming a participating unit under this chapter shall continue to repay that indebtedness by levies within the boundaries of the unit until the indebtedness is paid in full.

(c) A unit that agreed to the borrowing of money to purchase fire protection equipment while a participating unit under this chapter shall continue to repay the unit's share of that indebtedness by imposing a property tax within the boundaries of the unit until the indebtedness is paid in full. The department of local government finance shall determine the amount of the indebtedness that represents the unit's fair share, taking into account the equipment purchased, the useful life of the equipment, the depreciated value of the equipment, and the number of years the unit benefited from the equipment.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.4; P.L.90-2002, SEC.502.

IC 36-8-19-10

Disbandment of existing fire departments

Sec. 10. This chapter does not require a municipality or township to disband its fire department unless its legislative body consents by ordinance (if the unit is a municipality) or resolution (if the unit is a township) to do so.

As added by P.L.37-1994, SEC.3. Amended by P.L.47-2007, SEC.5.

IC 36-8-19-11

Annexation of territory

Sec. 11. Any area that is part of a territory and that is annexed by a municipality that is not a part of the territory ceases to be a part of the territory when the municipality begins to provide fire protection services to the area.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-12

Adjustments to tax levy; entry year of participants

Sec. 12. In the same year that a tax levy is imposed under this chapter, each respective participating unit's tax levies attributable to providing fire protection services within the unit shall be reduced by an amount equal to the amount levied for fire protection services in the year immediately preceding the year in which each respective unit became a participating unit.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-13

Withdrawal from territory; ordinance or resolution; effect of adoption

Sec. 13. (a) If a unit elects to withdraw from a fire protection territory established under this chapter, the unit must after January 1 but before April 1, adopt an ordinance (if the unit is a county or

municipality) or a resolution (if the unit is a township) providing for the withdrawal. An ordinance or resolution adopted under this section takes effect July 1 of the year that the ordinance or resolution is adopted.

(b) If an ordinance or a resolution is adopted under subsection (a):

(1) the unit's maximum permissible ad valorem property tax levy with respect to fire protection services shall be initially increased by the amount of the particular unit's previous year levy under this chapter; and

(2) additional increases with respect to fire protection services levy amounts are subject to the tax levy limitations under IC 6-1.1-18.5, except for the part of the unit's levy that is necessary to retire the unit's share of any debt incurred while the unit was a participating unit.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.5; P.L.47-2007, SEC.6.

IC 36-8-19-14

Payment of line of duty health care expenses for firefighters

Sec. 14. (a) A provider unit shall pay for the care of a full-time, paid firefighter who:

(1) suffers an injury; or

(2) contracts an illness;

during the performance of the firefighter's duty.

(b) The provider unit shall pay for the following expenses incurred by a firefighter described in subsection (a):

(1) Medical and surgical care.

(2) Medicines and laboratory, curative, and palliative agents and means.

(3) X-ray, diagnostic, and therapeutic service, including during the recovery period.

(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the fund used by the provider unit for payment of the costs attributable to providing fire protection services in the provider unit.

(d) A provider unit that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The provider unit's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the firefighter against the third party.

As added by P.L.150-2002, SEC.5.

IC 36-8-19-15

Dissolution of fire protection territory; reversion of title to real property

Sec. 15. (a) For purposes of this section, a fire protection territory is dissolved if all participating units withdraw from the fire

protection territory as provided in section 13 of this chapter.

(b) When a fire protection territory dissolves, title to any real property transferred to the provider unit reverts to the participating unit that transferred the real property to the provider unit.

As added by P.L.128-2008, SEC.9.

IC 36-8-19.5

Chapter 19.5. Public Safety Improvement Areas

IC 36-8-19.5-1

Applicability of chapter

Sec. 1. This chapter applies to consolidated and second class cities.

As added by P.L.21-1994, SEC.3.

IC 36-8-19.5-2

"Institute" defined

Sec. 2. As used in this chapter, "institute" means the Indiana criminal justice institute established under IC 5-2-6-3.

As added by P.L.21-1994, SEC.3.

IC 36-8-19.5-3

Designation of public safety improvement areas

Sec. 3. (a) A legislative body may apply to the institute to have an area of a city governed by the legislative body designated as a public safety improvement area. The application must include a plan for improving public safety within the area.

(b) The institute may not designate an area as a public safety improvement area unless the area:

(1) has a high crime rate;

(2) has boundaries that are expressly designated by the legislative body; and

(3) comprises not more than twenty percent (20%) of the city's geographical territory.

As added by P.L.21-1994, SEC.3.

IC 36-8-19.5-4

Adoption of rules

Sec. 4. The institute shall adopt rules under IC 4-22-2 to carry out this chapter. The rules must include the following:

(1) A definition of a public safety improvement area.

(2) A description of what constitutes a high crime rate.

(3) Guidelines for the application and approval process for designating an area as a public safety improvement area.

(4) A method for:

(A) publishing a description of each public safety area approved by the institute; and

(B) informing the residents of a city whenever the institute designates an area of the city as a public safety improvement area.

(5) A procedure for the institute to give priority to public safety improvement areas when the institute is involved in:

(A) awarding; or

(B) administering the award of;

grants that public safety improvement areas are eligible to receive.

As added by P.L.21-1994, SEC.3.

IC 36-8-19.5-5
Duration and renewal of designation

Sec. 5. (a) The institute may approve an area as a public safety improvement area under this chapter for five (5) years.

(b) A legislative body may reapply to have an area designated as a public safety improvement area under the application and approval process described in this chapter.

As added by P.L.21-1994, SEC.3.

IC 36-8-20

Chapter 20. Universal 911 Emergency Telephone Number

IC 36-8-20-1

Applicability

Sec. 1. This chapter applies to the state and all units.

As added by P.L.126-1999, SEC.1.

IC 36-8-20-2

Designation as universal emergency telephone number

Sec. 2. The telephone number 911 is designated as the universal emergency telephone number for reporting an emergency and requesting assistance.

As added by P.L.126-1999, SEC.1.

IC 36-8-20-3

Exclusivity of system

Sec. 3. A communication system that is:

(1) available to members of the public as a means to report an emergency and to request assistance; and

(2) established or operated by the state or a unit;

must use 911 as the exclusive universal emergency telephone number for that communication system.

As added by P.L.126-1999, SEC.1.

IC 36-8-21
Repealed

(*Repealed by P.L.132-2012, SEC.21.)*

IC 36-8-21.5
Chapter 21.5. Severe Weather Warning Sirens

IC 36-8-21.5-1
"Department"
Sec. 1. As used in this chapter, "department" refers to:
(1) the department of homeland security established by IC 10-19-2-1; or
(2) an appropriate division within the department of homeland security, as determined by the executive director of the department of homeland security.
As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-2
"Infrastructure agency"
Sec. 2. As used in this chapter, "infrastructure agency", with respect to an area in a county, means:
(1) a political subdivision; or
(2) an agency;
responsible for planning for, acquiring, operating, maintaining, or testing one (1) or more severe weather warning sirens in the area.
As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-3
"Plan"
Sec. 3. As used in this chapter, "plan" refers to a siren coverage plan adopted by a county under section 13 of this chapter.
As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-4
"Planning agency"
Sec. 4. As used in this chapter, "planning agency", with respect to an area, means:
(1) a unit that has planning and zoning jurisdiction over all or any part of the area; or
(2) a plan commission that has planning jurisdiction over all or any part of the area.
As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-5
"Planned siren"
Sec. 5. As used in this chapter, "planned siren" refers to a siren that satisfies all of the following:
(1) The siren has a definite location within the county.
(2) The funding for the siren has been identified.
(3) An approximate date for the siren's acquisition and installation has been determined.
As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-6

"Report"

Sec. 6. As used in this chapter, "report" refers to a siren coverage report prepared by a county under section 11 of this chapter.

As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-7

"Severe weather"

Sec. 7. As used in this chapter, "severe weather" means:

(1) a tornado; or

(2) any other storm, weather condition, or emergency designated by the department in a rule adopted under section 9 of this chapter.

As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-8

"Severe weather warning siren"

Sec. 8. As used in this chapter, "severe weather warning siren" or "siren" means a siren that can be activated within a specified range to warn residents of an occurrence or imminent threat of severe weather.

As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-9

Department to adopt rules concerning severe weather warning sirens

Sec. 9. Before January 1, 2010, the department shall adopt rules under IC 4-22-2 to provide for the following:

(1) Minimum technical standards, including a minimum range, for any siren that is to be acquired and installed in a county under a county's siren coverage plan.

(2) A specification of any permissible storm, weather condition, or emergency, other than a tornado, for which a severe weather warning siren may be activated.

(3) Requirements for any test, activation, or failure rate data that the department may require a county to submit with respect to any siren identified by a county in a:

(A) siren coverage report prepared under this chapter; or

(B) siren coverage plan prepared under this chapter.

(4) Any other rules necessary for the department to:

(A) assess the number, location, and condition of existing severe weather warning sirens in each county in Indiana; and

(B) determine the need for additional sirens in order to ensure comprehensive severe weather warning siren coverage for all Indiana residents.

As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-10

County's siren coverage plan; assistance from department; siren coverage report

Sec. 10. (a) At the request of the county legislative body, the

department shall assist the county in development of a siren coverage plan for the county.

(b) In developing a siren coverage plan for a county, the department may require the county to develop a siren coverage report.

As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-11

Siren coverage report; required information; public hearings; adoption

Sec. 11. (a) Except for the recommendation required by subsection (b)(3), the county legislative body may designate one (1) or more:

(1) infrastructure agencies; or

(2) other departments, divisions, or agencies;

to prepare a siren coverage report.

(b) A siren coverage report must include the following:

(1) A description of all existing and planned severe weather warning sirens in the county as of the date of the report. For each severe weather warning siren identified, the following information must be included:

(A) The location of the siren within the county, including an identification of any political subdivision in which the siren is or will be located. The information provided under this clause must include a map depicting the location of each siren within the county.

(B) The following technical and other specifications for the siren:

(i) The manufacturer and model year.

(ii) For an existing siren, the date of installation.

(iii) For a planned siren, the planned dates for installation and first operation.

(iv) The range of the siren, identified in miles or some other appropriate measure of distance.

(v) The number of persons living within the range identified under item (iv), as determined by the most recent federal census block data available.

(vi) For an existing siren, siren activation data for the most recent twelve (12) month period, including the date of each activation and whether the siren was activated for testing purposes or for an actual severe weather event. If an existing siren has been in operation for less than twelve (12) months, the data required by this item must cover all activations occurring since the date the siren first came online.

(vii) For an existing siren, the siren's failure rate, as determined from the data reported under item (vi).

(2) An identification of the areas in the county that are not within the range of an existing or a planned siren. For each area identified under this subdivision, the following information

must be included:

(A) The number of persons living in the area, as determined by the most recent federal census block data available.

(B) Any development planned for the area, as determined through consultation with all appropriate planning agencies. The information required by this clause must include:

(i) the type of development proposed;

(ii) the number of new dwelling units or other buildings proposed; and

(iii) the status of the proposal, including the status of any needed permits or approvals.

(3) Subject to subsection (e), a recommendation by the county legislative body as to the county's need for any additional sirens, other than those sirens identified as planned sirens under subdivision (1). The county legislative body may recommend under this subdivision additional sirens to provide coverage for:

(A) any of the areas identified under subdivision (2) as not within the range of an existing or a planned siren; or

(B) any area identified under subdivision (1) as within the range of an existing siren, if the county legislative body determines that the existing siren does not provide consistent or adequate coverage for the area, based on the existing siren's failure rate, as determined under subdivision (1)(B)(vii).

(c) In making a recommendation under subsection (b)(3), the county legislative body:

(1) may consult with the department; and

(2) shall consult with each:

(A) infrastructure agency; and

(B) planning agency;

with jurisdiction in an area identified by the county legislative body as needing one (1) or more sirens.

(d) Before adopting the siren coverage report prepared under this section, the county legislative body must do the following:

(1) Give notice of and hold at least one (1) public hearing on the report.

(2) Publish, in accordance with IC 5-3-1, a schedule stating the time and place of each hearing. The schedule must also state where the entire report is on file and may be examined in its entirety for at least ten (10) days before the hearing.

(e) After considering any comments made at the hearing required by subsection (d), the county legislative body shall:

(1) adopt the report:

(A) as originally proposed; or

(B) as modified by the county legislative body after the hearing required by subsection (d); and

(2) submit the report to the department.

As added by P.L.89-2008, SEC.1.

IC 36-8-21.5-12

Department's review of report; recommendations

Sec. 12. The department shall do the following not later than six (6) months after a county submits a report under section 11 of this chapter:

(1) Review the siren coverage report.

(2) Make any recommendations to the county that the department determines to be necessary to ensure comprehensive severe weather warning siren coverage for all residents of the county.

As added by P.L.89-2008, SEC.1. Amended by P.L.1-2009, SEC.171.

IC 36-8-21.5-13

County's siren coverage plan; required information; public hearings; adoption; effective date

Sec. 13. (a) A county's siren coverage plan must contain the following information:

(1) The information included in the county's siren coverage report under section 11 of this chapter, including the following:

(A) Information concerning any areas in the county that are not within the range of an existing or a planned siren, as:

(i) identified by the county in its siren coverage report; and

(ii) updated or revised by the county as needed to provide an accurate and current assessment of the county's existing and planned sirens and need for additional sirens.

(B) Information concerning any areas in the county that are within the range of an existing siren if the department has determined that the existing siren does not provide consistent or adequate coverage for the area. As necessary, the county shall update the information provided under this clause as follows:

(i) To include any additional existing sirens that the county legislative body has determined do not provide consistent or adequate coverage for an area. The county shall provide the test, activation, or failure rate data to support its determination as may be required by a rule adopted by the department under this chapter.

(ii) To exclude any siren that the department has determined does not provide consistent or adequate coverage for an area. The county shall provide such proof as may be required by a rule adopted by the department under this chapter that the siren has been repaired or replaced.

(C) Any additional or revised information that:

(i) was not included in the county's siren coverage report; and

(ii) is necessary to provide an accurate and current assessment of the county's existing and planned sirens and need for additional sirens.

(2) An estimate of the nature and location of development that is expected to occur in each area identified under subdivision

(1) during the ten (10) years immediately following the date of the adoption of the plan.

(3) An estimate of the type, location, and cost of the siren or sirens that are necessary to provide complete siren coverage for the areas identified under subdivision (1). The plan must indicate:

(A) the proposed timing and sequencing of the acquisition and installation of each siren; and

(B) the infrastructure agency that is responsible for acquiring and providing for the installation of each siren.

(4) A general description of the sources and amounts of money used to pay for any sirens installed in the county during the five

(5) years immediately preceding the date of the plan.

(b) For each area in which the plan provides for the acquisition and installation of a siren, the plan must:

(1) provide for the acquisition and installation within the ten (10) years immediately following the date of the plan's adoption; and

(2) identify the revenue sources and estimate the amount of the revenue sources that the county intends to use to acquire and install the sirens identified under subsection (a)(3).

(c) In preparing, or causing to be prepared, the plan required by this section, the county:

(1) may consult with:

(A) the department; or

(B) a qualified engineer licensed to perform engineering services in Indiana; and

(2) shall consult with each:

(A) infrastructure agency; and

(B) planning agency;

with jurisdiction in an area described in subsection (a)(1).

(d) Before adopting the siren coverage plan prepared under this section, the county legislative body must do the following:

(1) Give notice of and hold at least one (1) public hearing on the plan.

(2) Publish, in accordance with IC 5-3-1, a schedule stating the time and place of each hearing. The schedule must also state where the entire plan is on file and may be examined in its entirety for at least ten (10) days before the hearing.

(e) After considering any comments made at the hearing required by subsection (d), the county legislative body shall:

(1) adopt the plan:

(A) as originally proposed; or

(B) as modified by the county legislative body after the hearing required by subsection (d); and

(2) submit the plan to the department.

(f) A siren coverage plan adopted under this section takes effect on January 1 after its adoption. Each unit having planning and zoning jurisdiction in an area described in subsection (a)(1) shall incorporate the siren coverage plan as part of the unit's comprehensive plan and

capital improvement plan, as appropriate.
As added by P.L.89-2008, SEC.1. Amended by P.L.1-2009, SEC.172.

IC 36-8-21.5-14
Department to assist in implementing plan

Sec. 14. The department shall assist a county that adopts a siren coverage plan to do the following:

(1) Implement the plan.

(2) Obtain federal and other grants to enable the county to implement the plan.

As added by P.L.89-2008, SEC.1. Amended by P.L.1-2009, SEC.173.

IC 36-8-22

Chapter 22. Meet and Confer for Public Safety Employees

IC 36-8-22-1

Application of chapter

Sec. 1. This chapter applies after December 31, 2007.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-2

"Employee"

Sec. 2. As used in this chapter, "employee" means a full-time employee of a police or fire department. However, the term does not include an employee in an upper level policymaking position.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-3

"Employee organization"

Sec. 3. As used in this chapter, "employee organization" means an organization:

(1) that includes employees as members; and

(2) whose primary purpose is to represent the members of the organization on issues concerning grievances, wages, rates of pay, hours of employment, conditions of employment, or becoming an exclusive recognized representative.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-4

"Employer"

Sec. 4. As used in this chapter, "employer" means a unit.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-5

"Exclusive recognized representative"

Sec. 5. As used in this chapter, "exclusive recognized representative" means an employee organization elected under section 9 of this chapter.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-6

"Strike"

Sec. 6. As used in this chapter, "strike" means a:

(1) work stoppage by two (2) or more employees to enforce compliance with demands made on an employer; or

(2) temporary stoppage of work activities by two (2) or more employees in protest against an act or condition.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-7

Exemptions; existing agreements

Sec. 7. (a) Except as provided in section 15 of this chapter, this

chapter does not apply to an employer with a population of less than seven thousand (7,000).

(b) This chapter does not apply to an employer that has adopted by:

(1) ordinance;
(2) resolution;
(3) amendment; or
(4) executive order;

provisions and procedures that permit an employee to form, join, or assist an employee organization to bargain collectively.

(c) For:

(1) a collective bargaining agreement; or
(2) a memorandum of understanding;

entered into between an employer and an employee organization or a recognized representative before January 1, 2008, this chapter may not be construed to annul, modify, or limit the agreement or memorandum during the term of the agreement or memorandum.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-8
Employee rights

Sec. 8. (a) All employees have the right to:

(1) meet and freely assemble to discuss their interests as employees on the employees' own time;
(2) form an employee organization on the employees' own time; and
(3) join and assist an employee organization.

(b) The rights guaranteed under subsection (a) include the right to:

(1) solicit membership;
(2) join an employee organization to present the view of the employee; and
(3) have dues deducted from employee wages and submitted to the exclusive recognized representative.

(c) An employee may not be required to:

(1) become a member of; or
(2) pay dues to;

an employee organization.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-9
Election of exclusive recognized representative

Sec. 9. (a) An employee organization is the exclusive recognized representative of the employees of an employer if:

(1) before January 1, 2008, the employee organization was recognized by the employer as the sole representative of the employer's employees; or
(2) after December 31, 2007, the employee organization is elected to be the exclusive recognized representative under subsection (c).

(b) After December 31, 2007, an employer shall conduct an

election to determine an exclusive recognized representative if at least thirty percent (30%) of the employees of the employer sign a petition requesting such an election. The election shall be conducted at least thirty (30) but not more than sixty (60) days after the employer receives the petition.

(c) An employee organization becomes the exclusive recognized representative of the employees of the employer if it receives more than fifty percent (50%) of the votes cast in an election conducted under subsection (b).

(d) An election under subsection (b) to determine an exclusive recognized representative may not be conducted more often than once every two (2) years.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-10

Employer rights

Sec. 10. This chapter is not intended to circumscribe or modify the existing right of an employer to:

(1) direct the work of the employer's employees;

(2) hire, promote, demote, transfer, assign, and retain employees in positions;

(3) suspend, discharge, or otherwise discipline employees for just cause;

(4) maintain the efficiency of governmental operations;

(5) relieve employees from duties because of lack of work or for other legitimate reasons; or

(6) take actions that may be necessary to carry out the mission of the employer in emergencies.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-11

Prohibited employer practices

Sec. 11. An employer may not do the following:

(1) Interfere with, restrain, or coerce employees in the exercise of the rights guaranteed under this chapter.

(2) Dominate, interfere with, or assist in the formation or administration of an employee organization, or contribute financial or other support to an employee organization. However, an employer may permit employees to meet and confer and represent employee interests during working hours without loss of time or pay.

(3) Discriminate in regard to hiring or conditions of employment to encourage or discourage membership in an employee organization.

(4) Discharge or otherwise discriminate against an employee because the employee has filed a complaint, an affidavit, or a petition or has given information or testified under this chapter.

(5) Refuse to meet and confer in good faith with an exclusive recognized representative.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-12
Written notice by exclusive recognized representative; employer required to meet and confer

Sec. 12. (a) An exclusive recognized representative of the employees of an employer that elects to meet and confer with an employer must notify the employer in writing that the exclusive recognized representative intends to exercise its rights under this chapter.

(b) Except as provided by section 13 of this chapter, an employer who has received a written notice under subsection (a) shall meet and confer in good faith at reasonable times, including meeting in advance of the budget making process, to discuss issues and proposals regarding wages, hours of employment, and other conditions and terms of employment with the exclusive recognized representative.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-13
Employer election to meet and confer; termination of duty to meet and confer

Sec. 13. (a) An employer is not required to meet and confer with an exclusive recognized representative under this chapter unless the exclusive recognized representative has notified the employer in writing that the exclusive recognized representative elects to exercise its rights under this chapter.

(b) Notwithstanding subsection (a), an employer may elect to meet and confer and enter into an agreement under section 12 of this chapter even if the employer did not receive a written notice from an exclusive recognized representative.

(c) Notwithstanding any other provision of this chapter, an employer may elect to terminate its duty to meet and confer with an exclusive recognized representative under this chapter if:

(1) after meeting and conferring with the exclusive recognized representative under section 12 of this chapter, the employer and the exclusive recognized representative are unable to reach a written agreement under this chapter; and

(2) at least fifty percent (50%) of the members of the legislative body of the employer vote to terminate the employer's duty to meet and confer with the exclusive recognized representative under this chapter and written notice of the action of the legislative body is given to the exclusive recognized representative.

(d) An exclusive recognized representative that receives a termination notice from an employer under subsection (c)(2) must wait at least one (1) year after the date the exclusive recognized representative receives the notice to notify the employer of the exclusive recognized representative's election under subsection (a) to exercise its rights under this chapter.

As added by P.L.48-2007, SEC.1. Amended by P.L.3-2008, SEC.268.

IC 36-8-22-14
Deficit financing prohibited

Sec. 14. (a) As used in this section, "deficit financing" means making expenditures that exceed the money legally available to an employer in any budget year.

(b) An employer may not enter into an agreement under section 12 of this chapter that will place the employer in a position of deficit financing. An agreement is voidable to the extent that an employer must engage in deficit financing to comply with the agreement.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-15
No strike participation; employee discharge; loss of right of representation

Sec. 15. (a) This section applies to employees of an employer regardless of population.

(b) An employee, an employee organization, or an exclusive recognized representative may not participate in or encourage participation in a strike against an employer.

(c) An employee engaging in a strike is subject to discharge by the employer as provided in IC 36-8-3-4.

(d) An exclusive recognized representative that engages in or sanctions a strike loses the right to represent the employees for at least ten (10) years after the date of the action.

(e) An employer may not pay an employee for days the employee is engaged in a strike.

As added by P.L.48-2007, SEC.1.

IC 36-8-22-16
Maximum agreement term

Sec. 16. The term of any written agreement entered into under section 12 of this chapter may not exceed forty-eight (48) months.

As added by P.L.48-2007, SEC.1.

IC 36-8-23

Chapter 23. Community Fast Responders

IC 36-8-23-1

"Community fast responder"

Sec. 1. As used in this chapter, "community fast responder" means a volunteer who may be summoned to perform cardiopulmonary resuscitation, defibrillation, or other emergency services under the direction of a nonprofit corporation.

As added by P.L.70-2012, SEC.2.

IC 36-8-23-2

"Community fast responder nonprofit corporation"

Sec. 2. As used in this chapter, "community fast responder nonprofit corporation" means a nonprofit corporation that organizes or directs community fast responders. The term, for purposes of this chapter, does not include a hospital or an entity operated or directed by a hospital.

As added by P.L.70-2012, SEC.2.

IC 36-8-23-3

Good Samaritan statute applies to fast responders

Sec. 3. IC 34-30-12-1 (the good Samaritan statute) applies to a community fast responder.

As added by P.L.70-2012, SEC.2.

IC 36-8-23-4

Immunities of fast responders

Sec. 4. IC 16-31-6 applies to a community fast responder.

As added by P.L.70-2012, SEC.2.

IC 36-8-23-5

Limited liability of community fast responders and nonprofit corporations

Sec. 5. (a) This section applies if:

(1) a county adopts an ordinance approving the provision of community fast responder services by a community fast responder nonprofit corporation; and

(2) the community fast responder nonprofit corporation purchases an insurance policy described in subsection (b).

(b) A community fast responder nonprofit corporation shall purchase an insurance policy that provides at least seven hundred thousand dollars ($700,000) of insurance coverage for the liability of all of the corporation's community fast responders for bodily injury or property damage caused by the corporation's community fast responders acting within the scope of their duties.

(c) The civil liability of a community fast responder for:

(1) an act that is within the scope of a community fast responder's duties; or

(2) the failure to do an act that is within the scope of a

community fast responder's duties;

while performing emergency services or while traveling to the scene of an emergency or from the scene of an emergency is limited to the coverage provided by the insurance policy purchased under this section. A community fast responder may not be named in a lawsuit as a nonparty and is not liable for punitive damages for any act that is within the scope of the community fast responder's duties.

(d) The civil liability of a community fast responder nonprofit corporation is limited to five million dollars ($5,000,000) for injury to or death of all persons in an occurrence. A community fast responder nonprofit corporation is not liable for punitive damages.

As added by P.L.70-2012, SEC.2.

IC 36-8-23-6

Tort claims act applies to counties adopting an ordinance concerning fast responders

Sec. 6. A county that adopts an ordinance under section 5(a)(1) of this chapter is immune from civil liability in accordance with IC 34-13-3-3.

As added by P.L.70-2012, SEC.2.

IC 36-9

ARTICLE 9. TRANSPORTATION AND PUBLIC WORKS

IC 36-9-1

Chapter 1. Definitions

IC 36-9-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 8.5 of this chapter by P.L.220-1986 does not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.220-1986 had not been enacted.

As added by P.L.220-2011, SEC.680.

IC 36-9-1-1

Application of chapter

Sec. 1. The definitions in IC 36-1-2 and in this chapter apply throughout this article.

As added by Acts 1980, P.L.211, SEC.4. Amended by Acts 1981, P.L.309, SEC.67.

IC 36-9-1-2

"Improvement"

Sec. 2. "Improvement" includes the construction, equipment, remodeling, extension, repair, and betterment of structures, including:

(1) sanitary sewers and sanitary sewer tap-ins;

(2) sidewalks;

(3) curbs;

(4) streets;

(5) alleys;

(6) pedestrian-ways or malls set aside entirely or partly, or during restricted hours, for pedestrian rather than vehicular traffic;

(7) other paved public places;

(8) parking facilities;

(9) lighting;

(10) electric signals;

(11) landscaping, including trees, shrubbery, flowers, grass, fountains, benches, statues, floodlighting, gaslighting, and structures of a decorative, educational, or historical nature;

(12) for units that own and operate a water utility, water main extensions from the water utility; and

(13) for units that establish and operate a department of public sanitation under IC 36-9-25, sewage works that are:

(A) overhead plumbing or backflow prevention devices;

(B) installed in private dwellings; and
(C) financed in whole or in part through assistance provided under IC 36-9-25-42.

As added by Acts 1981, P.L.309, SEC.68. Amended by P.L.152-1992, SEC.1; P.L.168-2009, SEC.8.

IC 36-9-1-3
"Parking facility"

Sec. 3. "Parking facility" includes the:
(1) land;
(2) structures and other improvements above, at, or below ground level;
(3) entrances, exits, equipment, and fences; and
(4) other accessories or appurtenances;

that are necessary or desirable for safety and convenience in the offstreet parking of vehicles, are owned or leased by a municipality, and are used for the offstreet parking of vehicles.

As added by Acts 1981, P.L.309, SEC.69.

IC 36-9-1-4
"Public place"

Sec. 4. "Public place" includes any tract owned by the state or a political subdivision.

As added by Acts 1981, P.L.309, SEC.70.

IC 36-9-1-5
"Utility regulatory commission"

Sec. 5. "Utility regulatory commission" means the Indiana utility regulatory commission.

As added by Acts 1981, P.L.309, SEC.71. Amended by P.L.23-1988, SEC.118.

IC 36-9-1-5.5
"Public transportation agency"

Sec. 5.5. "Public transportation agency" means any entity that operates a public transportation system and is established by a legislative body to provide public transportation services.

As added by P.L.235-1997, SEC.1.

IC 36-9-1-6
"Public transportation system"

Sec. 6. "Public transportation system" means any common carrier of passengers for hire.

As added by Acts 1981, P.L.309, SEC.72.

IC 36-9-1-7
"Public way"

Sec. 7. "Public way" includes highway, street, avenue, boulevard, road, lane, or alley.

As added by Acts 1981, P.L.309, SEC.73.

IC 36-9-1-8
"Sewage works"

Sec. 8. "Sewage works" means:

(1) sewage treatment plants;
(2) intercepting sewers;
(3) main sewers;
(4) submain sewers;
(5) local sewers;
(6) lateral sewers;
(7) outfall sewers;
(8) storm sewers;
(9) force mains;
(10) pumping stations;
(11) ejector stations;
(12) any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, solid waste, sewage, storm drainage, and other drainage of a municipality; and
(13) for purposes of IC 36-9-25, overhead plumbing or backflow prevention devices that are financed in whole or in part through assistance provided under IC 36-9-25-42.

As added by Acts 1981, P.L.309, SEC.74. Amended by Acts 1982, P.L.77, SEC.25; P.L.168-2009, SEC.9.

IC 36-9-1-8.5
"Thoroughfare"

Sec. 8.5. "Thoroughfare" means a public way or public place that is included in the thoroughfare plan of a unit. The term includes the entire right-of-way for public use of the thoroughfare and all surface and subsurface improvements on it such as sidewalks, curbs, shoulders, and utility lines and mains.

As added by P.L.220-1986, SEC.29.

IC 36-9-1-9
"Urban mass transportation system"

Sec. 9. (a) "Urban mass transportation system" means a public transportation system that:

(1) operates buses or other vehicles designed to carry more than six (6) passengers, exclusive of the driver; and
(2) operates over designated and definite routes:
(A) within one (1) municipality and its suburban territory; or
(B) within and between two (2) or more municipalities located not more than ten (10) miles apart, and within their suburban territories.

(b) For purposes of this section, the suburban territory of a municipality consists of the areas within one (1) mile outside its corporate boundaries and one (1) additional mile for each fifty thousand (50,000) population, or major fraction thereof, in the municipality.

As added by Acts 1981, P.L.309, SEC.75.

IC 36-9-1-10
"Watercourse"

Sec. 10. (a) "Watercourse" includes lakes, rivers, streams, and any other body of water.

(b) The term does not include an underground aquifer or water in an underground aquifer.

As added by Acts 1982, P.L.77, SEC.26. Amended by P.L.87-2012, SEC.2.

IC 36-9-2

Chapter 2. General Powers Concerning Transportation and Public Works

IC 36-9-2-1

Application of chapter

Sec. 1. This chapter applies to all units except townships. However, with respect to a public transportation system, this chapter does not apply after December 31, 2009, to a county that is a member of the northern Indiana regional transportation district established under IC 8-24 and that has a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000);

or a unit located in such a county.

As added by Acts 1980, P.L.211, SEC.4. Amended by P.L.182-2009(ss), SEC.444; P.L.119-2012, SEC.223.

IC 36-9-2-2

Transportation systems; establishment, aid, and operation

Sec. 2. A unit may establish, aid, maintain, and operate transportation systems.

As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-3

Transportation facilities; establishment, aid, and operation

Sec. 3. A unit may establish, aid, maintain, and operate airports, bus terminals, railroad terminals, wharves, and other transportation facilities.

As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-4

Vehicles for public hire; regulation of services

Sec. 4. A unit may regulate the services offered by persons who hold out for public hire the use of vehicles. This includes the power to fix the price to be charged for that service.

As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-5

Public ways; establishment

Sec. 5. A unit may establish, vacate, maintain, and operate public ways.

As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-6

Public ways; rights-of-way through, under, or over

Sec. 6. A unit may grant rights-of-way through, under, or over public ways.

As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-7
Public ways; regulation of use; school corporation grounds
Sec. 7. A unit may regulate the use of public ways. A unit also may regulate the use of school corporation grounds if requested by the fiscal body of the school corporation.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-8
Watercourses; establishment and control
Sec. 8. A unit may establish, vacate, maintain, and control watercourses.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-9
Watercourses; channel alterations
Sec. 9. A unit may change the channel of, dam, dredge, remove an obstruction in, straighten, and widen a watercourse.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-10
Watercourses; taking or permitting escape of water
Sec. 10. A unit may regulate the taking of water, or causing or permitting water to escape, from a watercourse.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-11
Watercourses; altering temperature or affecting flow of water
Sec. 11. A unit may regulate conduct that might alter the temperature of water, or affect the flow of water, in a watercourse.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-12
Watercourses; introduction of any substance
Sec. 12. A unit may regulate the introduction of any substance into a watercourse or onto its banks.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-13
Watercourses; purification
Sec. 13. A unit may purify the water in a watercourse.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-14
Waterworks
Sec. 14. A unit may regulate the furnishing of water to the public. A unit also may establish, maintain, and operate waterworks.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-15
Utility service to public

Sec. 15. A unit may furnish, or regulate the furnishing of, utility service to the public.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-16
Disposal of waste substances and domestic or sanitary sewage; regulation of services and charges

Sec. 16. A unit may regulate the furnishing of the service of collecting, processing, and disposing of waste substances and domestic or sanitary sewage. This includes the power to fix the price to be charged for that service.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-17
Disposal of waste substances and domestic or sanitary sewage; systems

Sec. 17. A unit may collect, process, and dispose of waste substances and domestic or sanitary sewage, and may establish, maintain, and operate sewers, sewage disposal systems, and systems to collect and dispose of waste substances.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-18
Extraterritorial powers; four mile limit

Sec. 18. A municipality may exercise powers granted by sections 2, 3, 14, 16, and 17 of this chapter in areas within four (4) miles outside its corporate boundaries.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-2-19
Extraterritorial powers; ten mile limit

Sec. 19. A municipality may exercise powers granted by sections 9, 10, 11, 12, and 13 of this chapter in areas within ten (10) miles outside its corporate boundaries.
As added by Acts 1980, P.L.211, SEC.4.

IC 36-9-3

Chapter 3. Regional Transportation Authorities

IC 36-9-3-1

Application of chapter

Sec. 1. This chapter applies to all counties and municipalities.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997, SEC.2.

IC 36-9-3-2

Establishment of authority; name; abolition of bus authority or transportation authority in certain counties

Sec. 2. (a) Except as provided in subsection (d), a fiscal body of a county or municipality may, by ordinance, establish a regional transportation authority (referred to as "the authority" in this chapter) for the purpose of acquiring, improving, operating, maintaining, financing, and generally supporting a public transportation system that operates within the boundaries of an area designated as a transportation planning district by the Indiana department of transportation. However, only one (1) public transportation authority may be established within an area designated as a transportation planning district by the Indiana department of transportation.

(b) The ordinance establishing the authority must include an effective date and a name for the authority. Except as provided in subsection (c), the words "regional transportation authority" must be included in the name of the authority.

(c) After December 31, 2009, this subsection applies if a county is not a member of the northern Indiana regional transportation district established under IC 8-24. The words "regional bus authority" must be included in the name of an authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(d) After December 31, 2009, this subsection applies if a county is a member of the northern Indiana regional transportation district established under IC 8-24 and has a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000).

In such a county the regional bus authority or regional transportation authority, whichever applies, is abolished effective January 1, 2010. After December 31, 2009, a regional transportation authority may not be established by a fiscal body of such a county or a municipality in such a county.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.12-1983, SEC.23; P.L.18-1990, SEC.295; P.L.235-1997, SEC.3; P.L.214-2005, SEC.74; P.L.182-2009(ss), SEC.445; P.L.119-2012, SEC.224.

IC 36-9-3-3

Expansion to include additional counties or municipalities; procedure

Sec. 3. Except as provided in section 3.5 of this chapter, the authority may be expanded to include one (1) or more additional counties or municipalities within the same planning district if resolutions approving the expansion are adopted by the fiscal bodies of:

(1) the counties or municipalities to be added to the authority; and

(2) a majority of the counties and municipalities already in the authority.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997, SEC.4; P.L.70-2007, SEC.1.

IC 36-9-3-3.1

Transfer of urban mass transportation powers to public transportation corporation

Sec. 3.1. If an existing public transportation corporation operates within the boundaries of an authority established under section 2 or 3 of this chapter, the legislative body that established the public transportation corporation may adopt an ordinance to shift any of the powers set forth under IC 36-9-4 to the authority.

As added by P.L.235-1997, SEC.5.

IC 36-9-3-3.5

Expansion to include certain counties and municipalities; procedure

Sec. 3.5. (a) This section applies to a county with a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000) and any second class city located in the county.

(b) A county or city described in subsection (a) shall become a member of an authority described in section 5(c) of this chapter if the fiscal body of the county or city adopts a resolution authorizing the county or city to become a member of the authority and the board of the authority approves the membership of the county or city.

As added by P.L.70-2007, SEC.2. Amended by P.L.119-2012, SEC.225.

IC 36-9-3-4

Removal of county or municipality from authority

Sec. 4. If the fiscal body of any county or municipality finds that the county or municipality should be removed from the authority, it shall adopt a resolution favoring the removal of that county or municipality from the authority. The resolution must establish a date upon which the membership ceases, but that date must be at least six (6) months after the date of the adoption of the resolution. Removal of the county or municipality from the authority does not relieve the county or municipality from any obligations incurred on the county's or municipality’s behalf by the authority while the county or

municipality was a member of the authority.
As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997, SEC.6.

IC 36-9-3-5
Management by board; membership

Sec. 5. (a) An authority is under the control of a board (referred to as "the board" in this chapter) that, except as provided in subsections (b) and (c), consists of:

(1) two (2) members appointed by the executive of each county in the authority;
(2) one (1) member appointed by the executive of the largest municipality in each county in the authority;
(3) one (1) member appointed by the executive of each second class city in a county in the authority; and
(4) one (1) member from any other political subdivision that has public transportation responsibilities in a county in the authority.

(b) An authority that includes a consolidated city is under the control of a board consisting of the following:

(1) Two (2) members appointed by the executive of the county having the consolidated city.
(2) One (1) member appointed by the board of commissioners of the county having the consolidated city.
(3) One (1) member appointed by the executive of each other county in the authority.
(4) Two (2) members appointed by the governor from a list of at least five (5) names provided by the Indianapolis regional transportation council.
(5) One (1) member representing the four (4) largest municipalities in the authority located in a county other than a county containing a consolidated city. The member shall be appointed by the executives of the municipalities acting jointly.
(6) One (1) member representing the excluded cities located in a county containing a consolidated city that are members of the authority. The member shall be appointed by the executives of the excluded cities acting jointly.
(7) One (1) member of a labor organization representing employees of the authority who provide public transportation services within the geographic jurisdiction of the authority. The labor organization shall appoint the member.

(c) After December 31, 2009, this subsection applies if both a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) and a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000) are not members of the northern Indiana regional transportation district established under IC 8-24. An authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is under the control of a

board consisting of the following twenty-one (21) members:

(1) Three (3) members appointed by the executive of a city with a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).

(2) Two (2) members appointed by the executive of a city with a population of more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).

(3) One (1) member jointly appointed by the executives of the following municipalities located within a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A city with a population of more than four thousand nine hundred fifty (4,950) but less than five thousand (5,000).

(B) A city with a population of more than twenty-nine thousand six hundred (29,600) but less than twenty-nine thousand nine hundred (29,900).

(4) One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A town with a population of more than sixteen thousand five hundred (16,500) but less than twenty thousand (20,000).

(B) A town with a population of more than twenty-three thousand seven hundred (23,700) but less than twenty-four thousand (24,000).

(C) A town with a population of more than twenty thousand (20,000) but less than twenty-three thousand seven hundred (23,700).

(5) One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A town with a population of more than fourteen thousand (14,000) but less than sixteen thousand (16,000).

(B) A town with a population of more than twenty-four thousand (24,000) but less than thirty thousand (30,000).

(C) A town with a population of more than sixteen thousand (16,000) but less than sixteen thousand five hundred (16,500).

(6) One (1) member who is jointly appointed by the following authorities of municipalities located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) The executive of a city with a population of more than twenty-five thousand (25,000) but less than twenty-nine thousand (29,000).

(B) The fiscal body of a town with a population of more than ten thousand (10,000) but less than fourteen thousand (14,000).

(C) The fiscal body of a town with a population of more than five thousand (5,000) but less than ten thousand (10,000).

(D) The fiscal body of a town with a population of less than one thousand five hundred (1,500).

(E) The fiscal body of a town with a population of more than two thousand two hundred (2,200) but less than five thousand (5,000).

(7) One (1) member appointed by the fiscal body of a town with a population of more than thirty thousand (30,000) located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(8) One (1) member who is jointly appointed by the following authorities of municipalities that are located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) The executive of a city having a population of more than twenty-nine thousand (29,000) but less than twenty-nine thousand five hundred (29,500).

(B) The executive of a city having a population of more than twelve thousand five hundred (12,500) but less than twelve thousand seven hundred (12,700).

(C) The fiscal body of a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200).

(9) Three (3) members appointed by the fiscal body of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(10) One (1) member appointed by the county executive of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(11) One (1) member of a labor organization representing employees of the authority who provide public transportation services within the geographic jurisdiction of the authority. The labor organization shall appoint the member. If more than one (1) labor organization represents the employees of the authority, each organization shall submit one (1) name to the governor, and the governor shall appoint the member from the list of names submitted by the organizations.

(12) The executive of a city with a population of more than thirty-one thousand seven hundred twenty-five (31,725) but less than thirty-five thousand (35,000), or the executive's designee.

(13) The executive of a city with a population of more than thirty-six thousand eight hundred twenty-five (36,825) but less than forty thousand (40,000), or the executive's designee.

(14) One (1) member of the board of commissioners of a county, with a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000), appointed by the board of commissioners, or the member's designee.

(15) One (1) member appointed jointly by the township executive of the township containing the following towns:

(A) Chesterton.

(B) Porter.

(C) Burns Harbor.

(D) Dune Acres.

The member appointed under this subdivision must be a resident of a town listed in this subdivision.

(16) One (1) member appointed jointly by the township executives of the following townships located in Porter County:

(A) Washington Township.

(B) Morgan Township.

(C) Pleasant Township.

(D) Boone Township.

(E) Union Township.

(F) Porter Township.

(G) Jackson Township.

(H) Liberty Township.

(I) Pine Township.

The member appointed under this subdivision must be a resident of a township listed in this subdivision.

If a county or city becomes a member of the authority under section 3.5 of this chapter, the executive of the county or city shall appoint one (1) member to serve on the board.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997, SEC.7; P.L.64-1998, SEC.1; P.L.90-1999, SEC.1; P.L.14-2000, SEC.85; P.L.170-2002, SEC.165; P.L.114-2005, SEC.1; P.L.1-2006, SEC.584; P.L.169-2006, SEC.79; P.L.1-2007, SEC.245; P.L.70-2007, SEC.3; P.L.182-2009(ss), SEC.446; P.L.119-2012, SEC.226.

IC 36-9-3-6

Appointment of board members; time limits; term of office

Sec. 6. (a) Except as provided in subsection (d), the appointments required by section 5 of this chapter must be made as soon as is practical, but not later than sixty (60) days after the adoption of the ordinance establishing the authority. If any appointing authority fails to make the required appointment within the sixty (60) day time limit, the circuit court from the jurisdiction of the appointing authority shall make the appointment without delay.

(b) The term of office of a member of the board is:

(1) two (2) years, for a member of a board located in a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), if such a board exists under this chapter; and

(2) four (4) years for all other boards;

and continues until the member's successor has qualified for the office. A member may be reappointed for successive terms.

(c) A member of the board serves at the pleasure of the appointing authority.

(d) An appointment to an authority located in a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), if such an authority exists under this chapter, must be made not later than sixty (60) days after the adoption of the ordinance establishing the authority, or for the purpose of reappointments, sixty (60) days after a scheduled reappointment. If the appointing authority designated in section 5(c)(3), 5(c)(4), 5(c)(5), 5(c)(6), or 5(c)(8) of this chapter fails to make an appointment, the appointment shall be made by the governor. If a county or city becomes a member of the authority under section 3.5 of this chapter and the executive of the county or city fails to make an appointment to the board within sixty (60) days after the county or city becomes a member of the authority, the appointment shall be made by the governor. The governor shall select an individual from a list comprised of one (1) name from each appointing authority for that particular appointment.
As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.90-1999, SEC.2; P.L.70-2007, SEC.4; P.L.182-2009(ss), SEC.447.

IC 36-9-3-7
Board; officers; records; meetings

Sec. 7. (a) Except as provided in subsection (e), As soon as is practical, but not later than ninety (90) days after the authority is established, the members shall meet and organize themselves as a board.

(b) Except as provided in subsection (f), At its first meeting, and annually after that, the board shall elect from its members a president, a vice president who shall perform the duties of the president during the absence or disability of the president, a secretary, and a treasurer. If the authority includes more than one (1) county, the president and vice president must be from different counties.

(c) The regional planning commission staff or the metropolitan planning organization if the authority includes a consolidated city shall serve as staff to the board secretary for the purpose of recording the minutes of all board meetings and keeping the records of the authority.

(d) The board shall keep its maps, plans, documents, records, and accounts in a suitable office, subject to public inspection at all reasonable times.

(e) After December 31, 2009, this subsection applies if a county is not a member of the northern Indiana regional transportation district established under IC 8-24. If the authority includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the first meeting of the board shall be at the call of the county council of the county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The president of the county council shall preside over the first meeting until the officers of the board have been elected.

(f) After December 31, 2009, this subsection applies if a county is not a member of the northern Indiana regional transportation district established under IC 8-24. If the authority includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the board shall first meet in January. At the first meeting the board shall elect from its members a president, a vice president who shall perform the duties of the president during the absence or disability of the president, a secretary, a treasurer, and any other officers the board determines are necessary for the board to function.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.12-1992, SEC.175; P.L.235-1997, SEC.8; P.L.64-1998, SEC.2; P.L.90-1999, SEC.3; P.L.182-2009(ss), SEC.448.

IC 36-9-3-8

Board meetings

Sec. 8. (a) The board shall fix the time and place for holding regular meetings, and it must meet at least once during each calendar quarter of each calendar year.

(b) Special meetings of the board may be called by the chairman or by five (5) members of the board upon written request to the secretary. The secretary must send to all members, at least forty-eight (48) hours in advance of a special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the time of the special meeting has been fixed in a regular meeting.

As added by Acts 1981, P.L.309, SEC.76.

IC 36-9-3-9

Board; quorum; approval of actions

Sec. 9. (a) A majority of the members appointed to the board constitutes a quorum for a meeting.

(b) Except as provided in subsection (c), The board may act officially by an affirmative vote of a majority of those present at the meeting at which the action is taken.

(c) After December 31, 2009, this subsection applies if a county is not a member of the northern Indiana regional transportation district established under IC 8-24. If the authority includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), then:

(1) an affirmative vote of a majority of the board is necessary for an action to be taken; and

(2) a vacancy in membership does not impair the right of a quorum to exercise all rights and perform all duties of the board.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.90-1999, SEC.4; P.L.114-2005, SEC.2; P.L.1-2006, SEC.585; P.L.169-2006, SEC.80; P.L.1-2007, SEC.246; P.L.182-2009(ss), SEC.449.

IC 36-9-3-10

Board; compensation and expenses of members

Sec. 10. (a) Except as provided in subsection (b), The members of the board are not entitled to a salary but are entitled to an allowance for actual expenses and mileage at the same rate as other county officials.

(b) After December 31, 2009, this subsection applies if a county is not a member of the northern Indiana regional transportation district established under IC 8-24. If the authority includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), a member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided:

(1) in the procedures established by the department of administration and approved by the budget agency for state employee travel; or

(2) by ordinance of the county fiscal body.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.90-1999, SEC.5; P.L.182-2009(ss), SEC.450.

IC 36-9-3-11

Executive director

Sec. 11. The board shall appoint a qualified person to be executive director of the authority. The executive director is the chief executive officer of the authority.

As added by Acts 1981, P.L.309, SEC.76.

IC 36-9-3-12

Controller

Sec. 12. (a) The board shall appoint a person to act as controller for the authority.

(b) The controller shall give bond in the sum and with the conditions prescribed by the board, and with surety to the approval of the board. The bond must be filed and recorded in the office of the county recorder for the county in which the office of the authority is located.

(c) The term of office of the controller is one (1) year, and he may be appointed for additional terms of one (1) year each.

(d) All money payable to the authority must be paid to the controller, who shall deposit it in the manner prescribed by IC 5-13-6. The money deposited may be invested under the applicable statutes, including IC 5-13-9.

(e) The controller shall keep an accurate account of all appropriations made and all taxes levied by the authority, all money owing or due to the authority, and all money received and disbursed.

(f) The board may authorize the controller to pay a per diem in advance to a public transportation employee or board member who will attend a training session or other special meeting required as a duty of the public transportation employee or board member.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.19-1987,

SEC.52; P.L.327-1995, SEC.1.

IC 36-9-3-12.5
Repealed

(*Repealed by P.L.182-2009(ss), SEC.469.)*

IC 36-9-3-13
Powers and duties of board

Sec. 13. The board may:

(1) exercise the executive and legislative powers of the authority as provided by this chapter;
(2) as a municipal corporation, sue and be sued in its name;
(3) sell, lease, or otherwise contract for advertising in or on the facilities of the authority;
(4) protect all property owned or managed by the board;
(5) adopt an annual budget;
(6) incur indebtedness in the name of the authority in accordance with this chapter;
(7) acquire real, personal, or mixed property by deed, purchase, or lease and dispose of it for use in connection with or for administrative purposes;
(8) receive gifts, donations, bequests, and public trusts, agree to conditions and terms accompanying them, and bind the authority to carry them out;
(9) receive federal or state aid and administer that aid;
(10) erect the buildings or structures needed to administer and carry out this chapter;
(11) determine matters of policy regarding internal organization and operating procedures not specifically provided for by law;
(12) adopt a schedule of reasonable charges and rents, and collect them from all users of facilities and services within the jurisdiction of the authority;
(13) purchase supplies, materials, and equipment to carry out the duties and functions of the board, in accordance with procedures adopted by the board and under applicable statutes;
(14) employ the personnel necessary to carry out the duties, functions, and powers of the board;
(15) sell any surplus or unneeded real and personal property in accordance with procedures adopted by the board and under applicable statutes;
(16) adopt rules governing the duties of its officers, employees, and personnel, and the internal management of the affairs of the board;
(17) fix the compensation of the various officers and employees of the authority, within the limitations of the total personal services budget;
(18) purchase public transportation services from public or private transportation agencies upon the terms and conditions set forth in purchase of service agreements between the authority and the transportation agencies;

(19) acquire, establish, construct, improve, equip, operate, maintain, subsidize, and regulate public transportation systems within the jurisdiction of the authority;

(20) after receiving a request for assistance from a public transportation system, enter into agreements with government agencies, political subdivisions, private transportation companies, railroads, and other persons providing for:

(A) construction, operation, and use by the other party of any public transportation system and equipment held or later acquired by the authority; and

(B) acquisition of any public transportation system and equipment of another party if all or part of the operations of that party take place within the jurisdiction of the authority;

(21) rent or lease any real property, including air rights above real property owned or leased by a transportation system, for transportation or other purposes, with the revenues from those rentals to accrue to the authority and to be used exclusively for the purposes of this chapter;

(22) negotiate and execute contracts of sale, purchase, or lease, or contracts for personal services, materials, supplies, equipment, or passenger transportation services;

(23) establish at or near its terminals and stations the off-street parking facilities and access roads that are necessary and desirable, and charge fees for or allow free use of those facilities;

(24) enter into agreements with other persons for the purpose of participating in transportation planning activities;

(25) administer any rail services or other use of rail rights-of-way that may be the responsibility of state or local government under the Federal Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. sections 701-794);

(26) determine the level and kind of public transportation services that should be provided by the authority; and

(27) do all other acts necessary or reasonably incident to carrying out the purposes of this chapter.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997, SEC.9.

IC 36-9-3-14
Repealed

(*Repealed by P.L.235-1997, SEC.18.)*

IC 36-9-3-15
Standards for grants and purchase of service agreements; promotional programs

Sec. 15. (a) The board shall, to the extent it considers feasible, adopt uniform standards for the making of grants and purchase of service agreements. These grant contracts or purchase of service agreements may be for the number of years or duration agreed to by the authority and the transportation agency.

(b) If the authority provides grants for operating expenses or participates in any purchase of service agreement, the purchase of service agreement or grant contract must state the level and nature of fares or charges to be made for public transportation services, and the nature and standards of public transportation to be so provided. In addition, any purchase of service agreements or grant contracts must provide, among other matters, for:

(1) the terms or cost of transfers or interconnections between different public transportation agencies;

(2) schedules or routes of transportation service;

(3) changes that may be made in transportation service;

(4) the nature and condition of the facilities used in providing service;

(5) the manner of collection and disposition of fares or charges;

(6) the records and reports to be kept and made concerning transportation service; and

(7) interchangeable tickets or other coordinated or uniform methods of collection of charges.

The authority shall also undertake programs to promote use of public transportation and to provide ticket sales and passenger information. *As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997, SEC.10.*

IC 36-9-3-16

Provision of public transportation service by authority; fares and standards; discontinuance of service

Sec. 16. (a) The authority may provide public transportation service by operating public transportation facilities only if the board finds that no public or private transportation agency or corporation is willing or able to provide public transportation service.

(b) The authority may enter into operating agreements with any private or public person to operate transportation facilities on behalf of the authority only after the board has made an affirmative effort to seek out and encourage private owners and operators to provide the needed public transportation service.

(c) Whenever the authority provides any public transportation service by operating public transportation facilities, it shall establish the level and nature of fares or charges to be made for public transportation services, and the nature and standards of public transportation service to be provided within the jurisdiction of the authority.

(d) If the fiscal body of any county receives notice that any public transportation system intends to cease providing public transportation service within the county, the fiscal body shall approve or disapprove the cessation of service at its first regular meeting after receiving the notice. Failure of the fiscal body to take any action within thirty (30) days is considered to be approval of the cessation of service. If the fiscal body adopts a resolution disapproving the cessation of service, and the authority is negotiating with the public transportation system for continuation of service

within the county, the county shall join the negotiations and participate in any program that results in a continuation of public transportation service within its boundaries.
As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997, SEC.11.

IC 36-9-3-17
Acquisition and construction of transportation facilities

Sec. 17. At the request of the public transportation system serving the territory of the authority, the authority may:

(1) construct or acquire any public transportation facility for use by the authority or any transportation agency; and

(2) acquire transportation facilities from any transportation agency, including:

(A) reserve funds;

(B) employees' pension or retirement funds;

(C) special funds;

(D) franchises;

(E) licenses;

(F) patents;

(G) permits; and

(H) papers and records of the agency.

In making acquisitions from a transportation agency, the authority may assume the obligations of the agency regarding its property or public transportation operations.
As added by Acts 1981, P.L.309, SEC.76.

IC 36-9-3-18
Acquisition of facilities within 100 yards of terminals

Sec. 18. The authority may acquire, improve, maintain, lease, and rent facilities, including air rights, that are within one hundred (100) yards of a terminal, station, or other facility of the authority. If these facilities generate revenues in excess of their cost to the authority, the authority must use the excess revenues to improve transportation services or reduce fares for the public.
As added by Acts 1981, P.L.309, SEC.76.

IC 36-9-3-19
Limitations and obligations of authority

Sec. 19. (a) In connection with any construction or acquisition, the authority shall make relocation payments in the manner prescribed by IC 8-23-17.

(b) A private company lawfully providing public transportation service within the territory of the authority when the authority is established may continue to operate the same route or routes and levels of service as approved by the department of state revenue.

(c) Only the proceedings prescribed by this chapter are required in connection with the granting of franchise contracts provided for in this chapter.

(d) Notwithstanding section 13 of this chapter, the board may not

act in a manner that would adversely affect a common carrier's freight operations.

(e) The board may not exercise the power of eminent domain.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.23-1988, SEC.119; P.L.18-1990, SEC.296; P.L.235-1997, SEC.12.

IC 36-9-3-20
Repealed

(*Repealed by P.L.72-1988, SEC.10.)*

IC 36-9-3-21
Collective bargaining agreements; authorization

Sec. 21. The authority shall deal with and enter into written contracts with its employees through accredited representatives of those employees or representatives of any labor organization authorized to act for those employees concerning wages, salaries, hours, working conditions, and pension or retirement provisions.

As added by Acts 1981, P.L.309, SEC.76.

IC 36-9-3-22
Application of federal statutes to employees affected by actions of authority

Sec. 22. (a) The rights, benefits, and other employee protective conditions and remedies that:

(1) are set forth in Section 13(c) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. section 1609(c)) and Section 405(b) of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. section 565(b)); and

(2) are prescribed by the United States secretary of labor under those statutes;

apply to employees of the authority and employees of any public transportation agency affected by actions of the authority, including the acquisition and operation of public transportation facilities, the execution of purchase of service agreements with a public transportation agency, the coordination, reorganization, combining, leasing, or merging of operations or the expansion or curtailment of public transportation service or facilities under this chapter.

(b) The authority may take any of the actions specified in subsection (a) only after meeting the requirements of this chapter. In addition, whenever the authority operates the public transportation facilities of a public transportation agency engaged as of April 25, 1975, in the transportation of persons by railroad, it may do so only in a manner that insures the continued applicability to the affected railroad employees of the federal statutes applicable on that date to them and the continuation of their collective bargaining agreements until those agreements can be renegotiated by representatives of the authority and the representatives of those employees designated under the Railway Labor Act, as amended (45 U.S.C. sections 151-188).

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997,

SEC.13.

IC 36-9-3-23
Employees; retention of benefits after action of authority

Sec. 23. An employee of the authority is entitled to at least the same worker's compensation, pension, seniority, salary, wages, sick leave, vacation, health and welfare insurance, and other benefits that the employee enjoyed as an employee of the authority or of the public transportation agency before an action of the authority.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.28-1988, SEC.117; P.L.235-1997, SEC.14.

IC 36-9-3-24
Displacement of employees as a result of new facilities; selection of employees to perform work

Sec. 24. (a) Whenever the authority proposes to operate or to enter into a contract to operate a new public transportation facility that may result in the displacement of employees or the rearrangement of the working forces of the authority or of a public transportation agency, the authority must give at least ninety (90) days' written notice of the proposed operations to the representatives of the employees affected.

(b) The authority must provide for the selection of forces to perform the work of the new facility on the basis of agreement between the authority and the representatives of the employees affected.

(c) Immediately after receipt of the notice, the representatives of all parties interested in the intended changes shall agree on the date and place of a conference for the purpose of reaching agreements under this section. The conference must begin within ten (10) days after receipt of the notice.

(d) If the parties fail to agree, the matter may be submitted by the authority or by any representative of the employees affected to final and binding arbitration by an impartial arbitrator to be selected by the American Arbitration Association from a current listing of arbitrators of the National Academy of Arbitrators.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997, SEC.15.

IC 36-9-3-25
Labor disputes; arbitration procedure

Sec. 25. (a) If a labor dispute involving the authority and its employees is not governed by the Federal Labor Management Relations Act, as amended (29 U.S.C. sections 141-197 and 557), or by the Railway Labor Act, as amended (45 U.S.C. sections 151-188), the authority shall offer to submit the dispute to an arbitration team composed of one (1) member appointed by the authority, one (1) member appointed by the labor organization representing the employees, and one (1) member agreed upon by the labor organization and the authority. The member agreed upon by the labor

organization and the authority shall serve as chairman of the team. The determination of the majority of the arbitration team is final and binding on all matters in dispute.

(b) If within the first ten (10) days after the date of the appointment of the arbitrators representing the authority and the labor organization, the third arbitrator has not been selected, then either arbitrator may request the American Arbitration Association to furnish from a current listing of the membership of the National Academy of Arbitrators the names of seven (7) members of the National Academy from which the third arbitrator shall be selected. After receipt of the list, the arbitrators appointed by the authority and the labor organization shall promptly determine by lot the order of elimination and then alternately eliminate one (1) name from the list at a time until only one (1) name remains. The remaining person on the list is the third arbitrator.

(c) For purposes of this section, the term "labor dispute" shall be broadly construed and includes any controversy regarding the collective bargaining agreements and any grievance that may arise.

(d) Each party shall pay one-half (1/2) of the expenses of arbitration under this section.

As added by Acts 1981, P.L.309, SEC.76.

IC 36-9-3-26

Pension systems and retirement benefits

Sec. 26. (a) The authority may:

(1) establish and maintain systems of pensions and retirement benefits for the officers and employees of the authority designated or described by resolution of the authority;

(2) fix the classifications in those systems;

(3) take the steps necessary to provide that persons eligible for admission to the pension systems as officers and employees of any other public transportation employer whose operations are financed in whole or in part by the authority retain eligibility for admission to or continued coverage and participation under Title II of the federal Social Security Act, as amended (42 U.S.C. sections 401-422), and the related provisions of the Federal Insurance Contributions Act, as amended (26 U.S.C. sections 3101-3125), or the federal Railroad Retirement Act (45 U.S.C. sections 231-231t), as amended, and the related provisions of the Railroad Retirement Tax Act, as amended (26 U.S.C. sections 3201-3233), whichever is applicable; and

(4) provide in connection with the pension systems a system of benefits payable to the beneficiaries and dependents of any participant in the pension systems after that participant's death, whether or not the death is accidental or occurs in the performance of duty, and subject to the exceptions, conditions, restrictions, and classifications provided by resolution of the authority.

(b) Pension systems established by the authority may be financed or funded in a manner that the authority finds to be economically

feasible.
As added by Acts 1981, P.L.309, SEC.76.

IC 36-9-3-27
Acquisition of facilities from public transportation agency; obligations to employees

Sec. 27. (a) Whenever the authority acquires the public transportation facilities of a public transportation agency and operates those facilities, all employees engaged in the operation of the facilities shall be transferred to and appointed as employees of the authority, subject to all the rights and benefits of this chapter, and the authority shall assume and observe all current labor contracts and pension obligations.

(b) The authority must give the employees of any public transportation agency it acquires seniority credit, sick leave, vacation, insurance, and pension credits in accordance with the records or labor agreements from the acquired transportation agency. Members and beneficiaries of any pension or retirement system or other system of benefits established by the acquired transportation agency continue to have rights, privileges, benefits, obligations, and status under that system. The authority must assume the obligations of the acquired public transportation agency regarding wages, salaries, hours, working conditions, sick leave, health and welfare, and pension or retirement provisions for employees.

(c) The authority must assume the provisions of any collective bargaining agreement between a public transportation agency acquired by the authority and the representative of the employees of the acquired agency. The authority and the employees, through their representatives for collective bargaining purposes, may take whatever action is necessary to preserve the pension rights of the employees, including the transfer of pension trust funds under the joint control of the transportation agency and the participating employees through their representatives to the trust fund to be established, maintained, and administered jointly by the authority and the participating employees through their representatives.
As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997, SEC.16.

IC 36-9-3-28
Audits; accounting forms and records

Sec. 28. The state board of accounts shall:

(1) audit the records of the authority; and

(2) prescribe or approve all accounting forms and records used by the authority.

As added by Acts 1981, P.L.309, SEC.76.

IC 36-9-3-29
Annual budget

Sec. 29. The board shall prepare an annual budget for the authority's operating and maintenance expenditures and necessary

capital expenditures. Each annual budget is subject to review and modification by the:

(1) fiscal body of the county or municipality that establishes the authority; and

(2) county board of tax adjustment and the department of local government finance under IC 6-1.1-17.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.233-2001, SEC.2; P.L.90-2002, SEC.503; P.L.224-2007, SEC.132; P.L.146-2008, SEC.785.

IC 36-9-3-30
Payment of organizational expenses

Sec. 30. (a) The county or municipality that establishes the authority shall pay the expenses incurred in the organization of the authority; however, the amount of expenses paid may not exceed the amount for authority expenses set by the fiscal body of the establishing county or municipality.

(b) If two (2) or more counties or municipalities cooperate to establish the authority, the division of the costs incurred in the organization must be included in the agreement entered into by the counties or municipalities.

(c) The board shall, from time to time, certify the items of expense to the county auditor, according to the terms of the agreement.

(d) The authority shall fully reimburse each county or municipality out of the first proceeds of any special taxes levied for the purpose of this chapter.

As added by Acts 1981, P.L.309, SEC.76. Amended by P.L.235-1997, SEC.17; P.L.233-2001, SEC.3.

IC 36-9-3-31
Repealed

(*Repealed by P.L.182-2009(ss), SEC.469.)*

IC 36-9-3-32
Acceptance of federal or other funds

Sec. 32. (a) The board may, on behalf of the authority, accept, receive, and receipt for federal monies and other public or private monies for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of public transportation systems under the jurisdiction of the authority. The board may also comply with federal statutes and rules concerning the expenditure of federal monies for public transportation systems.

(b) The board may apply to state and federal agencies for grants for public transportation development, make or execute representations, assurances, and contracts, enter into covenants and agreements with any state or federal agency relative to public transportation systems, and comply with federal and state statutes and rules concerning the acquisition, development, operation, and administration of public transportation systems.

As added by Acts 1981, P.L.309, SEC.76.

IC 36-9-3-33

Regulation by department of state revenue; administrative appeals and judicial review

Sec. 33. (a) This section does not apply to interurban or interstate public transportation service.

(b) Service provided by the authority within the territory of the authority is exempt from regulation by the department of state revenue under IC 8-2.1. This exemption applies to transportation services provided by the authority directly or by grants or purchase of service agreements.

(c) Service provided by the authority by contract or service agreements outside the territory of the authority is subject to regulation by the department of state revenue under IC 8-2.1.

(d) The department of state revenue shall hear appeals concerning any regulatory action of the authority concerning service and rates, and, after making a finding based on the requirements of IC 8-2.1, issue an appropriate order. Judicial review of the commission decision may be obtained in the manner prescribed by IC 4-21.5-5.

As added by P.L.99-1989, SEC.34.

IC 36-9-4

Chapter 4. Urban Mass Transportation Systems; Public Transportation Corporations

IC 36-9-4-1

Application of chapter

Sec. 1. This chapter applies to all municipalities. However, after December 31, 2009, this chapter does not apply to a municipality if it is located in a county that is a member of the northern Indiana regional transportation district established under IC 8-24 and has a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000).

As added by Acts 1981, P.L.309, SEC.77. Amended by P.L.182-2009(ss), SEC.451; P.L.119-2012, SEC.227.

IC 36-9-4-2

"Management" defined

Sec. 2. For purposes of this chapter, the "management" of an urban mass transportation system is:

(1) the board of directors, for a corporation;

(2) the majority of the partners, for a partnership in which the partners have equal rights in the management and control of the partnership business;

(3) the partners having a controlling interest, for other partnerships;

(4) the proprietor, for an individual proprietorship; or

(5) the managers, if any, or members of a limited liability company.

As added by Acts 1981, P.L.309, SEC.77. Amended by P.L.8-1993, SEC.518.

IC 36-9-4-3

Declaration of public purpose

Sec. 3. The establishment of an urban mass transportation system under this chapter is a public use and purpose for which public money may be spent and private property may be acquired.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-4

Existing systems; application for assistance from municipalities

Sec. 4. (a) If the management of an urban mass transportation system in any municipality finds that the system is unable to render adequate service within the municipality or that there is imminent danger that the system will be unable to render that service, the management of the system may apply to the municipal legislative body for assistance under this chapter.

(b) On receipt of an application under subsection (a) the

municipal legislative body may study whether the financial position of the transportation system is such that the system is unable to render adequate service within the municipality or that there is imminent danger that the system will be unable to render that service. The legislative body shall pay for these studies by appropriation from the general fund of the municipality, and the money need not be restored to the general fund.
As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-5
Financial assistance from municipality; necessary findings; types of assistance

Sec. 5. (a) The municipal legislative body may furnish the urban mass transportation system with the financial assistance necessary to enable the system to provide adequate service within the municipality, if the legislative body finds:

(1) that the system is unable to render that service or that there is imminent danger that the system will be unable to render that service; and

(2) that the system is:

(A) necessary to relieve traffic congestion in the municipality;

(B) necessary for the proper use of the factories, stores, warehouses, offices, schools, recreational facilities, and other places where members of the general public congregate;

(C) necessary to expand the economic and social opportunities available to residents of the municipality, especially those who cannot freely move about without the services of the system;

(D) a substantial factor in maintaining real property values in the municipality; or

(E) a substantial factor in providing public housing, redevelopment of blighted areas, and publicly owned offstreet parking facilities.

(b) The municipal legislative body may furnish assistance under this section by:

(1) making grants to the system;

(2) purchasing buses or real property from the system or from any other source for lease to the system; or

(3) making both grants and purchases.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-6
Grants to systems by municipalities; contracts

Sec. 6. (a) If the municipal legislative body decides to make grants under section 5 of this chapter, it must enter into and confirm by ordinance a contract with the urban mass transportation system. The contract must provide for the payment of money by the municipality to the system in the amounts and at the times determined by the parties, and may include other terms and conditions determined by the parties. However, the contract may not:

(1) require the system to repay the grants to the municipality;

(2) exceed ten (10) years in duration; or

(3) require the municipality to make grants to a system that has ceased operations within the municipality.

(b) The municipal legislative body may pay the grants by appropriation from the general fund of the municipality or from a special fund established for that purpose.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-7

Purchase of property from system by municipality; contracts and leases; appraisals

Sec. 7. (a) If the municipal legislative body decides to purchase buses or real property, or both, from the urban mass transportation system under section 5 of this chapter, it must enter into and confirm by ordinance a contract and lease requiring the municipality to:

(1) purchase all or part of:

(A) the buses operated by the system; or

(B) the real property owned by the system; as determined by the parties; and

(2) lease the buses or property purchased to the system for use in providing mass transportation within the municipality.

(b) The municipality must pay the system a sum equal to the fair value of the buses or real property purchased, less the amount outstanding under any mortgage, contract of sale, or other security device that may attach to the buses or real property. The municipality may immediately pay off any such outstanding amount or assume any such mortgage, contract of sale, or other security device.

(c) The fair value of the buses or real property shall be determined by three (3) appraisers experienced in the appraisal of buses or real property. One (1) of the appraisers shall be appointed by the municipality and one (1) by the system. These two (2) appraisers shall then appoint a third appraiser. However, if they are unable to do so, each shall submit the names of three (3) appraisers to the circuit court for the county in which the municipality is located and the court shall appoint the third appraiser from the names submitted.

(d) If the municipal legislative body decides to purchase both buses and real property for lease to an urban mass transportation system, three (3) appraisers shall be appointed to determine the fair value of the buses and an additional three (3) appraisers shall be appointed to determine the fair value of the real property. Each group of three (3) appraisers shall be appointed in the manner prescribed by subsection (c).

(e) Before making their appraisal, the appraisers must appear before the clerk of the legislative body and take an oath to make a just and true appraisal of the buses or real property.

(f) A lease of buses or real property by a municipality to a system under this section must incorporate provisions for rental and other terms and provisions that the municipal legislative body considers necessary under this chapter. The municipality and the system may enter into additional contracts and leases during the term of the lease.

The term of a lease of buses under this section may not exceed twenty-five (25) years.
As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981, P.L.317, SEC.1.

IC 36-9-4-8
Purchase of property by municipalities from sources other than systems; contracts and leases

Sec. 8. (a) If, under section 5 of this chapter, the municipal legislative body decides to purchase buses or real property, or both, for the urban mass transportation system from a source other than the system, it must enter into and confirm by ordinance a contract and lease requiring the municipality to:

(1) purchase the buses or real property; or
(2) lease the buses or property purchased to the system for use in providing mass transportation within the municipality.

(b) A lease of buses or real property by a municipality to a system under this section must incorporate provisions for rental and other terms and provisions that the municipal legislative body considers necessary under this chapter. The municipality and the system may enter into additional contracts and leases during the term of the lease. The term of a lease of buses under this section may not exceed twenty-five (25) years.

(c) The purchase of buses under this section is governed by the general statutes governing public purchases.
As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981, P.L.317, SEC.2.

IC 36-9-4-9
Public acquisition of systems; application to municipality; studies

Sec. 9. (a) If the management of an urban mass transportation system in any municipality finds that public acquisition of the system is necessary to enable the system to render adequate service within the municipality, the management of the system may request the municipal legislative body to determine whether the public should acquire the system. The management may withdraw this request only if:

(1) at least six (6) months have passed since the date of the request; and
(2) the municipal legislative body did not adopt an ordinance to acquire the system within six (6) months from the date of the request.

(b) On receipt of the request, the municipal legislative body shall study whether it is in the public interest that the public acquire the system. The legislative body shall pay for these studies by an appropriation from the general fund of the municipality, which need not be restored to the general fund.
As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-10

Public acquisition of systems; declaratory resolution; creation of public transportation corporation

Sec. 10. (a) If, as a result of its studies under section 9 of this chapter, the municipal legislative body finds that public acquisition of the system would fulfill one (1) or more of the conditions listed in section 5(a)(2) of this chapter, it may adopt an ordinance:

(1) declaring that public acquisition of the system is in the public interest of the municipality;

(2) providing for the creation of a public transportation corporation;

(3) specifying the number of directors of the corporation; and

(4) setting forth the boundaries of the taxing district of the corporation.

(b) The taxing district set forth in the ordinance may include only:

(1) all territory inside the corporate boundaries of the municipality; and

(2) the suburban territory, as defined in IC 36-9-1-9, that is served by the system at the time of acquisition.

As added by Acts 1981, P.L.309, SEC.77. Amended by P.L.348-1983, SEC.2.

IC 36-9-4-11

Establishment of systems by municipalities

Sec. 11. (a) The legislative body of a municipality may study whether it is in the public interest that a system be established and maintained under this chapter by the municipality. The legislative body shall pay for these studies by an appropriation from the general fund of the municipality, which need not be restored to the general fund.

(b) If the legislative body finds as a result of its studies that the establishment and maintenance of a system would fulfill any one (1) or more of the conditions listed in section 5(a)(2) of this chapter, it may adopt an ordinance specifying the conditions that are fulfilled. The legislative body may then:

(1) enter into a contract to make grants-in-aid to a system that will serve the municipality, under section 6 of this chapter;

(2) enter into a contract to purchase buses and real property for lease to a system that will serve the municipality, under section 7 or 8 of this chapter; or

(3) establish a public transportation corporation, under section 10 of this chapter.

As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1982, P.L.217, SEC.1.

IC 36-9-4-12

Public transportation corporation; name

Sec. 12. A public transportation corporation is a separate municipal corporation, which shall be known as "_____ Public Transportation Corporation" (designating the name of the municipality).

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-13

Public transportation corporation; taxing district; boundaries after annexation and disannexation; incorporation of additional territory

Sec. 13. (a) After the creation of a public transportation corporation, territory may be added to the taxing district of the corporation only in accordance with this section.

(b) If the municipality finalizes an annexation or disannexation of territory, the boundaries of the taxing district of the corporation change so as to remain coterminous with the new boundaries of the municipality. Such a change takes effect when the annexation or disannexation takes effect.

(c) Upon written request by a majority of:

(1) the resident freeholders in a platted subdivision; or

(2) the owners of any unplatted lands;

in the same county as a public transportation corporation but not within a municipality, the board of directors of the corporation may, by resolution, incorporate all or part of the platted subdivision or unplatted lands into the taxing district. Such a request must be signed and certified as correct by the resident freeholders or landowners making the request, and the original must be preserved in the records of the board. The resolution of the board incorporating an area into the taxing district must be in writing and must include an accurate description of that area. A certified copy of the resolution, signed by the chairman and secretary of the board, together with a map showing the boundaries of the taxing district and the location of the additional areas, shall be delivered to the auditor of the county within which the corporation is located and shall be properly indexed and kept in the permanent records of the offices of the auditor.

(d) Upon written request by ten (10) or more resident freeholders of a platted subdivision or unplatted territory in the same county as a public transportation corporation but not within a municipality, the board of directors of the corporation may define the limits of an area that:

(1) is within the county;

(2) includes the property of the freeholders; and

(3) is to be considered for incorporation into the taxing district.

Notice of the defining of the area by the board, and notice of the location and limits of the area, must be given by publication in accordance with IC 5-3-1. The area may then be incorporated into the taxing district upon request, in the manner prescribed by subsection (c).

(e) Property in territory added to the taxing district under subsection (c) or (d) is, as a condition of the special benefits it subsequently receives, liable for its proportion of all taxes subsequently levied by the public transportation corporation. The proportion of taxation shall be determined in the same manner as when territory is annexed by a municipality.

As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981, P.L.45, SEC.37; P.L.348-1983, SEC.3.

IC 36-9-4-13.5

Public transportation corporations in certain counties; city in county having second largest population

Sec. 13.5. (a) This section applies to a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) The taxing district of a public transportation corporation under this section includes all the territory inside the corporate boundaries of the two (2) cities in the county having the largest populations and such suburban territory as provided in section 13 of this chapter.

(c) This section applies upon the adoption of substantially identical ordinances approving subsection (b) by both:

(1) the public transportation corporation incorporating the additional territory; and

(2) the legislative body of the city being added to the taxing district of the public transportation corporation.

(d) Whenever the city in the county having the second largest population becomes a part of the public transportation corporation, then two (2) additional directors representing that city shall be appointed to the board of directors of the corporation. The directors must be residents of that city and are entitled to all of the rights, privileges, powers, and duties of directors under this chapter. The executive and the legislative body of that city shall each appoint one (1) director. These two (2) directors must not be of the same political party. The director appointed by the legislative body shall serve for a term of one (1) year, and the director appointed by the executive shall serve for a term of two (2) years. Upon the expiration of the respective terms, successors shall be appointed in accordance with section 18 of this chapter.

(e) If the city in the county having the second largest population appropriates money to support the public transportation corporation in a particular year, and if the territory of that city subsequently becomes a part of the taxing district of the public transportation corporation in that year and is subject to a separate property tax levy for transportation services, the maximum permissible levy of that city for the year following the particular year used to compute the property tax levy limit under IC 6-1.1-18.5 is decreased, and the maximum permissible levy of the public transportation corporation for the particular year used to compute the property tax levy limit under IC 6-1.1-18.5 is increased, by an amount equivalent to the current contract amount to be paid by that city to the public transportation corporation for transportation services provided to that city in the particular year.

(f) The public transportation corporation shall establish a single property tax rate applicable to the taxing district of the public transportation corporation, including the territory of the city in the county having the second largest population that is included in the

public transportation corporation under this section. The initial permissible levy to be raised by this rate equals the sum of the amount raised by the levy of the public transportation corporation in the previous taxable year plus an amount equivalent to the current contract amount to be paid in the calendar year 1982 by the city in the county having the second largest population to the public transportation corporation. The permissible levy for the subsequent years shall be computed in accordance with IC 6-1.1-18.5.

(g) If the city in the county having the second largest population is excluded from the public transportation corporation in a subsequent year, and that city is no longer subject to a separate property tax levy for transportation services, the maximum permissible levy of the public transportation corporation for that subsequent year used to compute the property tax levy limit under IC 6-1.1-18.5 is decreased, and the maximum permissible levy of that city for that subsequent year used to compute the property tax levy limit under IC 6-1.1-18.5 is increased, by the amount of the product of the public transportation property tax rate for that subsequent year multiplied by the assessed value in that subsequent year of all taxable property in that city that is excluded from the public transportation corporation.

As added by Acts 1981, P.L.186, SEC.2. Amended by P.L.73-1983, SEC.20; P.L.12-1992, SEC.177; P.L.119-2012, SEC.228.

IC 36-9-4-14

Public transportation corporation; management by board of directors

Sec. 14. (a) A public transportation corporation is under the control of a board of directors, which shall exercise the executive and legislative powers of the corporation.

(b) Directors must be residents of the taxing district of the corporation.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-15

Cities; public transportation corporations; board of directors; membership

Sec. 15. (a) The board of directors of a public transportation corporation in a city consists of either five (5) or seven (7) directors, as determined by the city legislative body.

(b) If the board of directors consists of five (5) directors, they are:

(1) two (2) directors appointed by the city executive, for terms of one (1) and two (2) years, respectively; and

(2) three (3) directors appointed by the city legislative body, for terms of two (2), three (3), and four (4) years, respectively.

(c) If the board of directors consists of seven (7) directors, they are:

(1) three (3) directors appointed by the city executive, for terms of one (1), two (2), and three (3) years, respectively; and

(2) four (4) directors appointed by the city legislative body, for

terms of one (1), two (2), three (3), and four (4) years, respectively.

As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981, P.L.317, SEC.3.

IC 36-9-4-16

Towns; public transportation corporations; board of directors; membership

Sec. 16. (a) The board of directors of a public transportation corporation in a town consists of either five (5) or seven (7) directors, as determined by the town legislative body. All the directors shall be appointed by the legislative body.

(b) If the board of directors consists of five (5) directors, they are:

(1) one (1) director appointed for a term of one (1) year;

(2) two (2) directors appointed for terms of two (2) years;

(3) one (1) director appointed for a term of three (3) years; and

(4) one (1) director appointed for a term of four (4) years.

(c) If the board of directors consists of seven (7) directors, they are:

(1) two (2) directors appointed for terms of one (1) year;

(2) two (2) directors appointed for terms of two (2) years;

(3) two (2) directors appointed for terms of three (3) years; and

(4) one (1) director appointed for a term of four (4) years.

As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981, P.L.317, SEC.4.

IC 36-9-4-17

Directors; membership in political parties

Sec. 17. The appointing authorities shall make appointments to the board of directors under section 15 or 16 of this chapter so that the number of directors belonging to either of the two (2) major political parties does not exceed the number belonging to the other by more than one (1). If the appointing authorities cannot agree on the manner in which this will be done, the municipal executive shall make the appointment that results in one (1) party having more directors than the other.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-18

Board of directors; vacancies

Sec. 18. (a) On the expiration of the term of office of a director of a public transportation corporation, the appointing authority shall appoint a director for a term of four (4) years and until his successor is appointed and qualified.

(b) If a director leaves office before his term has expired, the appointing authority shall appoint a new director to serve the remainder of the term.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-19

Impeachment of directors

Sec. 19. A director of a public transportation corporation may be impeached under IC 5-8-1.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-20

Compensation of directors

Sec. 20. A director of a public transportation corporation is entitled to:

(1) compensation of not more than one thousand two hundred dollars ($1,200) annually, as determined in the budget; and

(2) reimbursement for any expenses incurred in the interest of the board of directors.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-21

Board of directors; officers

Sec. 21. On the first day of the first month after their appointment, and annually after that, the directors of a public transportation corporation shall elect one (1) director as chairman of the board and one (1) director as secretary.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-22

Meetings of board of directors

Sec. 22. (a) The board of directors of a public transportation corporation shall, by rule, provide for regular meetings to be held at designated intervals throughout the year.

(b) The board shall convene in a special meeting whenever such a meeting is called by the chairman or by a majority of the directors. Notice of a special meeting must be given by publication in accordance with IC 5-3-1.

(c) The board shall keep its meetings open to the public.

As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981, P.L.45, SEC.38.

IC 36-9-4-23

Board of directors; quorum; approval of actions; records; management of internal affairs

Sec. 23. (a) A majority of the board of directors of a public transportation corporation constitutes a quorum for a meeting.

(b) The board may act officially by affirmative vote of a majority of those present at the meeting at which the action is taken.

(c) The board shall keep a written record of its proceedings available for public inspection in its office. The record must include the aye and nay vote on the passage of each item of business.

(d) The board shall adopt rules of procedure under which its meetings are to be held. The board may suspend these rules by unanimous vote of the members present at any meeting, but it may not suspend them beyond the meeting at which the suspension

occurs.

(e) The board has the same power to supervise its internal affairs as other municipal administrative bodies.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-24

Introduction of proposed ordinances; public notice

Sec. 24. (a) A director of a public transportation corporation may introduce a proposed draft of an ordinance at a meeting of the board of directors. A director who introduces a proposed draft of an ordinance must provide, at the time of introduction, a written copy of the proposed draft. The board must place the date of introduction and a distinguishing number on each proposed draft of an ordinance.

(b) The board must publish a notice that the proposed ordinance is pending final action by the board. The notice must be published in accordance with IC 5-3-1. However, notice of an ordinance establishing a budget must be given in accordance with the statutes governing budgets of the municipality served by the corporation.

(c) The board must include in the notice reference to the subject matter of the proposed ordinance and the time and place a hearing on it will be held, and must indicate that the proposed draft of an ordinance is available for public inspection at the office of the board. The board may include in one (1) notice a reference to the subject matter of each draft of an ordinance that is pending and for which notice has not previously been given. The reference to the subject matter is adequate if it is sufficient to advise the public of the general subject matter of the proposed ordinance.

(d) The board must, not later than the date of notice of the introduction of a proposed ordinance, place five (5) copies of the proposed draft on file in the office of the board for public inspection.

As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981, P.L.45, SEC.39.

IC 36-9-4-25

Adoption of ordinances; procedure

Sec. 25. (a) At a meeting for which notice has been given under section 24 of this chapter, the board of directors of a public transportation corporation may take final action on the proposed ordinance or may postpone final consideration of it to a designated meeting in the future without giving additional notice. Before adopting an ordinance, the board must give an opportunity to any person present at the meeting to give testimony or evidence for or against the proposed ordinance, under the rules as to the number of persons who may be heard and the time limits adopted by the board.

(b) Whenever the board adopts an ordinance, it shall designate the effective date of the ordinance at the same meeting. If the board fails to designate the effective date of the ordinance in the record of the proceedings of the board, the ordinance takes effect fourteen (14) days after its passage.

(c) Whenever the board adopts an ordinance, it shall cause copies

of the ordinance to be made available to the public.
As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-26
Printing and distribution of ordinances

Sec. 26. The board of directors of a public transportation corporation may provide for the printing of all or part of the ordinances of the corporation in pamphlet form or in bound volumes, and may distribute them without charge or may charge the cost of printing and distribution.
As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-27
Controller

Sec. 27. (a) The board of directors of a public transportation corporation shall appoint a qualified person to serve as controller. The controller is the chief fiscal officer of the corporation, and he must give bond in the sum and with the conditions prescribed by the board and with surety to the approval of the board.

(b) All money payable to the public transportation corporation shall be paid to the controller, and he shall deposit it under IC 5-13-6. The controller shall deposit this money in the depositories and in the accounts that the board designates by ordinance.

(c) The controller shall keep an accurate account of all appropriations made and all taxes levied by the public transportation corporation, all money owing or due to the corporation, and all money received and disbursed by the corporation, and he shall preserve all vouchers for payments and disbursements.

(d) The controller shall issue all warrants for the payment of money from the funds of the public transportation corporation, but he may not issue a warrant for the payment of a claim until the claim has been allowed in accordance with the procedure prescribed by the rules of the board. All warrants must be countersigned by the chairman of the board.

(e) If the controller is called upon to issue a warrant, he may require evidence that the amount claimed is justly due, and for that purpose he may summon before him any officer, agent, or employee of the public transportation corporation and examine him on oath or affirmation relating to the warrant. The controller may administer the oath or affirmation.

(f) Notwithstanding subsections (d) and (e), the board may authorize the controller to pay a per diem in advance to a public transportation employee or board member who will attend a training session or other special business meeting required as a duty of the public transportation employee or board member.

(g) Each year, and more often if required by the board, the controller shall submit his records of account as controller for audit to the certified public accountant or firm of certified public accountants designated by the board. The certified public accountant or firm of certified public accountants shall submit to the board a

certified report of the records of account, exhibiting the revenues, receipts, and disbursements, the sources from which the revenues and funds are derived, and the manner in which they have been disbursed.
As added by Acts 1981, P.L.309, SEC.77. Amended by P.L.19-1987, SEC.53; P.L.327-1995, SEC.2.

IC 36-9-4-28
Purchase of property from system by corporation

Sec. 28. (a) The board of directors of the public transportation corporation and the management of the urban mass transportation system shall negotiate for the purchase of all the real and personal property, licenses, rights, and interests of the system by the corporation, unless the system shows that part of its property is not necessary for the proper operation of the system.

(b) If the parties agree upon the terms and conditions of the purchase, the board shall adopt an ordinance incorporating those terms and conditions.

(c) If the parties cannot agree upon the terms and conditions of the purchase, the board may adopt an ordinance directing the acquisition of the property that has been the subject of the negotiations through eminent domain proceedings under section 32 of this chapter.
As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-29
Public transportation corporation; operation of system; contracts or leases for use of system

Sec. 29. (a) Upon acquisition of the necessary property by a public transportation corporation, the board of directors of the corporation may:

(1) operate and maintain the system;
(2) lease the system to any operator; or
(3) contract for the use of the system by any operator.

(b) The board may also contract with any organization that has executive personnel with experience and skill applicable to the superintendence of the operation and maintenance of an urban mass transportation system. The contract must require the organization to furnish its services and the services of its personnel for the superintendence of the system.

(c) The maximum term of a contract or lease executed under this section is twenty-five (25) years.

(d) A contract or lease executed under this section must be confirmed by ordinance of the board.
As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981, P.L.317, SEC.5.

IC 36-9-4-29.4
Expansion of services outside operational boundaries

Sec. 29.4. (a) This section does not apply to a public transportation corporation located in a county having a consolidated

city.

(b) A public transportation corporation may provide regularly scheduled passenger service to specifically designated locations outside the system's operational boundaries as described in IC 36-9-1-9 if all of the following conditions are met:

(1) The legislative body of the municipality approves any expansion of the service outside the municipality's corporate boundaries.

(2) The expanded service is reasonably required to do any of the following:

(A) Enhance employment opportunities in the new service area or the existing service area.

(B) Serve persons who are elderly, persons with a disability, or other persons who are in need of public transportation.

(3) Except as provided in subsection (e), the expanded service does not extend beyond the boundary of the county in which the corporation is located.

(c) Notwithstanding section 39 of this chapter, a public transportation corporation may provide demand responsive service outside of the system's operational boundaries as described in IC 36-9-1-9 if the conditions listed in subsection (b) are met.

(d) The board may contract with a private operator for the operation of an expanded service under this section.

(e) Subsection (b)(3) does not apply to a special purpose bus (as defined in IC 20-27-2-10) or a school bus (as defined in IC 20-27-2-8) that provides expanded service for a purpose permitted under IC 20-27-9.

As added by P.L.229-1991, SEC.1. Amended by P.L.278-2001, SEC.9; P.L.1-2005, SEC.238; P.L.99-2007, SEC.223; P.L.182-2009(ss), SEC.452.

IC 36-9-4-29.5
Repealed

(*Repealed by P.L.182-2009(ss), SEC.468.)*

IC 36-9-4-29.6
Repealed

(*Repealed by P.L.182-2009(ss), SEC.468.)*

IC 36-9-4-30
Board of directors; power to acquire, hold, and dispose of property

Sec. 30. The board of directors of a public transportation corporation may:

(1) acquire by grant, purchase, gift, lease, or otherwise; and

(2) hold, use, sell, lease, or dispose of;

real and personal property, licenses, patents, rights, and interests necessary or convenient for the exercise of its powers under this chapter.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-31
Board of directors; seal

Sec. 31. The board of directors of a public transportation corporation may adopt a seal to be impressed upon its instruments and may provide for the impression of that seal by printed or lithographic facsimile. An executed instrument bearing the seal of the board is prima facie evidence of its execution by the board and that its execution was legally authorized by the board.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-32
Eminent domain; procedure

Sec. 32. (a) The board of directors of a public transportation corporation may exercise the power of eminent domain for the condemnation of any interest in real or personal property for use within the taxing district of the corporation.

(b) Proceedings for the condemnation of property by the board are governed by IC 32-24-1 to the extent it is not in conflict with this chapter.

(c) The board may not institute proceedings until it has adopted an ordinance generally describing the property to be acquired, declaring that the public interest and necessity require the acquisition by the corporation of the property involved, and declaring that the acquisition is necessary for the establishment, development, extension, or improvement of the system. The ordinance is conclusive evidence of the public necessity of the proposed acquisition and that the proposed acquisition is planned in a manner most compatible with the greatest public good and the least private injury.

As added by Acts 1981, P.L.309, SEC.77. Amended by P.L.2-2002, SEC.119.

IC 36-9-4-33
Board of directors; power to contract

Sec. 33. The board of directors of a public transportation corporation may contract with any person upon the terms and conditions the board considers best for the corporation including the following:

(1) Contracting for self-insurance protection of its property or liability under IC 34-13-3.

(2) Engaging in commissions or entering into agreements for the mutual insurance or sharing of risks for liability or property damage.

(3) Agreeing to join with other municipal corporations for the mutual risk sharing of losses due to casualty or acts of God.

As added by Acts 1981, P.L.309, SEC.77. Amended by P.L.353-1987, SEC.1; P.L.1-1998, SEC.214.

IC 36-9-4-34
Contracts for operation of systems in contiguous territory and

transfer of passengers between systems

Sec. 34. The board of directors of a public transportation corporation may enter into agreements with any urban mass transportation system operating in territory contiguous to the taxing district of the corporation, for:

(1) the operation and maintenance of that system, including the use, sale, or lease of the real and personal property necessary for operation of the system; or

(2) the transfer of passengers between that system and the system owned by the corporation, with a special rate to be charged for those passengers.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-35

Repealed

(*Repealed by P.L.1-1990, SEC.368.)*

IC 36-9-4-35.1

Board of directors; adoption of rules for operation of systems; rates, routings, and standards of service

Sec. 35.1. The board of directors of a public transportation corporation shall, by ordinance, make rules governing the use, operation, and maintenance of the urban mass transportation system. The board may determine all rates, routings, and hours and standards of service and may change them whenever the board considers a change advisable. However, the board's powers under this section are subject to regulation by the department of state revenue as provided by section 58 of this chapter.

As added by P.L.1-1990, SEC.369.

IC 36-9-4-36

Board of directors; power to sue; service of process

Sec. 36. The board of directors of a public transportation corporation may, in the name of the corporation, sue or be sued in court. Service of process shall be made by service upon the secretary of the board, and notice must be served upon the secretary in the manner and form required by IC 34-13-3.

As added by Acts 1981, P.L.309, SEC.77. Amended by P.L.1-1998, SEC.215.

IC 36-9-4-37

Board of directors; employees; collective bargaining agreements

Sec. 37. (a) The board of directors of a public transportation corporation may appoint or employ a general manager, accountants, attorneys, traffic engineers, drivers, clerks, secretaries, guards, laborers, and other employees, and may prescribe and define their duties, regulate their compensation, discharge them, and appoint or employ their successors. Employees shall be selected without regard to race, religion, or any personal affiliation. The board shall select the general manager on the basis of his fitness for the position, taking

into account his executive ability and his knowledge of and experience in the field of mass public transportation.

(b) The board shall bargain collectively and enter into written contracts with authorized labor organizations representing employees other than executive, administrative, or professional personnel. These contracts may provide for the binding arbitration of disputes, wages, salaries, hours, working conditions, health and welfare, insurance, vacations, holidays, sick leave, seniority, pensions, retirement, and other benefits.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-38

Surveys and studies

Sec. 38. The board of directors of a public transportation corporation may make traffic surveys, population surveys, and any other surveys and studies it considers useful in the operation of urban mass transportation systems.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-39

"Demand-responsive" or "dial-a-ride" system

Sec. 39. The board of directors of a public transportation corporation may establish and operate a "demand-responsive" or "dial-a-ride" transportation system as a part of its urban mass transportation system within the taxing district of the corporation. The rates and charges for the system and all related criteria are at the sole discretion of the board.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-40

Board of directors; power to fulfill purposes of corporation

Sec. 40. The board of directors of a public transportation corporation may carry out the purposes of the corporation.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-41

Acquisition of systems by corporation; protection of employees

Sec. 41. (a) Whenever a public transportation corporation acquires an urban mass transportation system under this chapter, the employees of the system must be protected as follows:

(1) The employees of the system must be retained to the fullest extent consistent with sound management, and those terminated or laid off must be assured priority of reemployment.

(2) The individual employees must be retained in positions the same as, or no worse than, their positions before the acquisition of the system.

(3) The rights, privileges, and benefits of the employees under any collective bargaining agreement are not affected, and the corporation shall assume the duties of the system under the agreement.

(4) The rights, privileges, and benefits of the employees under any pension or retirement plan are not affected, and the corporation shall assume the duties of the system under the plan.

(b) If a public transportation corporation acquires and leases an urban mass transportation system, or enters into a contract for the operation of the system under this chapter, the lease or contract must provide for compliance with subsection (a).

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-42

Funding

Sec. 42. (a) A municipality or a public transportation corporation that expends money for the establishment or maintenance of an urban mass transportation system under this chapter may acquire the money for these expenditures:

(1) by issuing bonds under section 43 or 44 of this chapter;

(2) by borrowing money made available for such purposes by any source;

(3) by accepting grants or contributions made available for such purposes by any source;

(4) in the case of a municipality, by appropriation from the general fund of the municipality, or from a special fund that the municipal legislative body includes in the municipality's budget; or

(5) in the case of a public transportation corporation, by levying a tax under section 49 of this chapter or by recommending an election to use revenue from the county option income taxes, as provided in subsection (c).

(b) Money may be acquired under this section for the purpose of exercising any of the powers granted by or incidental to this chapter, including:

(1) studies under section 4, 9, or 11 of this chapter;

(2) grants in aid;

(3) the purchase of buses or real property by a municipality for lease to an urban mass transportation system, including the payment of any amount outstanding under a mortgage, contract of sale, or other security device that may attach to the buses or real property;

(4) the acquisition by a public transportation corporation of property of an urban mass transportation system, including the payment of any amount outstanding under a mortgage, contract of sale, or other security device that may attach to the property;

(5) the operation of an urban mass transportation system by a public transportation corporation, including the acquisition of additional property for such a system; and

(6) the retirement of bonds issued and outstanding under this chapter.

(c) This subsection applies only to a public transportation corporation located in a county having a consolidated city. In order

to provide revenue to a public transportation corporation during a year, the public transportation corporation board may recommend and the county fiscal body may elect to provide revenue to the corporation from part of the certified distribution, if any, that the county is to receive during that same year under IC 6-3.5-6-17. To make the election, the county fiscal body must adopt an ordinance before November 1 of the preceding year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to provide revenue to the corporation. If such an ordinance is adopted, the county fiscal body shall immediately send a copy of the ordinance to the county auditor.
As added by Acts 1981, P.L.309, SEC.77. Amended by P.L.84-1987, SEC.15; P.L.5-1988, SEC.221; P.L.137-2012, SEC.123.

IC 36-9-4-43
Issuance of bonds by municipality; procedure

Sec. 43. If the legislative body of a municipality decides to issue bonds to obtain all or part of the money to be expended for the establishment and maintenance of an urban mass transportation system under this chapter, the legislative body may issue the bonds of the municipality in the same manner as bonds for the general purposes of the municipality. However, the bonds may be sold to the federal government at private sale and without a public offering.
As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-44
Issuance of bonds by corporation; procedure

Sec. 44. (a) If the board of directors of a public transportation corporation decides to issue bonds to obtain all or part of the money to be expended for the establishment and maintenance of an urban mass transportation system under this chapter, the board shall adopt an ordinance directing the issuance of the bonds. The board shall certify a copy of the ordinance to the controller of the corporation, who shall then prepare the bonds.

(b) The bonds must be executed by the chairman of the board and attested by the controller of the corporation.

(c) The controller is responsible for the sale of the bonds.

(d) Except as otherwise provided in this section, the bonds shall be issued in the same manner as bonds for the general purposes of the municipality served by the public transportation corporation. However, the bonds may be sold to the federal government at private sale and without a public offering.

(e) In addition to the general power to issue bonds for the establishment and maintenance of a system, the board may issue bonds specifically:

(1) for the payment of any judgment against the corporation; and

(2) to establish or maintain a program of self-insurance or mutual insurance.

As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981,

P.L.317, SEC.6; P.L.353-1987, SEC.2.

IC 36-9-4-45
Bonds; terms; tax exemption; procedure

Sec. 45. (a) Bonds issued under this chapter:

(1) shall be issued in the denomination;

(2) are payable over a period not to exceed thirty (30) years from the date of the bonds; and

(3) mature;

as determined by the ordinance authorizing the bond issue.

(b) All bonds issued under this chapter, the interest on them, and the income from them are exempt from taxation to the extent provided by IC 6-8-5-1.

(c) The provisions of IC 6-1.1-20 relating to:

(1) filing petitions requesting the issuance of bonds and giving notice of those petitions;

(2) giving notice of a hearing on the appropriation of the proceeds of the bonds;

(3) the right of taxpayers to appear and be heard on the proposed appropriation;

(4) the approval of the appropriation by the department of local government finance; and

(5) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

apply to the issuance of bonds under this chapter.

(d) A suit to question the validity of bonds issued under this chapter or to prevent their issue and sale may not be instituted after the date set for the sale of the bonds, and the bonds are incontestable after that date.

As added by Acts 1981, P.L.309, SEC.77. Amended by P.L.90-2002, SEC.505; P.L.219-2007, SEC.142; P.L.146-2008, SEC.787.

IC 36-9-4-46
Bonds; special tax levy

Sec. 46. (a) The board of directors of a public transportation corporation that issues bonds under this chapter shall levy a special tax each year upon all the property within the taxing district of the corporation. The tax shall be levied in such a manner as to meet and pay the principal of the bonds as they mature, together with all accruing interest.

(b) The county treasurer shall collect the tax in the same manner as other taxes are collected. As the treasurer collects the tax, he shall remit it to the controller of the public transportation corporation.

(c) In determining the amount of the levy, the board of directors shall consider any surplus of accumulated revenue derived from the operation of the urban mass transportation system, above the sum

considered necessary to be applied upon or reserved for the payment of the operating and capital expenditures of the system, including expenditures for the replacement of and additions to the property of the system and reserves established for the depreciation of the property of the system. If the board finds that this surplus is sufficient, it may apply all or part of the surplus to the payment of the principal of the bonds, together with the interest on them.
As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-47
Tax anticipation warrants

Sec. 47. (a) The board of directors of a public transportation corporation may:

(1) borrow money in anticipation of receipt of the proceeds of taxes that have been levied by the board and have not yet been collected; and

(2) evidence this borrowing by issuing warrants of the corporation.

The money that is borrowed may be used by the corporation for payment of principal and interest on its bonds or for payment of current operating expenses.

(b) The warrants:

(1) bear the date or dates;

(2) mature at the time or times on or before December 31 following the year in which the taxes in anticipation of which the warrants are issued are due and payable;

(3) bear interest at the rate or rates and are payable at the time or times;

(4) may be in the denominations;

(5) may be in the forms, either registered or payable to bearer;

(6) are payable at the place or places, either inside or outside Indiana;

(7) are payable in the medium of payment;

(8) are subject to redemption upon the terms, including a price not exceeding par and accrued interest; and

(9) may be executed by the officers of the corporation in the manner;

provided by resolution of the board of directors. The resolution may also authorize the board to pay from the proceeds of the warrants all costs incurred in connection with the issuance of the warrants.

(c) The warrants may be authorized and issued at any time after the board of directors levies the tax or taxes in anticipation of which the warrants are issued.

(d) The warrants may be sold for not less than par value after notice inviting bids has been published in accordance with IC 5-3-1. The board of directors may also publish the notice inviting bids in other newspapers or financial journals.

(e) After the warrants are sold, they may be delivered and paid for at one (1) time or in installments.

(f) The aggregate principal amount of warrants issued in

anticipation of and payable from the same tax levy or levies may not exceed eighty percent (80%) of the levy or levies, as the amount of the levy or levies is certified by the department of local government finance, or as is determined by multiplying the rate of tax as finally approved by the total assessed valuation of taxable property within the taxing district of the public transportation corporation as most recently certified by the county auditor.

(g) For purposes of this section, taxes for any year are considered to be levied when the board of directors adopts the ordinance prescribing the tax levies for the year. However, warrants may not be delivered and paid for before final approval of a tax levy or levies by the county board of tax adjustment (or, if appealed, by the department of local government finance) unless the issuance of the warrants has been approved by the department of local government finance.

(h) The warrants and the interest on them are not subject to sections 43 and 44 of this chapter and are payable solely from the proceeds of the tax levy or levies in anticipation of which the warrants were issued. The authorizing resolution must pledge a sufficient amount of the proceeds of the tax levy or levies to the payment of the warrants and the interest.

(i) All actions of the board of directors under this section may be taken by resolution, which need not be published or posted. The resolution takes effect immediately upon its adoption by a majority of the members of the board of directors.

(j) An action to contest the validity of any tax anticipation warrants may not be brought later than ten (10) days after the sale date.

As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981, P.L.187, SEC.2; P.L.90-2002, SEC.506; P.L.224-2007, SEC.133; P.L.146-2008, SEC.788.

IC 36-9-4-48

Cumulative transportation fund; establishment; notice; tax levy

Sec. 48. (a) A cumulative transportation fund to provide money for the acquisition of buses and for the planning, establishment, and maintenance of routes and schedules to assist in implementing this chapter may be established under IC 6-1.1-41 by:

(1) the legislative body of a municipality that:

(A) is making grants to an urban mass transportation system; or

(B) has purchased buses for operation under lease by an urban mass transportation system; or

(2) the board of directors of a public transportation corporation.

(b) In addition to other notices required under IC 6-1.1-41, notices of hearings under IC 6-1.1-41 must be given to the following:

(1) the municipal executive, for a tax levy by a municipality; and

(2) the chairman of the board of directors, for a tax levy by a public transportation corporation.

(c) A tax levy to finance the cumulative transportation fund may be levied in compliance with IC 6-1.1-41. The tax levied under this section may not exceed six and sixty-seven hundredths cents ($0.0667) on each one hundred dollars ($100) of taxable property within the corporate boundaries of the municipality or the taxing district of the public transportation corporation, as the case may be.
As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1981, P.L.45, SEC.40; P.L.17-1995, SEC.24; P.L.6-1997, SEC.216.

IC 36-9-4-49
Insufficient funds; special tax levy

Sec. 49. (a) For each year in which it is anticipated that the total amount available to a public transportation corporation will be insufficient to defray the expenses incurred by the corporation, the board of directors of the corporation shall levy a special tax upon all the property within the taxing district of the corporation at the rate required to defray such expenses. The tax must be based upon the budget formulated and filed by the board under this chapter.

(b) The county treasurer shall collect the tax levied under this section in the same manner as other taxes are collected. As the treasurer collects the tax, he shall remit it to the controller of the public transportation corporation.
As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-50
Federal or state aid

Sec. 50. A municipality that establishes or acquires an urban mass transportation system under this chapter, or a municipality that has a privately owned urban mass transportation system and has received a request from the management of the system, may apply for aid from any federal or state government agency. A municipality acting under this section may:

(1) perform any act or acts lawfully required; or

(2) execute and perform agreements necessary or convenient;

to obtain the aid without limitation by the provisions of this chapter, except that a municipality may not interfere with any right, interest, or part of any other public transportation system without the consent of the other system.
As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-51
Review of annual budget and tax levies

Sec. 51. (a) The board of directors of a public transportation corporation shall prepare an annual budget for the expenditures of the corporation.

(b) This subsection applies only when a municipality, having operated an urban mass transportation system under a department of municipal government, establishes a public transportation corporation under section 10 of this chapter to maintain that system. The annual operating and maintenance budget for the corporation

shall be subject to review and modification by the legislative body of the municipality.

(c) A public transportation corporation may not impose a property tax levy on property that it has not taxed before January 1, 1982, and that lies outside the corporate boundaries of the municipality without the approval of the fiscal body or county council of the county in which the municipality is located.

(d) The budget and any tax levies prepared by the board shall be prepared and submitted at the same time, in the same manner, and with the same notice as is prescribed by IC 6-1.1-17 for the annual budget of the municipality. The county tax adjustment board and the department of local government finance may review the budget and tax levies in the same manner by which they review budgets and tax levies of the municipality.

As added by Acts 1981, P.L.309, SEC.77. Amended by Acts 1982, P.L.217, SEC.2; P.L.90-2002, SEC.507.

IC 36-9-4-52

Property tax exemption

Sec. 52. Property acquired by a municipality or public transportation corporation under this chapter is exempt from property taxes.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-53

Books, records, and accounts

Sec. 53. The books, accounts, records, and transactions of a public transportation corporation are subject to examination, audit, and supervision by the state board of accounts to the same extent as the books, accounts, records, and transactions of other municipal corporations and their officers and departments. However, in lieu of the system of accounts prescribed by the state board of accounts, a public transportation corporation may maintain its books, accounts, records, and transactions according to the financial accounting and reporting elements system, known as "Project Fare", that is established by the federal Urban Mass Transportation Administration.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-54

Transportation of school pupils; contracts

Sec. 54. An urban mass transportation system operating under this chapter may be used for the transportation of pupils to and from schools under a contract made with any school corporation having jurisdiction within the taxing district of the public transportation corporation. The system is solely responsible for the bus drivers' employment and actions, but the bus drivers must meet the qualifications for drivers of school buses as provided in IC 20-27-8. The buses used for the rendition of service under this section need not meet the requirements of the statutes relating to the construction,

equipment, and painting of school buses.
As added by Acts 1981, P.L.309, SEC.77. Amended by P.L.1-2005, SEC.239.

IC 36-9-4-55
Interlocal cooperation agreements; authorization

Sec. 55. Whenever the same urban mass transportation system operates on regularly scheduled routes within two (2) or more municipalities, the legislative bodies of those municipalities may enter into an interlocal cooperation agreement under IC 36-1-7 for the purpose of implementing this chapter upon mutually agreeable terms and conditions. The legislative bodies of the municipalities may adopt a joint ordinance establishing a public transportation corporation encompassing:

(1) the municipalities; and

(2) their suburban territory, as defined in IC 36-9-1-9.

As added by Acts 1981, P.L.309, SEC.77.

IC 36-9-4-56
Repealed

(*Repealed by P.L.72-1988, SEC.10.)*

IC 36-9-4-57
Improvement reserve fund

Sec. 57. (a) The board of directors of a public transportation corporation may, by resolution, establish an improvement reserve fund for the purpose of accumulating money over two (2) or more fiscal years for the following:

(1) The purchase of specified real property.

(2) The purchase of specified major equipment, including buses.

(3) The making of improvements to real property owned by the public transportation corporation.

(b) Transfers that are placed in an improvement reserve fund established under this section must be included in the annual budget of the public transportation corporation.

(c) The board of directors of a public transportation corporation may make an expenditure of money from an improvement reserve fund only after:

(1) holding a public meeting in accordance with section 22 of this chapter;

(2) the adoption by the board of a resolution under subsection (d); and

(3) approval by the department of local government finance.

(d) A resolution for expenditure from an improvement reserve fund established under this section must include the following:

(1) The specific amount of the expenditure.

(2) The specific use of the expenditure.

(3) A finding by the board of directors that the proposed use of funds complies with the restrictions under subsection (a).

(e) The money in the improvement reserve fund may not be considered in determining the corporation's property tax levy under this chapter or IC 6-1.1.

(f) The money in the improvement reserve fund at the end of the fiscal year does not revert to the general fund.

As added by P.L.317-1989, SEC.1. Amended by P.L.90-2002, SEC.508.

IC 36-9-4-58

Regulation by department of state revenue

Sec. 58. An urban mass transportation system operating under this chapter is considered a common carrier not operating under a franchise or contract granted by a municipality and not regulated by ordinance, and is subject to the authority of the department of state revenue under IC 8-2.1 to the same extent as any other common carrier. However, in determining the reasonableness of the fares and charges of such a system, the department of state revenue shall consider, among other factors, the policy of this chapter to foster and assure the development and maintenance of urban mass transportation systems, and it is not necessary that the operating revenues of the system be sufficient to cover the cost to the system of providing adequate service.

As added by P.L.99-1989, SEC.36.

IC 36-9-5

Chapter 5. Special Fares and Programs for Transportation Systems

IC 36-9-5-1

Application of chapter

Sec. 1. This chapter applies to the following boards:

(1) The board of directors of a public transportation corporation or regional transportation authority.

(2) The works board of a municipality that owns, operates, or leases a public transportation system.

(3) Any other board with comparable authority for public transportation.

As added by Acts 1981, P.L.309, SEC.78.

IC 36-9-5-2

Reduced fares for persons 65 years of age or older

Sec. 2. (a) A board may establish a special schedule of fares applicable to the transportation of persons sixty-five (65) years of age or older. The schedule may provide for fares that approximate in cost not more than one-half (1/2) of the public transportation system's regular one-way fare for transportation on regular routes within the system's service area. The reduced rate may also apply to transfers and other special services but may not apply to charter service or any transportation provided outside the service area.

(b) A board acting under this section may require a method of identification to be presented by a passenger to qualify for a reduced fare.

As added by Acts 1981, P.L.309, SEC.78.

IC 36-9-5-3

Other programs authorized

Sec. 3. A board may also establish programs for classes of persons other than those described in section 2 of this chapter. These programs must be based on the needs of the persons to be served.

As added by Acts 1981, P.L.309, SEC.78.

IC 36-9-5-4

Programs to increase use of public transportation

Sec. 4. A board may establish programs designed to increase the use of the public transportation system.

As added by Acts 1981, P.L.309, SEC.78.

IC 36-9-6
Chapter 6. City Works Board

IC 36-9-6-1
Application of chapter
Sec. 1. This chapter applies to second and third class cities.
As added by Acts 1981, P.L.309, SEC.79. Amended by Acts 1981, P.L.44, SEC.59.

IC 36-9-6-2
Supervision of streets, alleys, and city property
Sec. 2. Unless otherwise provided by statute or ordinance, the works board shall supervise the streets, alleys, sewers, public grounds, and other property of the city, and shall keep them in repair and good condition. The works board shall provide for the cleaning of city streets and alleys.
As added by Acts 1981, P.L.309, SEC.79. Amended by Acts 1982, P.L.33, SEC.43.

IC 36-9-6-3
Custody, maintenance, improvement, and construction of city property
Sec. 3. (a) Unless otherwise provided by statute or ordinance, the works board has custody of and may maintain all real and personal property of the city.
(b) A city works board may design, order, contract for, and execute:
(1) all work required to improve or repair any real or personal property that belongs to or is used by the city; and
(2) the erection of all buildings and other structures needed for any public purpose.
As added by Acts 1981, P.L.309, SEC.79. Amended by Acts 1982, P.L.33, SEC.44.

IC 36-9-6-4
Condemnation, rental, and purchase of property
Sec. 4. The works board may condemn, rent, or purchase any real or personal property needed by the city for any public use, unless a different provision for purchase is made by statute or ordinance. However, the city legislative body may by ordinance:
(1) require that these condemnations, rentals, or purchases be included in a long-range capital expenditure program to be proposed by the works board and updated as required by the legislative body, but at least annually;
(2) require the works board to estimate, at least annually, expenditures needed for condemnations, rentals, and purchases for each successive fiscal year;
(3) approve, amend, or reject all or part of the long-range capital expenditure program and the proposed annual expenditures, before or during the adoption of the city budget;

and

(4) specify the manner in which the works board must itemize the estimates of capital program expenditures for each fiscal year.

As added by Acts 1981, P.L.309, SEC.79. Amended by Acts 1982, P.L.33, SEC.45.

IC 36-9-6-5

Approval of plats

Sec. 5. The works board may approve plats under IC 36-7-3-3(d).

As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-6

Public ways and sidewalks; laying out, opening, and changing; grades

Sec. 6. (a) The works board may lay out, open, change, and fix or change the grade of any public way, sidewalk, or public place in the city.

(b) The works board may keep a record of the grades of all public ways and sidewalks in the city.

As added by Acts 1981, P.L.309, SEC.79. Amended by Acts 1981, P.L.46, SEC.8.

IC 36-9-6-7

Streets, alleys, wharves, and public places; improvements and repairs

Sec. 7. The works board may design, order, contract for, and execute all work required to improve or repair any street, alley, wharf, or public place within the city.

As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-8

Public places; cleaning and sprinkling

Sec. 8. The works board may, by contract or otherwise, clean and sprinkle any public place within the city.

As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-9

Streets, alleys, and public places; lighting

Sec. 9. The works board may erect lampposts or other lighting apparatus in the streets, alleys, and public places of the city.

As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-10

Drains and sewers; plans; construction

Sec. 10. (a) The works board may prepare a uniform plan for the drainage and sewerage of the city.

(b) The works board may lay out, design, order, contract for, and execute the construction, alteration, and maintenance of all public drains or sewers necessary to carry off the drainage of the city.

As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-11
Sewage disposal and treatment works

Sec. 11. The works board may erect, maintain, and operate works for the collection, treatment, and disposal of sewage.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-12
Culverts, bridges, and aqueducts

Sec. 12. The works board may design, order, contract for, and cause the erection of any culvert, bridge, or aqueduct within the city, or may enter in a contract for the joint erection and maintenance of such a structure by the city and a company or individual.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-13
Utility and transportation structures; authorization

Sec. 13. (a) A contract under this section must be submitted to the city legislative body and does not take effect until approved by ordinance of the legislative body.

(b) The works board may authorize a telegraph, telephone, electric light, gas, water, steam, railroad, or interurban company to use and erect necessary structures in any street, alley, or public place in the city. The works board may prescribe the terms and conditions of uses under this section and may fix by contract the price to be charged to the company.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-14
Excavations

Sec. 14. The works board may license the making of excavations from the surface or underneath the surface of a street, alley, or public place in the city. The works board may require bond to pay for damages caused by excavations and to secure the proper repair of the street, alley, or public place.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-15
Removal of structures from streets, alleys, and public places

Sec. 15. The works board may order the removal of any structure in a street, alley, or public place of the city. If the person maintaining the structure fails to remove it, the works board may remove it at his expense.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-16
Levees

Sec. 16. The works board may design, order, contract for, and cause the erection of levees for the city.

As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-17
Watercourses; improvements

Sec. 17. The works board may straighten, deepen, or otherwise improve any natural or artificial watercourse.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-18
Private watercourses; bridges

Sec. 18. The works board may require the owners of canals and watercourses to construct and maintain bridges across them at street and alley intersections.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-19
Removal and disposal of refuse

Sec. 19. The works board may, by contract or otherwise, remove all dead animals, rubbish, and other refuse from the city. The works board may erect crematories or other plants for the destruction and disposal of this refuse.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-20
Maps and records of pipes and conduits

Sec. 20. The works board may maintain a map and record of all pipes and conduits in the city for sewers, gas, water, electric wire, heat, and other purposes, showing their size, depth, inclination, location, and date of construction.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-21
Private lots and tracts; drainage and fill; expenses

Sec. 21. (a) The works board may fill or drain, at the owner's expense, any lot or tract within the city, or within four (4) miles from its corporate boundaries if the water on the lot or tract is or may become injurious to the public health and comfort. However, no more than twenty percent (20%) of the value of the lot or tract, as assessed on the tax duplicate, may be expended in filling or draining the lot or tract in any (1) year.

(b) The expenses of the works board under this section are a lien against the lot or tract. This lien may be collected by foreclosure or by placing it on the tax duplicate.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-22
Restrooms and fountains

Sec. 22. The works board may construct restrooms and fountains in public places.
As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-23
Payment of expenses

Sec. 23. All expenses incurred or authorized by the works board under this chapter are payable out of the general fund of the city, from appropriations made for the use of the board and available for the particular purpose, unless a statute specifically directs that the expenses are to be paid by assessments against owners of real property.

As added by Acts 1981, P.L.309, SEC.79.

IC 36-9-6-24
Performance of work by contract or by employees of board

Sec. 24. (a) If any work ordered or undertaken by the works board is payable out of the general fund of the city, it may cause the work to be done by independent contract or by employees of the board.

(b) If any work ordered or undertaken by the works board is payable, in whole or in part, from assessments made for that purpose upon the real property benefited by the work, the works board shall have the work done by contract, unless otherwise provided by statute.

As added by Acts 1981, P.L.309, SEC.79. Amended by Acts 1981, P.L.317, SEC.7.

IC 36-9-6.1

Chapter 6.1. Thoroughfare Projects

IC 36-9-6.1-0.1

Application of chapter

Sec. 0.1. The addition of this chapter by P.L.220-1986 does not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if this act had not been enacted.

As added by P.L.220-2011, SEC.681.

IC 36-9-6.1-1

Application of chapter

Sec. 1. This chapter applies to each unit that:

(1) has established an advisory plan commission or a metropolitan plan commission under IC 36-7-4-202; or

(2) is participating in an area planning department established under IC 36-7-4-202.

As added by P.L.220-1986, SEC.30.

IC 36-9-6.1-2

Units adopting a thoroughfare plan; tax levy; collection; fund

Sec. 2. (a) The fiscal body of a unit that has adopted a thoroughfare plan under IC 36-7-4 may levy a tax of five cents ($0.05) on each one hundred dollars ($100) of taxable property in the unit. The tax may be levied annually, in the same way that other property taxes are levied.

(b) The taxes levied under this section shall be collected in the same manner as other property taxes and deposited in a separate and continuing fund to be known as the thoroughfare fund. The fiscal officer of the unit may make payments or transfers from this fund only on warrants of the works board for work related to the thoroughfare plan.

As added by P.L.220-1986, SEC.30. Amended by P.L.6-1997, SEC.217.

IC 36-9-6.1-3

Works board carrying out thoroughfare plan; powers

Sec. 3. Except as provided in section 5 of this chapter, a works board carrying out a thoroughfare plan under this chapter:

(1) has the same powers to:

(A) appropriate or condemn property;

(B) lay out, change, widen, straighten, or vacate public ways or public places;

(C) award and pay damages; and

(D) assess and collect benefits;

(2) shall proceed in the same manner; and

(3) is subject to the same rights of property owners, including

the right to appeal;

as a works board that appropriates property under IC 32-24 and lays out, changes, widens, straightens, or vacates public ways or public places under IC 36-9-6.

As added by P.L.220-1986, SEC.30. Amended by P.L.2-2002, SEC.120.

IC 36-9-6.1-4

Adoption of resolution for proposed project

Sec. 4. A works board that wants to proceed with a project in order to carry out a thoroughfare plan may adopt a resolution:

(1) describing the proposed project;

(2) setting out the items necessary for completion of the project;

(3) including complete plans and specifications for all parts of the project other than the appropriation of property;

(4) including an estimate by the civil engineer of the unit of the total cost of the project; and

(5) describing the property benefited by the project, if any, that will be subject to assessment for that benefit.

As added by P.L.220-1986, SEC.30.

IC 36-9-6.1-5

Plans, specifications, and contracts for proposed project; preparation and adoption

Sec. 5. Plans, specifications, and contracts for a project proposed under section 4 of this chapter must be prepared, adopted, and let in the manner required by IC 36-9-36, except that the provisions of IC 36-9-36 for remonstrance by resident freeholders do not apply. Separate phases of a project may be included in separate plans and specifications, and the work on separate phases may be done by contract or otherwise, as separate improvements.

As added by P.L.220-1986, SEC.30. Amended by P.L.98-1993, SEC.12.

IC 36-9-6.1-6

Authorized projects

Sec. 6. Projects proposed under section 4 of this chapter may include:

(1) the appropriation of property;

(2) the opening, changing, widening, straightening, or vacating of any public way, public way crossing, railway, right-of-way, or public place in the unit;

(3) the removal of any pavement, sidewalk, curb, parkway, building, or other structure;

(4) the grading of any public way or public place; or

(5) the construction or reconstruction of any pavement, street, sidewalk, curb, or structure.

As added by P.L.220-1986, SEC.30.

IC 36-9-6.1-7

Notice and hearing on resolution; contents of notice

Sec. 7. After publication of notice in accordance with IC 5-3-1, the works board shall hold a public hearing on the resolution adopted under section 4 of this chapter. The notice must:

(1) fix the date of the hearing;

(2) state that the resolution will be considered at the hearing; and

(3) state that persons interested in or affected by the proposed project may speak at the hearing.

As added by P.L.220-1986, SEC.30.

IC 36-9-6.1-8

Hearing; objections; determinations by works board

Sec. 8. At the hearing under section 7 of this chapter, the works board shall consider objections to the proposed project and, if it decides to proceed with the project, shall:

(1) determine what part of the cost of the project or any separate phase of the project, including damages increased by a court on appeal, shall be paid by the unit out of the thoroughfare fund as a benefit to the unit at large;

(2) determine what part, if any, of the cost of the project or any separate phase of the project, including damages awarded by the works board, shall be assessed as benefits on the real property within a special benefit district, and fix the boundaries of that district; and

(3) take final action, which is conclusive on all persons, confirming, modifying, or rescinding its original resolution.

As added by P.L.220-1986, SEC.30.

IC 36-9-6.1-9

Approval of project; assessment of cost

Sec. 9. If the works board approves a project and decides to assess a part of the cost of that project against the property specially benefited, the board shall:

(1) advertise for bids;

(2) let contracts; and

(3) assess costs;

for the whole project or separate phases of the project, in the manner prescribed by IC 36-9-36.

As added by P.L.220-1986, SEC.30. Amended by P.L.98-1993, SEC.13.

IC 36-9-6.1-10

Rights of affected property owners

Sec. 10. The owners of property affected by an assessment under section 9 of this chapter have the same rights as property owners affected by an assessment under IC 36-9-36.

As added by P.L.220-1986, SEC.30. Amended by P.L.98-1993, SEC.14.

IC 36-9-6.1-11

Costs exceeding balance in thoroughfare fund; bond issue

Sec. 11. If a unit's costs in acquiring property and paying benefits assessed against the unit under this chapter exceed the balance in the unit's thoroughfare fund, the unit may issue bonds in an amount sufficient to pay all or part of those costs. The bonds must be:

(1) approved by the executive of the unit;

(2) authorized by ordinance of the fiscal body of the unit;

(3) issued and sold in the same form and manner, including the same interest rate and maturities, as bonds for general purposes of the unit.

As added by P.L.220-1986, SEC.30.

IC 36-9-6.1-12

Proceeds of sale of bonds; deposit in fund; payments

Sec. 12. Proceeds from the sale of bonds under section 11 of this chapter shall be deposited in the thoroughfare fund and used by the unit to pay for:

(1) property acquired by the unit;

(2) benefits assessed against the unit at large; and

(3) damages increased by a court on appeal;

under this chapter.

As added by P.L.220-1986, SEC.30.

IC 36-9-6.5

Chapter 6.5. Metropolitan Thoroughfare District of Marion County

IC 36-9-6.5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 2 of this chapter by P.L.220-1986 does not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if this act had not been enacted.

As added by P.L.220-2011, SEC.682.

IC 36-9-6.5-1

Application of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by Acts 1982, P.L.77, SEC.12.

IC 36-9-6.5-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to the board of transportation of the consolidated city, subject to IC 36-3-4-23.

"Department" refers to the department of transportation of the consolidated city, subject to IC 36-3-4-23.

"Operation" includes control and engineering of traffic, traffic safety, road lighting, road access, utility locations, cuts in roads, vehicular parking and stopping, improvements of traffic movement, uses of the rights-of-way for roads, and mass transportation routes.

"Reconstruction" includes resurfacing, widening, and rebuilding.

As added by Acts 1982, P.L.77, SEC.12. Amended by P.L.220-1986, SEC.31.

IC 36-9-6.5-3

Special taxing district

Sec. 3. The metropolitan thoroughfare district created by IC 36-3-1-6 constitutes a special taxing district for the purposes of programming, planning, designing, constructing, reconstructing, and operating thoroughfares within the district.

As added by Acts 1982, P.L.77, SEC.12.

IC 36-9-6.5-4

Adoption of resolution of necessity and purpose

Sec. 4. Whenever the board determines that it is necessary for the general welfare of the persons residing within the district and that it will be of public utility and benefit to the property in the district to undertake and carry out any project of construction, reconstruction, or operation upon thoroughfares within the district, it shall adopt a

resolution of the necessity of the project and the purpose of the department to proceed with it. The board, as a part of the resolution, shall adopt the plans and specifications proposed for the entire project, and shall determine the estimated cost of all work and all acquisitions necessary to carry out the project.
As added by Acts 1982, P.L.77, SEC.12.

IC 36-9-6.5-5
Filing and notice of resolution

Sec. 5. The resolution, plans and estimates, and all other matters included with the resolution shall be filed and opened to inspection by the public at the office of the department. The department shall give notice of:

(1) the adoption and general purport of the resolution;
(2) the fact that the resolution, and included material, have been prepared and are on file in the office of the department and can be inspected;
(3) that the board will on a date named receive and hear objections from any person interested in or who will be affected by the resolution.

The notice shall be published in accordance with IC 5-3-1.
As added by Acts 1982, P.L.77, SEC.12.

IC 36-9-6.5-6
Hearing and approval of project

Sec. 6. At or before the time fixed for the hearing designated in the notice published under section 5 of this chapter, any person interested in or who will be affected by the proposed project may file with the department a written remonstrance against the proposed project, in whole or in part. At the hearing, which may be adjourned from time to time, the board:

(1) shall hear all persons who are interested in the proceedings;
(2) shall finally determine whether or not the proposed project, in whole or in any part, is necessary for the general welfare of the persons residing within the district and will be of public utility and benefit to the property in the district; and
(3) may confirm, modify, or rescind the resolution.

The decision shall be entered in the records of the department.
As added by Acts 1982, P.L.77, SEC.12.

IC 36-9-6.5-7
Department proceeding after final approval of project

Sec. 7. After final approval of the resolution by the board, the department shall proceed with the project, work, and capital improvements, or any parts of them, and shall let all contracts, upon separate plans and specifications, in accordance with IC 36-1-12. The projects authorized may be modified by the board if it considers modification necessary to carry out the purpose of the declaration and resolution, so long as the modifications do not increase the estimate of the total cost of the project as adopted in the original

resolution. All other changes must be processed as new declarations.
As added by Acts 1982, P.L.77, SEC.12.

IC 36-9-6.5-8
Thoroughfare tax

Sec. 8. All property located within the district is subject to a special tax for the purpose of providing money to pay the total cost of the project, including all necessary incidental expenses of programming, planning, and designing. The special tax constitutes the amount of benefits resulting to all of that property from the acquisition or work, and shall be levied as provided in this chapter.
As added by Acts 1982, P.L.77, SEC.12.

IC 36-9-6.5-9
Bonds issued

Sec. 9. (a) For the purpose of raising money to pay for any land or right-of-way to be acquired for thoroughfares within the district or to pay for any capital improvement necessary for the construction, reconstruction, or operation of thoroughfares within the district, and in anticipation of the special benefit tax, the board may cause bonds to be issued in the name of the consolidated city for the benefit of the district. The bonds shall be issued in accordance with IC 36-3-5-8.

(b) The bonds may be in an amount not to exceed the estimated cost of all land and rights-of-way to be acquired and the estimated cost of all capital improvements, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction or reconstruction and all costs of programming, planning, and designing the capital improvements. The expenses to be covered in the amount of the bond issue include all expenses of every kind actually incurred preliminary to the acquisition of the property and the construction of work, such as the cost of necessary records, engineering expenses, publication of notices, salaries, and other expenses necessary to be incurred in connection with the acquisition of the property, the letting of the contract, and the sale of bonds.

(c) The bonds issued may not exceed the estimates for the project as determined by the board under section 4 of this chapter.

(d) Any surplus of bond proceeds remaining after all costs and expenses have been fully paid shall be paid into the metropolitan thoroughfare district bond fund. The board may appropriate the proceeds of the bonds.
As added by Acts 1982, P.L.77, SEC.12.

IC 36-9-6.5-10
Bonds; limitations; terms

Sec. 10. (a) When the total issue of bonds under section 9 of this chapter for purposes of the district, including bonds already issued or to be issued, exceeds four percent (4%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15,

additional bonds may not be issued. All bonds or obligations issued in violation of this subsection are void.

(b) Bonds issued under section 9 of this chapter are not, in any respect, corporate obligations or indebtedness of the consolidated city but constitute an indebtedness of the metropolitan thoroughfare district, and the bonds and interest on them are payable only out of revenues of the district. The bonds must recite these terms upon their face.

As added by Acts 1982, P.L.77, SEC.12. Amended by P.L.6-1997, SEC.218.

IC 36-9-6.5-11
Deposit of bond proceeds

Sec. 11. All proceeds from the sale of bonds issued under section 9 of this chapter shall be kept as a separate and specific fund to pay for the cost of land, rights-of-way, and other property acquired and of the cost of the work and all costs and expenses incurred in connection with it, and no part may be used for any other purpose. The fund shall be deposited at interest with the depository or depositories of other public funds of the consolidated city, and all interest collected on it belongs to the fund.

As added by Acts 1982, P.L.77, SEC.12.

IC 36-9-6.5-12
Special tax; metropolitan thoroughfare district bond fund

Sec. 12. (a) For the purpose of raising money to pay all bonds issued under section 9 of this chapter and any interest on them, the legislative body may levy each year a special tax upon all of the property located within the district, in such manner as to meet and pay the principal of the bonds as they severally mature, together with all accruing interest on them. Other revenues and funds may be annually allocated by statute or ordinance to be applied to reduction of the bonds and their interest for the next succeeding year, but to the extent that monies on hand are insufficient for payments required in the next succeeding year, the special tax shall be levied.

(b) The tax so collected, and all other allocated monies, shall be accumulated and kept in a separate fund to be known as the "Metropolitan Thoroughfare District Bond Fund", and shall be applied to the payment of the district bonds and interest as they severally mature, and to no other purposes. All accumulations may be deposited, at interest, with one (1) of the depositories of other funds of the consolidated city, and all interest collected belongs to the fund.

As added by Acts 1982, P.L.77, SEC.12.

IC 36-9-7

Chapter 7. City Department of Traffic Engineering

IC 36-9-7-1

Application of chapter

Sec. 1. This chapter applies to all cities.

As added by Acts 1981, P.L.309, SEC.80.

IC 36-9-7-2

Establishment of department

Sec. 2. The city legislative body may, by ordinance, establish a department of traffic engineering.

As added by Acts 1981, P.L.309, SEC.80.

IC 36-9-7-3

Department personnel; qualifications of traffic engineer

Sec. 3. (a) The personnel of the department of traffic engineering consists of a city traffic engineer, his assistants, and other employees necessary to perform the duties of the department. The city executive shall appoint the traffic engineer.

(b) The traffic engineer must:

(1) have a thorough knowledge of modern traffic control methods;

(2) be able to supervise and coordinate diversified traffic engineering activities and prepare engineering reports; and

(3) either:

(A) be a registered professional engineer who has practiced traffic engineering for at least one (1) year;

(B) have a certificate of engineer-in-training under IC 25-31 and have practiced traffic engineering for at least two (2) years; or

(C) have practiced traffic engineering for at least ten (10) years.

A person must furnish evidence of his qualifications under this subsection before he may be appointed by the executive.

As added by Acts 1981, P.L.309, SEC.80.

IC 36-9-7-4

Authority and responsibility of traffic engineer

Sec. 4. (a) The traffic engineer is responsible only to the city executive or safety board, and he may act only in an advisory capacity to the executive or board.

(b) The traffic engineer has full authority over all his subordinates.

As added by Acts 1981, P.L.309, SEC.80.

IC 36-9-7-5

Powers and duties of traffic engineer

Sec. 5. The traffic engineer shall:

(1) conduct all research relating to the engineering aspects of the planning of:

(A) public ways;

(B) lands abutting public ways; and

(C) traffic operation on public ways;

for the safe, convenient, and economical transportation of persons and goods;

(2) advise the city executive in the formulation and execution of plans and policies resulting from his research under subdivision (1);

(3) study all accident records, to which he has access at all times, in order to reduce accidents;

(4) direct the use of all traffic signs, traffic signals, and paint markings, except on streets traversed by state highways;

(5) recommend all necessary parking regulations;

(6) recommend the proper control of traffic movement; and

(7) if directed to do so by ordinance, supervise all employees engaged in activities described by subdivisions (3) through (6).

As added by Acts 1981, P.L.309, SEC.80.

IC 36-9-8

Chapter 8. Attendance at Purdue Road School

IC 36-9-8-1

Application of chapter

Sec. 1. This chapter applies to all counties and municipalities.

As added by Acts 1981, P.L.309, SEC.81.

IC 36-9-8-2

Persons authorized to attend school

Sec. 2. The following persons may attend the annual road school at Purdue University:

(1) The county surveyor or county engineer of each county, and any other person authorized by the county executive.

(2) The civil engineer and traffic engineer of each municipality, and any other person authorized by the municipal executive.

As added by Acts 1981, P.L.309, SEC.81. Amended by Acts 1981, P.L.317, SEC.8.

IC 36-9-8-3

Persons attending school; reimbursement for expenses

Sec. 3. (a) The expenses of a county surveyor, county engineer, or other person in attending the annual road school, including mileage, lodging, and tuition, shall be paid from the county general fund. On presentation of the proper receipts for these expenses, and with the approval of the county executive, the county auditor shall issue his warrant for the expenses.

(b) The municipal legislative body may annually appropriate sums for the necessary expense of mileage, meals, and lodging of a municipal engineer or other person in attending the annual road school.

As added by Acts 1981, P.L.309, SEC.81. Amended by Acts 1981, P.L.317, SEC.9.

IC 36-9-9

Chapter 9. Municipal Street Lights

IC 36-9-9-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by Acts 1981, P.L.309, SEC.82.

IC 36-9-9-2

"City block" defined

Sec. 2. As used in this chapter, "city block" means both sides of the part of a public street that lies between two (2) intersecting public streets.

As added by Acts 1981, P.L.309, SEC.82.

IC 36-9-9-3

Petitions for construction of street lights; declaratory resolutions; notice and hearing

Sec. 3. (a) The owner or owners of real property that fronts or abuts upon a public street or thoroughfare may sign and file with the municipal works board their petition requesting that there be constructed, erected, installed, maintained, and operated:

(1) an electric system of street lights and posts, designating the number of lumens per post and the number of posts along the street curb;

(2) a system of ornamental street lights and posts with underground wiring; or

(3) additional lights where a system has already been installed;

in front or on either side of the city block or blocks described in the petition.

(b) When the petition has been filed and signed by the owner or owners of at least sixty percent (60%) of the real property in the city block or blocks described in the petition, the works board shall adopt a declaratory resolution for the making of the improvement as described in the petition and shall then:

(1) prepare and place on file in its office, or with the municipal clerk if it has no office, a complete set of drawings, plans, and specifications for the lighting system and an estimate of the annual cost of the street lighting, which shall be kept open for inspection by the public and all prospective bidders; and

(2) publish in accordance with IC 5-3-1 a notice stating that on a day named after the last publication a public hearing shall be held, that interested persons may file remonstrances against the lighting system at the hearing, and that, at the hearing, the works board may sustain or overrule the remonstrances or may modify its original resolution, plans, or proceedings.

As added by Acts 1981, P.L.309, SEC.82. Amended by Acts 1981, P.L.45, SEC.41.

IC 36-9-9-4

Repealed

(*Repealed by Acts 1982, P.L.6, SEC.27.)*

IC 36-9-9-4.1

Hearing on remonstrance; rescission or modification of resolution and plans

Sec. 4.1. At the time specified in the notice under section 3 of this chapter, the municipal works board shall conduct a hearing of any remonstrance on file. If, at the hearing, the works board finds that:

(1) the lighting system will not be of public benefit; or

(2) the annual benefits from the lighting system that will accrue to the property liable to be assessed will not equal or exceed the estimated annual cost of the improvement, after deducting the amount of the annual cost to be paid by the municipality;

the works board shall rescind the declaratory resolution for the lighting system and dismiss the petition, or modify the resolution, petition, drawings, plans, specifications, and estimated cost so that the lighting system will be of public benefit and the annual benefits that will accrue to the property liable to be assessed for the lighting system will equal or exceed its estimated annual cost, after deducting the amount of the annual cost to be paid by the municipality. However, the number of lumens per post and the number of posts designated in the petition may not be changed without the written consent of the petitioners.

As added by Acts 1982, P.L.6, SEC.26.

IC 36-9-9-5

Construction of street lights; contracts; commission orders

Sec. 5. (a) When the declaratory resolution, as originally adopted or as modified, has been confirmed, the municipal works board shall notify and negotiate with any utility that operates and supplies electrical current within the municipality. The works board shall attempt to enter into a contract with the utility for the lighting described in the plans and specifications, and may cause the municipality to enter into such a contract, in strict accordance with the plans, drawings and specifications on file.

(b) If more than one (1) utility supplies electricity in the municipality and has the right to serve the electric system petitioned for, the municipal works board shall publish a notice in accordance with IC 5-3-1. The notice must state the nature of the work, state that drawings, plans, and specifications are on file in the office of the works board or the municipal clerk, call for sealed bids for the lighting and the maintenance of the system, and state that the bids must be filed not less than ten (10) days after the last publication and must comply with the manner and form in which bids for public improvements are filed in municipalities. If a satisfactory bid is received by the time fixed in the notice, the works board shall attempt to enter into a contract with the utility that is the lowest responsible bidder for the furnishing of that lighting.

(c) If the municipality owns and operates an electric utility and no

other electric utility is authorized to render the service petitioned for, then the electrical lighting system petitioned for may be installed, maintained, and operated by the municipality. An electrical system established under this section shall be maintained, operated, and paid for in the same manner as an electrical system that is established under this chapter by a public utility.

(d) The annual cost of lighting as fixed by the contract may not exceed the estimated cost of lighting on file with the plans and specifications. The contract must require lighting service for a period of not less than five (5) years and not more than fifteen (15) years, and must describe in detail the service to be rendered and the prices to be paid to the utility.

(e) If the municipality is unable to make an agreement with a utility, the municipality may file its petition with the utility regulatory commission. The commission shall conduct a hearing on the petition, in accordance with law and the rules of the commission. The commission may then require a utility supplying electrical current within the municipality to enter into a contract to construct the electric system of lighting in accordance with the plans and specifications on file with the municipality, and to maintain and operate the system at the prices, on the terms, for the period of time, and upon the conditions that the commission requires. Such an order of the commission is binding upon the municipality and utility:

(1) in the same manner as other orders of the commission; and

(2) as if a contract had been entered into between the municipality and the utility covering the same subject matter;

subject to all rights of appeal from the commission.

(f) After a contract has been entered into between the municipality and utility and has been approved by the utility regulatory commission, or if the construction, maintenance, and operation of the lighting system has been ordered by the commission, the utility which is a party to the contract or order shall, within a reasonable time, construct the system at its own expense. The utility shall maintain and operate the system in strict accordance with the agreement and order, and at the annual rates, tolls, or charges fixed by contract or by the order of the commission. The commission may investigate the rates, tolls, and charges in the same manner and to the same extent that it may investigate and revise the rates, tolls, and charges for electric current supplied by a public utility under IC 8-1-2.

As added by Acts 1981, P.L.309, SEC.82. Amended by Acts 1981, P.L.45, SEC.42; P.L.23-1988, SEC.123.

IC 36-9-9-6

Construction of street lights; uniformity of style; supervisory personnel; completion report

Sec. 6. (a) All street lamps or systems of lighting constructed, erected, or installed must be uniform in style and shall be installed under the supervision of:

(1) the municipal civil engineer; or

(2) some other competent person;

as determined by the municipal works board. If the person supervising the work is not already under bond, he shall file a bond for the faithful performance of his duties in the sum and the manner directed by the works board.

(b) At the completion of the work, the person supervising the work shall file with the municipality his verified report that the work has been completed and complies in all respects with the drawings, plans, and specifications on file. If the report is found to be correct, the works board shall accept it on behalf of the municipality.

As added by Acts 1981, P.L.309, SEC.82.

IC 36-9-9-7

Payments to utility for service

Sec. 7. The municipality shall make to the utility operating the lighting system all payments required to be made to the utility for its service, in strict accordance with the terms of the contract or order under which the utility is operating. The municipality shall make the payments from its general fund or from a fund set aside for street lighting purposes, and shall be reimbursed for payments made in behalf of property owners by the collection of the assessments as provided in this chapter.

As added by Acts 1981, P.L.309, SEC.82.

IC 36-9-9-8

Street lights at intersections

Sec. 8. (a) For purposes of this section, all light posts that are:

(1) located on the street upon which a lighting system is installed; and

(2) within fifty (50) feet of the nearest part of another street intersecting that street;

are considered to be at a street intersection.

(b) A municipality shall install, maintain, and operate at each street intersection lighting facilities that are at least equal to those in other parts of the lighting system.

As added by Acts 1981, P.L.309, SEC.82.

IC 36-9-9-9

Payment of costs of lighting

Sec. 9. (a) The municipality shall pay from its general fund or from a fund set aside for street lighting purposes:

(1) the entire annual cost of lighting at street intersections under section 8 of this chapter; and

(2) not less than thirty-five percent (35%) of the annual cost of lighting of the entire other part of the lighting system, with the exact percentage paid to be fixed by the municipal works board.

The municipal legislative body may, by ordinance, divide the municipality for lighting purposes into business zones, residence zones, or other classes of zones. The percentage of annual cost of the lighting system to be paid by the municipality must be uniform

throughout each class of the zones.

(b) The remaining annual cost of the lighting system shall be assessed against each lot or parcel of real property in the city block or blocks in front of which the lighting system is located, in the manner prescribed by section 10 of this chapter.

As added by Acts 1981, P.L.309, SEC.82.

IC 36-9-9-10

Assessments; liens

Sec. 10. (a) After an electrical lighting system has been completed and is ready for operation, the municipal works board shall assess the real property in the city block or blocks affected for the proportionate part of the annual lighting cost and, in the case of a system of ornamental lighting, the installation costs, that the property owners are required to pay annually. The works board shall assess each lot or parcel of the property equally per front foot.

(b) The works board shall prepare and file an assessment roll, setting forth the assessments against each lot and parcel of real property to be assessed, based upon:

(1) the cost of the lighting for the full period of one (1) year and for that part of a year the system may be operated between the time of its completion and the beginning of the next calendar year; and

(2) in the case of a system of ornamental lighting, the costs of installing the system.

The preparation and filing of the assessment roll and all proceedings for its adoption and confirmation, notices to property owners, certifying the roll to the county treasurer, and all other proceedings in connection with the roll must be according to the statutes regarding public improvements in municipalities.

(c) The first assessment made against each lot or parcel of real property is a lien on that lot or parcel, from the time of the final acceptance of the electrical system by the municipality. The lien covers the cost of lighting for the part of the calendar year following acceptance of the system, the cost of lighting for the next full calendar year, and, in the case of a system of ornamental lighting, the cost of installing the system.

(d) After the first assessment is made, a lien attaches upon March 1 of each year without further certification to the county treasurer, for the amount of the lighting cost for the succeeding calendar year and in the same proportions per front foot as fixed by the original assessment roll.

(e) Assessments made under this section shall be paid in the same manner as taxes are paid, at the regular tax paying periods following the adoption of the assessment roll. An assessment not paid at the time fixed by statute is subject to and may be collected according to the statutes regarding delinquent taxes, and all property upon which an assessment is a lien is subject to proceedings for the collection of taxes.

(f) The lien of an assessment under this section has equal priority

with all other assessment liens and is superior to all other liens except liens for taxes.
As added by Acts 1981, P.L.309, SEC.82.

IC 36-9-9-11
Expiration of contracts; transfers to new utilities

Sec. 11. (a) Six (6) months before the expiration of a contract or order entered into or made under section 5 of this chapter, the municipal works board may:

(1) negotiate and enter into a new contract;
(2) extend the current contract;
(3) procure an order of the commission; or
(4) advertise for bids.

The works board shall then proceed in the manner provided by the preceding sections of this chapter.

(b) If a contract or order made under this section provides that an electrical system is to be operated by a utility other than the former utility and owner of the system, the new utility shall pay in cash to the former utility the full value at that time of the system, as determined by the utility regulatory commission. After payment, the former utility shall transfer title in the system to the new utility, which is then fully vested with ownership of the system. The new utility shall maintain and serve the system in accordance with this chapter.
As added by Acts 1981, P.L.309, SEC.82. Amended by P.L.23-1988, SEC.124.

IC 36-9-9-12
Additional lighting facilities; petition; construction; assessment of costs

Sec. 12. (a) Whenever a lighting system has been established in accordance with this chapter, and an owner of property within any city block or blocks included in the system wants lighting facilities in front of or near his property that:

(1) are additional to those described in the plans and specifications on file; and
(2) consist of either lighting posts or lamps of greater candlepower, or both;

the property owner may file his petition with the municipal works board. The petition must fully describe the additional lighting facilities that are wanted.

(b) The works board shall grant the petition and refer it to the person who supervises the system, who shall prepare and file:

(1) plans and specifications for the additional lighting; and
(2) the estimated annual cost of the additional lighting.

(c) When the plans, specifications, and annual cost are approved by the works board and by the property owner, the works board shall notify the utility operating the lighting system. The utility shall immediately proceed to erect, install, construct, and connect the additional lighting at its own expense. The utility shall then operate

and maintain the additional lighting facilities as a part of the original system in return for additional compensation that is:

(1) agreed upon by all the interested parties and approved by the utility regulatory commission; or

(2) fixed by the commission.

(d) The property owner who petitioned for the additional lighting facilities shall pay to the municipality the additional annual cost of those facilities. The additional annual cost, which shall be added to the original amount assessable against the petitioner's property, is a lien upon the property and is payable in accordance with this chapter.
As added by Acts 1981, P.L.309, SEC.82. Amended by P.L.23-1988, SEC.125.

IC 36-9-9-13
Additional hours of lighting; petitions; assessment of costs

Sec. 13. (a) Whenever:

(1) a lighting service has been established in accordance with this chapter or under another contract or arrangement; and

(2) at least sixty percent (60%) of the property owners upon one (1) side of the street on a city block or blocks lighted by the service file with the municipal works board their petition requesting that the lighting service be maintained on that side of the street in the block or blocks each night for a designated number of hours in addition to the number of hours of service prescribed by the current contract, arrangement, or plans and specifications;

the works board shall grant the petition. The cost of the additional lighting shall be charged to and assessed against all of the lots or parcels of real property on the side of the street and on the city block or blocks on which additional lighting service is maintained.

(b) All proceedings for the establishment of additional service, the payments to the utility for additional service, and the making and collection of assessments and liens for additional service are governed by this chapter in the same manner as other proceedings, payments, assessments and liens.
As added by Acts 1981, P.L.309, SEC.82.

IC 36-9-10

Chapter 10. County Payment for Municipal Street Lights

IC 36-9-10-1

Application of chapter

Sec. 1. This chapter applies to all municipalities and the counties in which they are located.

As added by Acts 1981, P.L.309, SEC.83.

IC 36-9-10-2

Obligation of county

Sec. 2. If:

(1) a county owns real property in a municipality;

(2) the municipality installs a lighting system to light the streets, alleys, and other public places in the municipality;

(3) as a part of that system, street lights are installed along a street abutting on the county property, on the opposite side of the street from the county property; and

(4) there are no street lights on the side of the street on which the county property is located;

the county shall pay the cost of installing, maintaining, and operating street lights in front of its property, on the side of the street on which the property is located.

As added by Acts 1981, P.L.309, SEC.83.

IC 36-9-10-3

Installation costs

Sec. 3. (a) If a county is required to pay for the installation of municipal street lights under this chapter, the amount to be paid by the county shall be determined under this section.

(b) If the contract for the installation of the lighting system calls for payment for the system as a whole, the county shall pay the amount that bears the same ratio to the total contract price as the number of lights to be paid for by the county bears to the total number of lights contracted for. The municipal legislative body shall determine the amount to be paid under this subsection.

(c) If the contract for installation of the lighting system calls for payment at a fixed price per light, the county shall pay the amount determined by multiplying that price by the number of lights to be paid for by the county.

As added by Acts 1981, P.L.309, SEC.83.

IC 36-9-10-4

Maintenance costs

Sec. 4. (a) If a county is required to pay for the maintenance and operation of municipal street lights under this chapter, the amount to be paid by the county shall be determined under this section.

(b) If the contract for the maintenance and operation of the lighting system calls for payment for the system as a whole, the county shall pay the amount that bears the same ratio to the total

contract price as the number of lights to be paid for by the county bears to the total number of lights contracted for.

(c) If subsection (b) does not apply, the county shall pay the amount determined by multiplying the price paid by the municipality for the maintenance and operation of each light by the number of lights required to be paid for by the county.

As added by Acts 1981, P.L.309, SEC.83.

IC 36-9-10-5

Approval of payments; appropriations

Sec. 5. (a) If a county is required to pay for the installation, maintenance, or operation of municipal street lights under this chapter, the municipal clerk shall verify the amount to be paid by the county. The municipal legislative body must approve this amount by resolution, and shall file a certified copy of the resolution with the county auditor in the same manner that other claims against the county are filed.

(b) Within sixty (60) days after the copy of the resolution is filed, the county auditor shall call the county fiscal body into special session for the purpose of making an appropriation to pay the amount claimed in the resolution. The fiscal body shall make an appropriation to pay this amount within sixty (60) days after the copy of the resolution is filed.

(c) The county shall pay the cost of maintaining and operating the lights every three (3) months, upon the filing of a claim under this section.

As added by Acts 1981, P.L.309, SEC.83.

IC 36-9-11

Chapter 11. Municipal Parking Facilities

IC 36-9-11-1

Application of chapter

Sec. 1. This chapter applies to all municipalities except consolidated cities.

As added by Acts 1981, P.L.309, SEC.84. Amended by Acts 1981, P.L.317, SEC.10.

IC 36-9-11-2

Declaration of public purpose

Sec. 2. The construction, operation, and acquisition of land for parking facilities by a municipality are public uses and purposes for which public money may be spent and private property may be acquired by the exercise of the power of eminent domain.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-3

Powers of municipality

Sec. 3. A municipality may acquire, establish, construct, maintain, operate, lease to others for operation, and regulate parking facilities for vehicles under this chapter. In exercising these powers, the municipality may:

(1) clear, grade, surface, and pave land;

(2) erect and equip structures; and

(3) remodel, extend, repair, and improve structures.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-4

Surveys and studies; submission of recommendations to safety board and legislative body

Sec. 4. (a) From time to time the municipality shall make or cause to be made surveys and studies necessary to determine the need for and proper location of parking facilities, giving due consideration to:

(1) the free and safe movement of traffic;

(2) the terminal points and concentration of traffic; and

(3) the adequacy of privately owned parking lots or structures.

(b) This subsection applies only to cities. On the basis of the surveys and studies, recommendations shall be made to the safety board and the legislative body concerning the general location, size, and character of, and probable cost of acquiring and developing, needed parking facilities. The safety board shall consider the recommendations and, if it rejects them, shall state its objections in writing and refer the recommendations back to the persons making them. If the safety board approves the recommendations, it shall adopt a resolution to that effect and submit the recommendations to the legislative body for acceptance or rejection. If the legislative body rejects the recommendations, it shall adopt a resolution stating its objections and refer the recommendations back to the persons

making them. If the legislative body approves the recommendations, it shall adopt a resolution to that effect. Upon approval of the recommendations by the legislative body, the city works board may proceed as provided by this chapter, and shall proceed in accordance with the legislative body's direction.

(c) This subsection applies only to towns. If, on the basis of the surveys and studies, the legislative body finds that there is a need for parking facilities of any kind, it shall adopt a resolution to that effect. *As added by Acts 1981, P.L.309, SEC.84.*

IC 36-9-11-5

Preparation and approval of plans; notice and hearing; appeals

Sec. 5. (a) Before the municipal works board proceeds with the acquisition and construction of any parking facilities approved under section 4 of this chapter, it must cause to be prepared:

(1) plats and descriptions of the land proposed to be acquired or used;

(2) general plans or drawings for the proposed project; and

(3) a general estimate of the cost of acquisition, construction, and installation of the project.

(b) The works board shall then adopt a resolution:

(1) approving the plats, descriptions, plans or drawings, and estimate;

(2) declaring that upon investigation it has been found necessary for the proper protection of the public safety and welfare, and will be of public utility and benefit to the municipality and its citizens, to:

(A) construct and maintain the parking facilities described in the resolution; and

(B) acquire for that purpose the property described in the resolution, by purchase or by appropriation; and

(3) setting out the probable cost and the proposed method of financing the project.

The resolution, plats, descriptions, plans or drawings, and estimate shall be kept open to inspection by all persons interested in or affected by the acquisition of the property proposed to be acquired or the construction or operation of the project.

(c) Notice of the adoption of the resolution and its purport, and of the fact that the plats, descriptions, plans or drawings, and estimate have been prepared and can be inspected, shall be published in accordance with IC 5-3-1. The notice must name a date on which the board will hear all persons interested in or affected by the proceedings, consider any remonstrances or objections filed, and finally determine the public utility and benefit of the project to the municipality and its citizens. All persons affected in any manner by the proceedings are considered to be notified of the pendency of the proceedings and of subsequent acts, hearings, adjournments, and orders of the board by the publication of the notice.

(d) At the hearing, which may be adjourned from time to time, the works board shall:

(1) hear all persons interested in or affected by the proceedings;
(2) consider all remonstrances and objections filed; and
(3) take final action:
(A) determining the public utility and benefit of the proposed project to the municipality and its citizens; and
(B) confirming, modifying and confirming, or rescinding the declaratory resolution.

(e) Appeals from the determination of the works board may be taken only by persons who have filed written remonstrances or objections before the hearing date fixed in the notice.

As added by Acts 1981, P.L.309, SEC.84. Amended by Acts 1981, P.L.45, SEC.43.

IC 36-9-11-6

Powers of works board; payment of expenses; contracts

Sec. 6. (a) The municipal works board may take all steps and enter into all contracts or agreements necessary or incidental to the performance of its duties and the exercise of its powers under this chapter.

(b) The works board may employ engineers, architects, financial consultants, attorneys, inspectors, superintendents, managers, accountants, and other employees that it considers necessary for the execution of its powers and duties, fix their compensation, and establish their duties. However, the powers of a city works board under this subsection are subject to the statutes relating to the executive departments of cities.

(c) All compensation for services and expenses incurred under this chapter shall be paid solely from money provided under this chapter. The works board may not bind itself or the municipality beyond the extent to which money has been or may be made available to the board under this chapter.

(d) All contracts or agreements with any contractor or contractors for labor, supplies, or equipment shall be let and entered into in accordance with IC 5-22 and IC 36-1-12.

As added by Acts 1981, P.L.309, SEC.84. Amended by Acts 1981, P.L.57, SEC.41; P.L.49-1997, SEC.83.

IC 36-9-11-7

Rates and charges; adoption of operating rules; employees' bonds

Sec. 7. (a) In connection with the operation of any parking facility, the municipal works board may fix the rates and charges to be collected for the parking of vehicles, or for any other use of the facility, and adopt rules governing the use and operation of the facility so as to promote the maximum use of the facility by the public in a safe, orderly, and efficient manner. In a city, however, these rates, charges, and rules do not become effective until they are approved by ordinance or resolution of the legislative body.

(b) All rates and charges for parking and other services must be reasonable and designed to bring in revenues sufficient to cover the cost of providing and operating necessary parking facilities.

(c) A person handling monies of one (1) or more parking facilities must be properly bonded to insure a faithful accounting for the money coming into his hands.
As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-8
Acquisition and use of property

Sec. 8. (a) A municipality may acquire the property required for parking facilities by gift, lease, purchase, the exercise of the power of eminent domain, or any combination of these methods. A municipality may also acquire air rights above real property, for facilities above that property, without also acquiring that property.

(b) The municipal works board may, at any time, obtain an option for the purchase of the land required for parking facilities, or may enter into a contract for the purchase of that land upon the terms and conditions it considers best. However, the options or contracts are subject to the final action of the works board under section 5 of this chapter, and to the condition that the land may be paid for only out of money made available to the board for that purpose under this chapter.

(c) In acquiring property for parking facilities by the exercise of the power of eminent domain, a municipality shall proceed under the statutes governing the exercise of the power of eminent domain by the works board of a municipality of its class, or under any applicable general statute. However, property may not be acquired by a city under this subsection until it is approved as a suitable location for a parking facility by the legislative body.

(d) The works board may use for parking facilities any land that was previously acquired by the municipality and is not needed for other purposes. In a city, however, such an action must be approved by the legislative body.
As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-9
Insurance

Sec. 9. (a) A municipality that operates one (1) or more parking facilities financed in whole or in part by the issuance of revenue bonds shall maintain insurance of the kinds and in the amounts ordinarily carried by persons operating similar facilities.

(b) All insurance proceeds received due to damage to a parking facility must be:

(1) used in replacing the property damaged; or

(2) deposited in the fund or account for the payment of the principal of and interest on the revenue bonds.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-10
Tax liability and exemptions

Sec. 10. (a) The property acquired by a municipality under this chapter, and the revenues derived from that property, are exempt

from taxation for all purposes.

(b) A leasehold improvement made by a lessee under this chapter for private or commercial purposes, or both, is subject to taxation.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-11

Mortgage, pledge, or disposal of property while revenue bonds are outstanding; deposit of sale proceeds

Sec. 11. (a) As long as any of the revenue bonds issued under section 16 of this chapter are outstanding, the municipality may not mortgage, pledge, otherwise encumber, sell, or dispose of any part of the property of a parking facility, except that it may sell or dispose of:

(1) equipment that is worn out and is to be replaced; or

(2) property that is no longer useful or profitable in the operation of the facility.

(b) The proceeds of a sale under subsection (a) shall be deposited in the fund or account for the payment of the principal of and interest on the revenue bonds.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-12

Leases; authorization

Sec. 12. A municipality may lease all or part of the property of a parking facility to others on any terms and conditions that do not adversely affect the rights of bondholders. However, a lease of real property under this section must be made in the manner prescribed by section 13 of this chapter.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-13

Leases; procedure; approval by legislative body

Sec. 13. (a) A rental or lease contract under this section is effective only if it is approved by ordinance or resolution of the municipal legislative body.

(b) The municipal works board may lease or rent to others for operation any parking facility or property acquired for parking purposes, after first adopting a resolution setting out its intention to do so. The resolution must specify the term of the lease, permissible parking charges, manner of operation, and other requirements having a bearing on the value of the proposed lease.

(c) A lease under this section may also require the lessee to:

(1) clear, grade, and pave land;

(2) erect and equip structures; and

(3) remodel, extend, repair, and improve structures;

for parking purposes. Work to be performed by the lessee under this section must be described in the resolution under subsection (b).

(d) Notice of the resolution must be given by publication in accordance with IC 5-3-1. The notice must set forth:

(1) the time and place at which offers will be received and

considered;

(2) the location, size, and capacity of the real property;

(3) a description of any work to be performed by the lessee under subsection (c);

(4) the specifications adopted governing the leasing; and

(5) the other information required to secure free and open competition in the offers.

(e) The lease shall be awarded to the bidder offering the most advantageous terms in the judgment of the works board, giving due consideration to the experience and financial responsibility of the bidder. The works board may reject any offers.

As added by Acts 1981, P.L.309, SEC.84. Amended by Acts 1981, P.L.45, SEC.44.

IC 36-9-11-14

Lease of space and air rights; deposit of rentals

Sec. 14. (a) Space and air rights over a parking facility may be leased to others for a period not to exceed ninety-nine (99) years, subject to the following conditions:

(1) The lease must be authorized by an ordinance of the municipal legislative body, but the municipal works board may negotiate with interested parties concerning the terms and conditions of the lease before introduction of the ordinance. After introduction of the ordinance and before final adoption, a notice of public hearing must be published in accordance with IC 5-3-1. The notice must specify a date when a public hearing will be held on the question of whether the lease is in the best public interest.

(2) The lease must specify the initial purpose for which the leased space may be used. If the purpose is to erect in the space a structure attached to the real property constituting the site of the parking facility, the lease must:

(A) require approval by the works board of the plans and specifications for any structure to be erected and of the manner in which it shall be imposed upon or around the real property;

(B) provide for use by the lessee of the areas of the surface of the site that are essential for the support of the structure to be erected, as well as for the connection of essential public or private utilities to the structure and for ingress and egress for the structure; and

(C) provide that if the construction of the initial structure is not completed within five (5) years after the date of execution of the lease, the lease is cancellable at the option of the municipality.

(3) A structure erected in the space leased must be financed, operated, maintained, and repaired by the lessee separate from the parking facility financed, operated, maintained, and repaired by the municipality, and the municipality has no obligation or liability to the lessee or creditors of the lessee other than to

provide the air space leased and to permit the use of the site for the necessary supports for the structure erected in the leased space, ingress and egress for the structure, and the construction of essential utilities.

(4) The lease must require the lessee to carry sufficient public liability and property damage insurance to indemnify the municipality and protect it from all loss and damage from the hazards and perils normally insured against by such insurance that arise out of the existence and operation of a structure in the leased space.

(5) A structure erected above the parking facility is subject to all property taxes levied on private property unless the structure is acquired by the municipality and wholly used for governmental purposes.

(b) The lease rental received by the municipality is considered revenue of the parking facility and shall be deposited, handled, and disbursed in the same manner as other revenues of the parking facility. However, if the treatment of lease rental as revenues would cause the revenue bonds to be industrial development bonds under the Internal Revenue Code as it existed on January 1, 1986, and applicable regulations under that Code, then the lease rental shall be deposited in the general fund of the municipality and disbursed in the same manner as other money in that fund.

As added by Acts 1981, P.L.309, SEC.84. Amended by Acts 1981, P.L.45, SEC.45; P.L.2-1987, SEC.51.

IC 36-9-11-15
Funding

Sec. 15. Money to pay the cost of construction and operation of parking facilities may be:

(1) accepted as a donation;

(2) appropriated from the general fund or from any fund derived from parking revenues;

(3) provided by the issuance and sale of general obligation bonds of the municipality;

(4) provided by the issuance and sale of bonds payable solely from revenues derived from parking facilities, parking meters, or parking mechanisms, as provided by section 16 of this chapter; or

(5) provided by any combination of these methods.

The issuance of general obligation bonds and the appropriation of funds raised by taxation must comply with the applicable general statutes.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-16
Revenue bonds

Sec. 16. (a) If a municipality wants to obtain all or part of the money necessary to pay the cost of parking facilities by the issuance of revenue bonds, the bonds must be authorized by ordinance of the

municipal legislative body.

(b) The ordinance authorizing the revenue bonds:

(1) must set out the amount, date, denominations, terms, conditions, and form of the bonds and their interest coupons;

(2) must set out any covenants relative to safeguarding the interest of the bondholders;

(3) must specify in detail the revenues pledged to the payment of the interest on and the principal of the bonds; and

(4) may contain provisions for the issuance of additional bonds of equal priority, or of junior and subordinate priority, from time to time after issuance of the original bonds, under the restrictions set forth in the ordinance.

(c) The revenue bonds may:

(1) bear interest, payable semiannually, at any rate;

(2) be payable in the amounts, at times not exceeding fifty (50) years from the date of issuance, and at the place or places, either within or outside of Indiana; and

(3) be redeemable before maturity on the terms and conditions; specified by the municipal legislative body in the authorizing ordinance.

(d) The bonds shall be executed in the name of the municipality as other bonds of the municipality are executed. If any of the officers whose signatures or countersignatures appear on the bonds or the coupons cease to be officers before the delivery of the bonds to the purchaser, his signature or countersignature remains valid and sufficient for all purposes as if he had remained in office until the delivery of the bonds.

(e) Upon the sale and delivery of the bonds authorized, the ordinance constitutes a contract between the municipality and the bondholders, and may not subsequently be amended or modified so as to adversely affect the rights of the bondholders.

(f) The bonds of a city and the interest on them are payable only out of the special fund or account created by the ordinance authorizing the issuance of the bonds and the revenues pledged to the fund or account. The bonds of a town and the interest on them are payable only out of the parking sinking fund established by section 19 of this chapter and the revenues pledged to that fund.

(g) The bonds are not an indebtedness of the municipality for purposes of any constitutional provision or limitation. A statement to that effect must appear on the face of each bond.

(h) The bonds are payable to bearer, and the interest on them shall be evidenced by coupons attached to them.

(i) The bonds may be registrable as to the principal only in the holder's name on the books of the municipality, with the registration to be noted on the bond by the municipal clerk or other designated officer. After registration, the transfer of a bond is valid only if made on the books of the municipality by the registered holder and similarly noted on the bond. Registered bonds may be discharged from registration by being transferred to bearer, after which they are transferable by delivery but may again be registered as to principal.

The registration of the bonds as to principal does not affect the negotiability of the interest coupons by delivery only.

(j) Bonds issued under this section are negotiable instruments. The bonds and the interest on them are exempt from taxation for all purposes.

(k) The proceeds of each issue of bonds shall be used solely for the payment of the cost of the parking facilities for which the bonds were issued, and shall be disbursed in the manner and under the restrictions, if any, that the legislative body specifies in the ordinance authorizing the issuance of the bonds.

(l) If the proceeds of any issue of bonds are less than the cost of the parking facilities, additional bonds may be issued in a similar manner to provide the amount of the deficit. Unless otherwise provided in the ordinance authorizing their issuance, the additional bonds are considered to be of the same issue and are entitled to payment from the same fund without preference or priority of the bonds first issued.

(m) If the proceeds of any issue of bonds exceed the cost of the parking facilities for which the bonds were issued, the surplus shall be deposited in the fund or account from which the bonds are payable.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-17

Actions by bondholders; appointment of receivers

Sec. 17. (a) A holder of revenue bonds or interest coupons issued under section 16 of this chapter may, by civil action:

(1) protect and enforce all rights granted by statute or by the ordinance authorizing the issuance of the bonds; and

(2) enforce and compel performance of all the duties required by this chapter or the ordinance, including the fixing and collecting of parking charges or charges for other service rendered by the parking facilities.

(b) Upon a failure to pay the interest on or the principal of the revenue bonds in accordance with their terms, a court may appoint a receiver to administer the parking facilities on behalf of the municipality and the bondholders. The receiver may:

(1) fix and collect parking charges and other charges sufficient to provide for the payment of:

(A) the expenses of operation, repair, and maintenance; and

(B) the interest on and principal of the bonds; and

(2) apply the revenues in the manner prescribed by this chapter and the ordinance authorizing the issuance of the revenue bonds.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-18

Parking facilities; records and accounts when revenue bonds are issued

Sec. 18. If revenue bonds are issued to finance the cost of parking

facilities, the municipality shall keep proper books of records and accounts for the parking facilities, separate from all of its other records and accounts. These records and accounts must contain complete and correct entries showing:

(1) the application of the proceeds of the bonds;

(2) the source and disposition of:

(A) all revenues collected from or on account of the facilities; or

(B) all money supplied by the municipality on account of the facilities; and

(3) all transactions relating to the facilities.

Within ninety (90) days after the close of each calendar year, the municipal fiscal officer shall prepare an operating and income statement of the facilities. The fiscal officer shall keep the statement on file in his office, and make it available for examination by any holder of the revenue bonds. A copy of the statement shall be furnished to the original purchaser of the bonds upon request.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-19

Deposit of revenues from parking facilities

Sec. 19. (a) This subsection applies only to cities. The gross revenues of parking facilities shall be kept in a fund or funds separate from all other funds of the city, and shall be deposited in the fund or funds daily, as received. As long as any revenue bonds are outstanding, revenues deposited in the fund or funds may be used only to:

(1) pay the cost of operation, maintenance, and repair of the parking facilities of the city;

(2) pay the principal of and interest on revenue bonds issued or to be issued for the facilities;

(3) provide a reserve for the revenue bonds as a margin of safety and protection against default and retirement before maturity;

(4) pay the cost of repairs, replacements, and additions to, or remodeling of, the parking facilities; or

(5) finance the construction of additional parking facilities;

in the manner and with the priorities and restrictions as to application of the revenues provided in the ordinance or ordinances authorizing the issuance of the revenue bonds.

(b) This subsection and subsection (c) apply only to towns. The gross revenues of each:

(1) parking facility financed by the issuance of revenue bonds; and

(2) extension, addition, or improvement to, or replacement of, such a facility;

shall be deposited in a special fund designated as "parking fund–project _____". The revenues derived from the facility shall be deposited in the special fund daily, as received.

(c) The revenues deposited under subsection (b) shall be used in

the following manner:

(1) The cost of operation, maintenance, and repair of the parking facility shall be paid first, and a sufficient amount to pay that cost in the next month shall then be reserved.

(2) The money remaining in the parking fund after compliance with subdivision (1) comprises the net revenues of the facility. On the first day of each month, the net revenues shall be transferred into a special fund designated as "parking sinking fund–project _____" until this fund contains an amount sufficient to pay the interest on and principal of the outstanding revenue bonds payable from the fund for the next twelve (12) months. The money in the parking sinking fund may be used only for the interest on and principal of the revenue bonds payable from the fund.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-20
Pledge of revenues; authorization

Sec. 20. (a) This subsection applies only to cities. All or part of the gross revenues, or of the net revenues remaining after the payment of the cost of operation, maintenance, and repair, may be pledged to the payment of the principal of and interest on the revenue bonds and the accumulation and maintenance of the reserve for the bonds, in the manner and to the extent provided in the ordinance or ordinances authorizing the issuance of the revenue bonds. The ordinance or ordinances authorizing the issuance of revenue bonds also may provide for a pledge of all or a designated part of the gross or net revenues derived from:

(1) other parking facilities;

(2) onstreet parking meters;

(3) parking mechanisms;

(4) parking and traffic violation fines and fees;

(5) lease rentals in connection with any parking facilities, private pledges, and contributions; and

(6) any federal and state grants and distributions not dedicated or restricted by law to other purposes;

to the payment of principal of and interest on revenue bonds issued or to be issued under this chapter, and to the accumulation and maintenance of the reserve for the bonds. The extent and the manner of making the pledge may be provided in the ordinance or ordinances authorizing the issuance of bonds.

(b) This subsection applies only to towns. An ordinance authorizing the issuance of revenue bonds for parking facilities may provide for a pledge of all or a designated part of the unobligated net revenues derived from other parking facilities, parking meters, or parking mechanisms, to the extent required to maintain the parking sinking fund established under section 19 of this chapter at the minimum level.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-21
Pledge of revenues; deposits; irrevocability

Sec. 21. If a pledge of revenues is made under section 20 of this chapter, then the revenues pledged shall be deposited monthly in the fund or account for the payment of the bonds. The pledge is irrevocable as long as any of the bonds for which the pledge is made are outstanding, but the municipality may not make any covenant relative to the number or location of the parking meters to be maintained by it in and along its streets.

As added by Acts 1981, P.L.309, SEC.84.

IC 36-9-11-22
Bond revenues and revenues pledged to pay bonds considered trust funds

Sec. 22. The money provided by the issuance of revenue bonds under this chapter, the revenues of parking facilities, and all other revenues pledged to the payment of the interest on and principal of the revenue bonds are considered trust funds, and shall be held and applied only as provided in this chapter or in the ordinance authorizing the issuance of revenue bonds. This money shall be deposited in depositories selected by the municipality in the manner provided by IC 5-13-6, but may be invested in the manner provided by IC 5-13-9.

As added by Acts 1981, P.L.309, SEC.84. Amended by P.L.19-1987, SEC.54.

IC 36-9-11.1

Chapter 11.1. Parking Facilities in Marion County

IC 36-9-11.1-1

Application of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-2

Public uses and purposes; eminent domain

Sec. 2. The construction, operation, and acquisition of property for parking facilities are public uses and purposes for which public money may be spent and private property may be acquired by the exercise of the power of eminent domain.

As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-3

Definitions

Sec. 3. As used in this chapter:

"Board" refers to the board of transportation of the consolidated city, subject to IC 36-3-4-23.

"Department" refers to the department of transportation of the consolidated city, subject to IC 36-3-4-23.

As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-4

Pecuniary interest; board or employee

Sec. 4. A member of the board or employee of the department may not have, either directly or indirectly, any pecuniary interest in any contract, purchase, or sale, or in any remuneration paid to or received by any other person, under this chapter, and any transaction made in which any such member or employee has a pecuniary interest is void. However, any property required for the purposes of the department in which a member of the board, or relative of a member, has a pecuniary interest may be acquired but only by gift, bequest, or devise.

As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-5

Powers and duties of board

Sec. 5. (a) The board shall do the following:

(1) Investigate, study, and survey the off-street parking needs of the county.

(2) Promote and encourage the development of parking facilities by private interests.

(3) Cooperate with and secure the cooperation of the various departments and agencies of the consolidated city and other governmental bodies in such manner as will best promote the carrying out of the purposes of this chapter.

(4) Make findings and reports from time to time regarding such matters, which reports are public records open to inspection by the public at the offices of the department.

(5) Select the sites of parking facilities to be acquired and improved under this chapter.

(6) Acquire these sites and cause them to be improved, operated, or disposed of so as best to carry out the purposes of this chapter.

(7) Exercise general discretionary powers for the government, management, regulation, and control of all parking facilities acquired under this chapter, and over all funds and property relating or belonging to them.

(8) Practice rigid economy in all its operations and expenditures under this chapter, including all compensation paid to any persons, in order to secure the rights and protection of all bondholders and the public.

(b) In carrying out its duties under this chapter, the board may do the following:

(1) Acquire by purchase, gift, grant, devise, bequest, or condemnation, in the name of the consolidated city, and with the approval of the city executive, any interest in real property, including air rights, or personal property, that the board finds to be needed for the reasonable development of parking facilities under this chapter.

(2) Hold, use, manage, operate, sell, lease, rent, or otherwise dispose of, in the name of the city, any property interest acquired, constructed, or improved for use under this chapter, on such terms and conditions as the board considers to be for the best interests of its bondholders, the department, the city, and its inhabitants, but subject to the approval of the executive as required by law.

(3) Operate and manage any parking facility under the jurisdiction of the board directly by its own employees, but only for such periods as no acceptable lessee is available.

(4) Clear, or contract for the clearance of, real property acquired for parking purposes, and adapt and improve it for that use.

(5) Improve for any commercial or business use any parts of parking facilities as are at any time either required or approved by the metropolitan development commission, or are for the best interests of the bondholders and public; and make improvements in the form of walks and elevated walkways to connect any parking facilities to other buildings or land since these connections will enhance the value and use of the facilities by making them more readily accessible.

(6) Enter upon any lots or lands at all reasonable times for the purpose of surveying or examination, to determine whether they are suitable for acquisition and improvement for off-street parking purposes.

(7) Appear before any department or agency of the city or any other governmental agency, with respect to any matter affecting

the property or interests acquired or being acquired for off-street parking purposes, or with respect to any matter affecting any parking facility under the jurisdiction of the board.

(8) Institute, or defend, in the name of the city, any actions growing out of any acts, omissions, or operations of the board under this chapter; use any legal or equitable remedy necessary or proper to protect the property or to enforce the powers and perform the duties of the department under this chapter; but any judgments against the city or the board in any such actions are payable solely out of the funds of the department available for them and of any parking facility chargeable with them.

(9) Cut curbs and issue all permits necessary to the conduct of a parking facility on any property acquired or used for the purposes of this chapter, after obtaining the approval of the agencies having jurisdiction of these matters in the city.

(10) Appoint or employ appraisers of air rights and real and personal property, engineers, architects, surveyors, attorneys, financial consultants, inspectors, superintendents, managers, accountants, clerks, and other employees, consultants and agents as the board may consider expedient and necessary, all of whom shall serve at the will of the board; prescribe and define their duties and fix the fair and reasonable compensation to be paid to those persons, and discharge such appointees or employees and appoint and employ their successors.

(11) Carry and pay for all insurance necessary to protect the board's property and funds; and purchase, lease, or rent any equipment and supplies that are reasonably necessary to enable the board to perform its duties.

(12) Expend for and on behalf of the department and the city all money donated to the department, advanced by the city, raised by the issuance of the obligations authorized by this chapter, or resulting from revenues derived from the operation of parking facilities, subject to the limitations imposed by this chapter; but until funds have been provided by the issuance of obligations or from revenues of the department, the board may not incur any obligation in excess of any amount prescribed by this chapter to be actually advanced by the city.

As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-6

Preparation of plat and data; resolution of board

Sec. 6. (a) Whenever it is found by the board that any area of the city is in need of an additional parking facility and that there is no reasonable prospect of it being supplied by private enterprise, the board may select a suitable site for it, and cause to be prepared a plat of the block in which the proposed site is located showing:

(1) the size of the proposed site and the size of the various parcels of property in the block;

(2) the location and width of surrounding and intersecting

streets and alleys;

(3) the character and use of the buildings located on the block; and

(4) the need for additional parking facilities at the location proposed.

(b) Upon the preparation of the plat and data, the board shall adopt a resolution declaring that it will be of public utility and benefit to acquire and improve the proposed site for off-street parking purposes under this chapter. The resolution must set out the location and size of the proposed site and a general description of the improvement proposed or the structure or structures proposed to be erected on it.

As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-7

Approval of resolution and plans; acquisition of site

Sec. 7. (a) Upon the adoption of the declaratory resolution by the board, the resolution, together with the supporting data, shall be submitted to the metropolitan development commission. The commission may determine whether the declaratory resolution and the proposed parking facility improvement plan conform to all zoning ordinances of the consolidated city, and approve as adopted, modify, or disapprove the resolution and proposed parking facility. The declaratory resolution and the proposed plan of improvement may be amended or modified in order to conform them to the requirements of the commission.

(b) The administrator of buildings of the city must then examine and approve the plans and specifications of any structures so proposed to be erected. The board shall then submit the proceedings to the city executive for his approval and may not proceed with the acquisition of the proposed site until the approving orders of the executive, the commission, and the building administrator are issued. In determining the location and character of any proposed parking facility, the board and commission shall consider traffic conditions, the effect of the proposed parking facility on surrounding property, and any unusual hardship to those interested in the property.

As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-8

Purchase of property without entire air rights; attached buildings or structures; costs of common facilities

Sec. 8. (a) Real property constituting the site of parking facilities may be purchased by the board without purchasing the entire air rights over the site. In this event, a building, buildings, or other structures may be attached to the site of the parking facility if the board approves the plans and specifications and the manner in which it shall be imposed upon or around the real property.

(b) In such a case the board may enter into an agreement to provide for use by the building, buildings, or structures of such areas of the surface of the site as may be essential for the support of the

building or other structures to be erected, as well as for the connection of essential public or private utilities to the building, buildings, or structures and ingress and egress for the building, buildings, or structures. The costs of common facilities, utilities, ingress, egress, and supports may be apportioned between the parking facilities and the buildings or structures.
As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-9
Options or contracts for land; previously acquired property

Sec. 9. (a) The board may obtain at any time from the owner or owners of the land required for the project or projects an option for its purchase, or may enter into a contract for its purchase upon such terms and conditions as the board considers best. However, the options or contracts are subject to the final action of the board on the declaratory resolution, and subject to the condition that the property shall be paid for only out of funds made available to the board for that purpose.

(b) Subject to approval of the executive of the consolidated city, the board may use and improve for parking facilities any property previously acquired by the city and not needed for other purposes.
As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-10
Eminent domain; powers and duties of department and board

Sec. 10. (a) In exercising the power of eminent domain, the board shall proceed under IC 32-24.

(b) The title to all real property acquired by the department shall be conveyed to "City of _____".

(c) The board may make and enter into contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. All contracts shall be entered into under the general provisions of this title.

(d) The board may lease or rent to others any parking facility or any property acquired for off-street parking purposes, including air rights above the facilities or property, in accordance with IC 36-1-11.

(e) The board may sell any property, including air rights, acquired or developed for off-street parking purposes, if it first adopts a resolution specifically describing the property to be sold and declaring either:

(1) that the property is no longer needed for the use of the department; or

(2) that a sale of the property subject to any restriction, limitation, or condition set out in the resolution will effect the purposes of this chapter.

The property shall then be sold in accordance with IC 36-1-11. Property that has been pledged, or the revenues of which have been pledged, to secure the payment of any outstanding obligations on it, may not be sold unless all the obligations are redeemed and cancelled coincidentally with the conveyance of the property.

(f) All conveyances of real property shall be executed in the name of "City of _____", and must be approved by the executive of the consolidated city. Such an instrument is not required to have a seal in order to be executed.

(g) In the letting of construction contracts the board shall proceed under IC 36-1-12, subject to the approval of the executive.

As added by Acts 1982, P.L.77, SEC.13. Amended by P.L.2-2002, SEC.121.

IC 36-9-11.1-11

Tax exemption of property, funds, and receipts; leases or sales for private use

Sec. 11. (a) All property of every kind, including air rights, acquired for off-street parking purposes, and all its funds and receipts, are exempt from taxation for all purposes. When any real property is acquired by the consolidated city, the county auditor shall, upon certification of that fact by the board, cancel all taxes then a lien. The certificate of the board must specifically describe the real property, including air rights, and the purpose for which acquired.

(b) A lessee of the city may not be assessed any tax upon any land, air rights, or improvements leased from the city, but the separate leasehold interest has the same status as leases on taxable real property, notwithstanding any other law. Whenever the city sells any such property to anyone for private use, the property becomes liable for all taxes after that, as other property is so liable and is assessed, and the board shall report all such sales to the township assessor, or the county assessor if there is no township assessor for the township, who shall cause the property to be upon the proper tax records.

(c) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

As added by Acts 1982, P.L.77, SEC.13. Amended by P.L.219-2007, SEC.143; P.L.146-2008, SEC.789.

IC 36-9-11.1-12

Encumbrance, lease, or sale of facilities or equipment while revenue bonds are outstanding

Sec. 12. So long as any of the revenue bonds are outstanding, the consolidated city may not mortgage, pledge, or otherwise encumber any part of the property of the parking facility or facilities, or dispose of any part of them. However, equipment that is worn out and replaced or property that is no longer useful or profitable in the operation of the facility or facilities, and the proceeds from any such sale, shall be deposited in the fund or account for the payment of the principal and interest on the revenue bonds. In addition, the city may lease the property or any part of it to others for public, private, or commercial purposes on such terms and conditions and for such time

so as not to adversely affect the rights of bondholders.
As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-13
Sale or lease of space and air rights; treatment of proceeds

Sec. 13. (a) Space and air rights over a parking facility may be sold or leased to others for a lease period, including options and renewals, not to exceed ninety-nine (99) years, subject to the following:

(1) Any sale or lease must comply with IC 36-1-11.

(2) The deed or lease must specify the initial purpose for which the leased space may be used. If the purpose is to erect in the space a building or other structure attached to the land constituting the site of the parking facility, the deed or lease must require approval by the board of the plans and specifications for any building or structure to be erected and of the manner in which it shall be imposed upon or around the land. In such a case, the deed or lease must provide for use by the purchaser or the lessee of those areas of the surface of the site that are essential for the support of the building or other structure to be erected, as well as for the connection of essential public or private utilities to the building or structure and ingress and egress to and from the building or structure. The costs of common facilities, utilities, ingress, egress, and supports may be apportioned between the parking facilities and the buildings or structures. The deed or lease must provide that if the construction of the initial building or structure is not completed within five (5) years after the date of execution of the deed or lease, the lease is cancellable at the option of the consolidated city, or in the case of sale, the property reverts at the option of the city.

(3) Any building or structure erected in the space sold or leased shall be financed, operated, maintained, and repaired by the lessee or purchaser or assignees or successors in interest separate from the parking facility financed, operated, maintained and repaired by the city, and the city may not have any obligation or liability to the purchaser, assignees, successors in interest, or lessees or creditors of those parties other than to provide the air space so leased or purchased and to permit the use of the site for the necessary supports for the building or structure erected in the leased space, ingress and egress for the building or structure, and the construction of essential public or private utilities.

(4) The deed or lease must require the lessee to carry sufficient public liability and property damage insurance to indemnify the city and protect it from all loss and damage from the hazards and perils normally insured against by insurance arising out of the existence and operation of any building or other structure in the leased or sold space.

(5) Any building or other structure erected above the parking

facility is subject to taxes levied on private property unless the building or structure is acquired by the city and wholly used for governmental purposes.

(b) The lease rental or sale price received by the city shall be considered to be revenues of the parking facility or facilities and shall be deposited, handled, and disbursed in the same manner as other revenues of the parking facility or facilities. However, if considering the lease rental or sale price as revenue would result in the revenue bonds constituting industrial development bonds under the Internal Revenue Code as it existed on January 1, 1986, and any applicable regulations under that Code, then the lease rental shall be deposited in the general fund of the city and disbursed in the same manner as other money in the general fund.

As added by Acts 1982, P.L.77, SEC.13. Amended by P.L.2-1987, SEC.52.

IC 36-9-11.1-14

Funds for expenses of department before issuance of bonds or receipt of revenues

Sec. 14. (a) All expenses to be incurred by the department, necessary to be paid before the issuance of bonds or the receipt of revenues by the department, shall be met and paid in the following manner:

(1) The board shall from time to time certify an estimate of the maximum amount of the items of expense to the fiscal officer of the consolidated city, who shall report whether any funds for payment are available.

(2) If so available, and when set aside for that purpose, the board may authorize expenses within the maximum amounts, and shall direct the fiscal officer to pay the amounts, as incurred.

(3) The fiscal officer shall then draw warrants for payment, which shall be paid out of any available general funds of the city not already appropriated, without special appropriation being made by and without the approval of any other body.

(4) In case there are no unappropriated and available general funds of the city, the fiscal officer may recommend to the legislative body a temporary transfer, from any other funds of the city that may be available, of a sufficient amount to meet the items of expense, or the making of a temporary loan for that purpose, and the legislative body shall make the transfer of funds or authorize a temporary loan, in the same manner as other transfers or temporary loans are made by the city.

(b) The amount advanced by the city under subsection (a)(4) and outstanding at any time may not exceed one hundred fifty thousand dollars ($150,000), and the fund or funds of the city from which an advancement is made shall be fully reimbursed and repaid by the board out of the first proceeds of bonds issued under this chapter, or out of revenues of the department when revenues are sufficient for that purpose. Any funds so repaid shall be considered appropriated

and shall be credited to whatever fund, or funds, they were withdrawn from for the advances. No part of the funds advanced by the city at any time may be used for the acquisition of any property or its improvement or for the payment of any bonds.
As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-15
Revenue bonds; issuance; proceeds

Sec. 15. (a) If the consolidated city desires to obtain all or a part of the money necessary to pay the cost of any parking facility or facilities by the issuance of revenue bonds, then bonds to carry out the purposes of this chapter may be authorized by ordinance of the legislative body. The ordinance must set out the amount, date, denominations, terms, conditions, and form of the bonds and the interest coupons, and any covenants relative to safeguarding the interest of the bondholders. The ordinance must specify in detail the revenues pledged to the payment of the interest on and the principal of the bonds and may contain provisions for the issuance of additional bonds of equal priority or junior and subordinate from time to time under restrictions set forth in the ordinance.

(b) Upon the sale and delivery of the bonds authorized, the ordinance constitutes a contract between the city and the bondholders, and may not be amended so as to affect adversely the rights of the holders of the bonds.

(c) In case different parcels of land, buildings, or air rights are to be acquired or more than one (1) parking facility is to be constructed or more than one (1) contract for work is let by the board at approximately the same time, whether under one (1) or more declaratory resolutions, the ordinance may provide for the total cost of them by bonds of the same series. If the cost of construction of more than one (1) parking facility is financed from the same issue or series of bonds, all of the parking facilities shall be considered as a single parking facility for the purposes of this chapter with regard to the custody, application, and accounting of funds and remedies upon default.

(d) The revenue bonds may bear interest at a rate not exceeding the maximum rate fixed by the ordinance, payable semiannually, may be payable in such amounts and at such times, not exceeding fifty (50) years from the date of issuance, at such place or places, either within or without Indiana, and may be redeemable before maturity on such terms and conditions, all as determined by the board and provided in the authorizing resolution.

(e) In case any of the officers whose signatures or countersignatures appear on the bonds or the coupons cease to be officers before the delivery of the bonds to the purchaser, the signatures or countersignatures are nevertheless valid and sufficient for all purposes as if the officers had remained in office until the delivery of the bonds.

(f) The authorizing ordinance may provide for the redemption of the bonds on call, before maturity, on terms as set out in the

ordinance and the bonds, and may include such provisions and covenants relative to the operation, protection, and insuring of the parking facility and the safeguarding of funds and rights of the bondholders as the board considers expedient.

(g) The bonds of the same series may be in one (1) or more issues of the same or different priorities, as stated in the authorizing ordinance and on the face of the bonds, and are payable from the net revenues derived from the operation of the parking facility or facilities on account of which the bonds of that series are issued, from net revenues derived from other parking facilities, of the on-street parking meters or parking mechanisms pledged as authorized in this chapter, or from the proceeds derived from the disposition of the parking facility or facilities. The bonds constitute a charge on these revenues, or a lien on the property acquired from the proceeds of the bonds, or both, to the extent and with such priority as may be provided in the authorizing resolution and expressly stated in the bonds.

(h) All bonds issued under this chapter, in the hands of bona fide holders, have all of the qualities of negotiable instruments under negotiable instruments law. The bonds and the interest on them are exempt from taxation as provided by IC 6-8-5.

(i) Unless registered, the bonds are payable to bearer, and the interest payable shall be evidenced by attached coupons. The bonds may be registerable as to principal only in the holder's name on the records of the city kept by the city fiscal officer. This registration shall be noted on the bond by the fiscal officer or other designated officer, after which no transfer is valid unless made on the books of the city by the registered holder and similarly noted on the bond. Any bond so registered as to principal may be discharged from registration by being transferred to bearer, after which it is transferable by delivery, but may again be registered as to principal as before. The registration of bonds as to principal does restrict the negotiability of the interest coupons by delivery only.

(j) Notwithstanding any other law, the authorizing resolution or ordinance may provide for a pledge of all or a certain designated part of the gross or net revenues derived from:

(1) other parking facilities, on-street parking meters, and parking mechanisms;

(2) parking and traffic violation fines and fees;

(3) lease rentals in connection with any parking facilities;

(4) private pledges and contributions; and

(5) any federal and state grants and distributions not dedicated or restricted by law to other purposes, to the payment of principal of and interest on revenue bonds issued or to be issued under this chapter and the accumulation and maintenance of the reserve for them, to the extent and in the manner provided in the resolution or ordinance authorizing the issuance of the bonds.

If such a pledge is made, it is irrevocable so long as any of the bonds on account of which the pledge is made are outstanding, and the pledge takes precedence over any budget provision or appropriation

payable out of unobligated revenues so pledged where the provision or appropriation is made after the authorization of the pledge by the legislative body.

(k) So long as the net revenues derived from other parking facilities, on-street parking meters, or parking mechanisms are not needed for the payment of any pledge made under this section, the city may use and expend those revenues as otherwise authorized by law. The city may not make any covenant relative to the number or location of the parking meters to be maintained by it in and along its public ways.

(l) Any bonds may be sold at public or private sale for such price or prices, in such manner, and at such time or times as may be determined by the board. The bonds must be executed in the name of the city, as other bonds of the city are executed. Each bond must state on its face that it does not constitute an obligation of the city in any respect, or within the meaning and limitations of the constitution of Indiana, but is payable solely from the revenue funds or property pledged to it. Each bond must contain a reference to the authorizing resolution or ordinance and the date of its adoption.

(m) An action to question the validity of any bonds issued under this chapter, or to prevent their issuance, sale, or delivery, must be brought within thirty (30) days following the adoption of the ordinance approving the bonds. All such bonds after that time are incontestable, except for fraud, forgery, or violation of constitutional provisions.

(n) Bonds may be issued under this chapter for the purpose of providing money to pay the cost of completing, improving, or enlarging any parking facility or facilities acquired under this chapter and also for the purpose of funding judgments or refunding bonds previously issued under this chapter.

(o) Preliminary expenses advanced by any person or governmental agency may be reimbursed from the proceeds of the bonds. The proceeds of the bonds of each issue after reimbursement shall be used solely for the payment of the cost of the parking facility or facilities on account of which the bonds were issued, including incidental expenses and interest, and shall be disbursed in such manner and under such restrictions, if any, as the board may provide in the resolution or the legislative body may provide in the ordinance authorizing the issuance of the bonds.

(p) If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than the cost, additional bonds may in like manner be issued to provide the amount of the deficit. Unless otherwise provided in the resolution authorizing the issuance of the bonds, the additional bonds shall be considered to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed the cost of the parking facility or facilities on account of which they have been issued, the surplus shall be deposited in the fund or account from which the bonds are payable.
As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-16
Rights of bondholders; lien; enforcement proceedings; default

Sec. 16. (a) There is created a statutory lien upon the property acquired or improved from the proceeds of the bonds, to and in favor of the holders of the bonds, and each of them, and to and in favor of the holders of the coupons evidencing the interest on the bonds, to the extent and with such priority as is stated in the resolution or ordinance authorizing the bonds and set out on the face of the bonds. The property so purchased or acquired remains subject to the statutory lien until payment in full of the principal and interest of the bonds issued on that account.

(b) Any holder of the bonds or of any of the coupons attached to them may, by civil action, protect and enforce all rights granted by the ordinance authorizing the issuance of the bonds or other law, and may so enforce and compel performance of all duties required by this chapter or the ordinance to be performed by the consolidated city, or of any city officer or body such as:

(1) the making and collecting of reasonable and sufficient rates for services rendered by the parking facilities;

(2) the segregation of the operating expenses, income and revenues of each of the parking facilities, and the practice of reasonable economies in them; and

(3) the proper application of the respective funds created under this chapter.

(c) If there is any default in the payment of the interest on or the principal of the bonds in accordance with their terms, any court having jurisdiction of the action may appoint a receiver to administer and operate, on behalf of the city and the bondholders, the particular parking facility with respect to which the default occurs. The receiver may charge and collect rates and charges sufficient to provide for the payment of the operating expenses, repair, and maintenance, and for bond service, and may regulate and apply the income and revenues in conformity with this chapter and the authorizing ordinance. The court may also declare the whole amount of the bonds due and payable and order the sale of the parking facility with respect to which the bonds were issued and sold and the default occurs, and then may apply the proceeds to the payment of the bonds, to the extent available and required for that purpose.

As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-17
Deposits of department funds; separate account books and special accounts

Sec. 17. (a) All gifts, donations, bequests, devises, and proceeds derived from the sale of bonds, from the disposition of property, or any payments received or paid to the department for off-street parking purposes shall be delivered to the fiscal officer of the consolidated city. He shall deposit them to the credit of the department, for the account for the parking facility entitled to them, or to its general fund, if not so allocated. All money remaining in

each separate parking facility fund and in the general fund at the end of each calendar year continues to belong to those respective funds for use as provided in this chapter. All deposits of the department shall be kept in duly designated depositories for funds of the city.

(b) Separate books of account shall be kept for each parking facility so long as there remain outstanding any bonds issued on account of the acquisition or improvement of the facility. All net revenues derived from any parking facility that are pledged to the payment of the interest on and principal of certain bonds shall be deposited in a separate special account appropriately set up and designated. The money in these accounts shall be used solely for the payment of the interest on and principal of the respective bonds as they fall due, and for no other purposes, until the account contains an amount sufficient to pay the interest on and principal of all bonds payable during the then current calendar year and the interest on and principal of the bonds that will become due during the next succeeding calendar year. Any amount in excess of the amount required for that purpose may be used in the purchase of bonds of that issue, if they can be purchased at less than the then current redemption price, or if not, then for the redemption of outstanding bonds of that issue in accordance with their provisions, all as directed by the board.

As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-18

Payments to and from general fund of department

Sec. 18. (a) Whenever all bonds and other obligations of any particular parking facility have been fully paid and discharged, any surplus in any fund allocated for that purpose reverts to the general fund of the department. The fund may be used to make up and pay any deficiency that may occur in any other fund for the payment of the bonds and interest issued for any other parking facility under the control of the department. This use of the general fund may continue until all outstanding bonds on all parking facilities have been fully paid.

(b) The board may also pay to the consolidated city in any year, from any available balance in the general fund of the department, such sum as it considers reasonable and that may be available to compensate the city for its loss of revenue in the annual taxes assessable on property of the estimated current and equivalent value of that acquired for all parking facilities, so long as they remain free of taxes.

As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-11.1-19

Annual operating and income statement of facility

Sec. 19. Within ninety (90) days after the close of each calendar year, an operating and income statement of the parking facility or facilities shall be prepared by the fiscal officer of the consolidated city, and kept on file in his office open to examination by any holder

of the revenue bonds. A copy of the statement shall be furnished to the original purchaser of the bonds upon request.
As added by Acts 1982, P.L.77, SEC.13.

IC 36-9-12

Chapter 12. Parking Meters and Parking Fees

IC 36-9-12-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by Acts 1981, P.L.309, SEC.85.

IC 36-9-12-2

Use of parking meters authorized

Sec. 2. A municipality may:

(1) regulate the parking or standing of vehicles upon or off any public way in the municipality; and

(2) provide for the collection of license fees from a person parking or standing a vehicle upon or off any public way in the municipality;

by the use of parking meters. Regulations and fees under this section must be established by ordinance.

As added by Acts 1981, P.L.309, SEC.85.

IC 36-9-12-3

Purchase or lease of parking meters

Sec. 3. A municipality may provide, by ordinance, for the purchase or lease of parking meters. However, the ordinance must provide for the payment of the purchase price or rental fees only from the license fees collected from the parking meters.

As added by Acts 1981, P.L.309, SEC.85.

IC 36-9-12-4

Deposit and disbursement of money collected from parking meters

Sec. 4. (a) A municipality must provide, by ordinance, that:

(1) all license fees collected from parking meters shall be deposited with the municipal fiscal officer;

(2) the fees shall be deposited to the credit of the municipality in a special fund; and

(3) disbursements from the special fund may be made only on orders of the municipal works board, or board of transportation, and only for the purposes listed in subsection (b).

(b) Disbursements from the special fund may be made only to pay:

(1) the purchase price, rental fees, and cost of installation of the parking meters;

(2) the cost of maintenance, operation, and repair of the parking meters;

(3) incidental costs and expenses in the operation of the parking meters, including the cost of clerks and bookkeeping;

(4) the cost of traffic signal devices used in the municipality;

(5) the cost of repairing and maintaining any of the public ways, curbs, and sidewalks where the parking meters are in use, and all public ways connected with them in the municipality;

(6) the cost of acquiring, by lease or purchase, suitable land for offstreet parking facilities to be operated or leased by the municipality;
(7) the principal and interest on bonds issued to acquire parking facilities and devices;
(8) the cost of improving and maintaining land for parking purposes and purchasing, installing, and maintaining parking meters on that land; and
(9) the cost of providing approved school crossing protective facilities, including the costs of purchase, maintenance, operation, and repair, and all other incidental costs.

As added by Acts 1981, P.L.309, SEC.85.

IC 36-9-12-5
Appropriations; budget estimates

Sec. 5. (a) Money deposited in the special fund under section 4 of this chapter may be expended only upon a specific appropriation made for that purpose by the municipal legislative body in the same manner that it appropriates other public money.

(b) The municipal works board or board of transportation shall prepare an itemized estimate of the money necessary for the operation of parking meters for the ensuing year at the regular time of making and filing budget estimates for other departments of the municipality. These estimates shall be made and presented to the municipal legislative body in the same manner as other department estimates.

(c) An appropriation under this section is not subject to review by the county tax adjustment board or the department of local government finance, and the general statutes regarding appropriation of funds do not affect this chapter.

As added by Acts 1981, P.L.309, SEC.85. Amended by Acts 1981, P.L.317, SEC.11; P.L.90-2002, SEC.509.

IC 36-9-12-6
Warrants for expenditures

Sec. 6. Warrants for expenditures under this chapter shall be prepared and processed in the manner provided by statute.

As added by Acts 1981, P.L.309, SEC.85.

IC 36-9-12-7
Disposition of surplus funds

Sec. 7. At the end of a calendar year, money remaining in the municipal treasury to the credit of the special fund established under section 4 of this chapter remains in the fund and does not revert to the general fund of the municipality, but the municipal legislative body may, by ordinance, transfer any balance in the special fund to the general fund.

As added by Acts 1981, P.L.309, SEC.85.

IC 36-9-12-8

Contracts; procedure for awarding

Sec. 8. Contracts for public improvements under this chapter must be awarded in the manner prescribed by IC 36-1-12.

As added by Acts 1981, P.L.309, SEC.85. Amended by Acts 1982, P.L.33, SEC.46.

IC 36-9-13

Chapter 13. County Building Authority

IC 36-9-13-1

Application of chapter; "eligible entities" defined

Sec. 1. This chapter applies to all counties and to the following municipal corporations in each county:

(1) Municipalities.
(2) Townships.
(3) School Corporations.
(4) Health and hospital corporations.

The municipal corporations to which this chapter applies are referred to as "eligible entities" in this chapter.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-2

Governing bodies

Sec. 2. For purposes of this chapter, the following are considered the governing bodies of their respective eligible entities:

(1) Board of commissioners, for a county not subject to IC 36-2-3.5 or IC 36-3-1.
(2) County council, for a county subject to IC 36-2-3.5.
(3) City-county council, for a consolidated city or county having a consolidated city.
(4) Common council, for a city other than a consolidated city.
(5) Town council, for a town.
(6) Trustee and township board, for a civil or school township.
(7) Board of school trustees, board of school commissioners, or school board, for a school corporation.
(8) Board of trustees, for a health and hospital corporation.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1982, P.L.33, SEC.47; P.L.8-1987, SEC.84; P.L.8-1989, SEC.99.

IC 36-9-13-3

"Government building" defined

Sec. 3. (a) As used in this chapter, "government building" means all or part of any structure used for:

(1) governmental and public activities;
(2) the detention of prisoners;
(3) hospitals; or
(4) city markets.

(b) For purposes of this chapter, "government building" includes:

(1) the land used in conjunction with such a structure; and
(2) the equipment, facilities, appurtenances, materials, and supplies that the board of directors of the building authority considers necessary or convenient to make such a structure and land suitable for use under this chapter, including:
    (A) heating and air conditioning facilities;
    (B) sewage disposal facilities;
    (C) landscaping;

(D) walks;
(E) drives; and
(F) parking facilities.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.28.

IC 36-9-13-3.5
"System" defined

Sec. 3.5. As used in this chapter, "system" means any of the following:

(1) A computer (as defined in IC 36-8-15-4).
(2) A communications system (as defined in IC 36-8-15-3(1)).
(3) Mobile or remote equipment that is coordinated by or linked with a computer or communication system.
(4) Upon the request of:
(A) the fiscal body of an eligible entity having a fiscal body; or
(B) the governing body of an eligible entity not having a fiscal body;

security services provided by human or nonhuman means.

As added by P.L.37-1988, SEC.29. Amended by P.L.270-1993, SEC.1.

IC 36-9-13-4
Building authorities; authorization; purposes

Sec. 4. A county may establish a separate municipal corporation to be known as the "_____ building authority" (including the name of the county seat and county) for the purpose of:

(1) acquiring land; and
(2) financing, acquiring, improving, constructing, reconstructing, renovating, equipping, and operating government buildings and systems;

and leasing them to eligible entities.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.188, SEC.5; P.L.37-1988, SEC.30.

IC 36-9-13-5
Procedure for establishment of authority; notice and hearing

Sec. 5. (a) Whenever the county auditor receives a notice that:

(1) is signed by the presiding officers of the county executive, the county fiscal body, and the municipal fiscal body of the county seat;
(2) states that those bodies have agreed to hold a public hearing on and consider the creation of a county building authority; and
(3) fixes a time and place for that hearing;

he shall give notice by publication of the hearing. The notice shall be published in accordance with IC 5-3-1, and must set out the time, place, and purpose of the hearing.

(b) The members of the executive of the county and the fiscal bodies of the county and county seat shall meet at the time and place

fixed in the notice. The presiding officers of each of the three (3) bodies shall elect one (1) of their number to preside as chairman at the hearing, another as vice chairman, and another as secretary.

(c) All interested citizens and taxpayers of the county may appear and are entitled to be heard at the hearing.

(d) The authority shall be established if, within sixty (60) days after the hearing, a concurrent resolution declaring a need for the authority is agreed upon and separately adopted by the county executive and county and municipal fiscal bodies.

(e) A copy of the concurrent resolution that is certified by affidavits of the county auditor and municipal clerk showing the date of adoption of the resolution by the three (3) bodies must be filed in the office of the recorder of the county for recording in the miscellaneous records. The certified and recorded copy of the resolution is admissible in evidence in any action or proceeding as proof of the establishment of the authority.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.45, SEC.46.

IC 36-9-13-6

Trustees; appointment; terms of office; oaths

Sec. 6. (a) Within sixty (60) days after the adoption of the concurrent resolution under section 5 of this chapter, a board of building authority trustees shall be appointed. The board consists of five (5) trustees who are appointed in the following manner and for the following initial terms:

(1) One (1) appointed by the municipal fiscal body of the county seat, for a term of one (1) year.

(2) One (1) appointed by the county fiscal body, for a term of two (2) years.

(3) One (1) appointed by the county executive, for a term of three (3) years.

(4) One (1) appointed by the municipal executive of the county seat, for a term of four (4) years.

(5) One (1) appointed by the county executive, for a term of four (4) years.

(b) A person may be appointed as a trustee only if he:

(1) is at least thirty (30) years of age;

(2) has been a resident of the county for five (5) years immediately preceding his appointment; and

(3) is not an officer or employee of an eligible entity.

(c) The names of all persons appointed under subsection (a) shall be transmitted in writing to the circuit court for the county at least ten (10) days before the end of the sixty (60) day period. The court shall mail a notice of appointment to each trustee immediately after the sixty (60) day period.

(d) Before entering upon his duties, each trustee shall take and subscribe an oath of office (in the usual form), which shall be endorsed upon his certificate of appointment. The certificate shall be promptly filed with the county clerk.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.7-1983, SEC.39.

IC 36-9-13-7
Trustees; appointment of successors

Sec. 7. (a) As the term of a trustee expires, his successor shall be appointed by the same appointing authority, for a term of four (4) years.

(b) A trustee holds over after the expiration of his term until his successor is appointed and qualified.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-8
Trustees; failure to qualify; vacancies

Sec. 8. If a person appointed as a trustee:

(1) fails to qualify within ten (10) days after notice of his appointment is mailed to him; or

(2) qualifies but then dies, resigns, vacates his office because he is no longer a resident of the county, or is removed from office under section 18 of this chapter;

a new trustee shall be appointed by the same appointing authority for the remainder of the vacated term.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-9
Trustees; meetings to elect officers and appoint board of directors

Sec. 9. (a) The first trustees of the building authority shall, within thirty (30) days after their appointment, meet at a time and place designated by the circuit court for the county for the purpose of electing officers. The trustees shall elect from among themselves a president, a vice president, and a secretary. Each of these officers shall serve from the day of his election until the first Monday in January after his election, and holds over until his successor is elected and qualified.

(b) At the meeting under this section, the trustees shall also appoint the first board of directors of the building authority, in the manner prescribed by section 11 of this chapter.

(c) After appointing the first board of directors of the building authority, the trustees shall meet on the first Monday in January of each year for the purpose of:

(1) electing officers;

(2) appointing the directors of the building authority; and

(3) performing any other duties under this chapter.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-10
Trustees; adoption of rules; records; additional meetings

Sec. 10. (a) The trustees may adopt rules and bylaws governing their procedure.

(b) The proceedings of the trustees shall be recorded in a book

provided for that purpose.

(c) In addition to their meetings under section 9 of this chapter, the trustees may hold regular and special meetings as often as is necessary to perform their duties under this chapter.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-11

Board of directors; appointment; terms of office; qualifications; oaths

Sec. 11. (a) A county building authority is under the control of a board of directors. This board consists of five (5) directors, who shall be appointed by a majority vote of the building authority trustees. Each of the original directors shall serve from the date of his appointment until the first day of February in the second year after his appointment, and until his successor is appointed and has qualified.

(b) A person may be appointed as a director only if he:

(1) is at least thirty (30) years of age;

(2) has been a resident of the county five (5) years immediately preceding his appointment; and

(3) is not an officer or employee of an eligible entity.

(c) Before entering upon his duties, each director shall take and subscribe an oath of office (in the usual form), which shall be endorsed upon his certificate of appointment. The certificate shall be promptly filed with the county clerk.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-12

Directors; appointment of successors

Sec. 12. As the term of a director expires, his successor shall be appointed by a majority vote of the trustees. The new director shall serve for one (1) year from the first day of February after his appointment, and until his successor is appointed and qualified.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-13

Directors; vacancies

Sec. 13. If a vacancy occurs on the board of directors, the trustees shall, by a majority vote, appoint a new director to serve the remainder of the term.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-14

Directors; meetings to elect officers

Sec. 14. (a) The first directors of a building authority shall, within thirty (30) days after their appointment, meet for the purpose of electing officers. They shall elect from among themselves a president, a vice president, a secretary, and a treasurer. Each of these officers shall perform the duties usually pertaining to his office, and shall serve from the date of his election until his successor is elected

and qualified.

(b) After the meeting under subsection (a), the directors shall meet on the first Monday in February of each year for the purpose of electing officers.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-15

Directors; additional meetings

Sec. 15. In addition to their meetings under section 14 of this chapter, the directors may hold the regular and special meetings they consider necessary. The directors may fix the times of these meetings and the notices required for meetings by resolution or under their rules and bylaws.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-16

Directors; adoption of rules; quorum; approval of actions

Sec. 16. (a) The directors may adopt the rules and bylaws they consider necessary for the proper conduct of their proceedings, the performance of their duties, and the safeguarding of the funds and property of the building authority.

(b) A majority of the directors constitutes a quorum, and the concurrence of a majority of the directors is necessary to authorize any action by the directors.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-17

Trustees and directors; actions resulting in vacation of office

Sec. 17. A trustee or director who:

(1) ceases to be a resident of the county; or

(2) becomes an officer or employee of an eligible entity;

vacates his office.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-18

Removal of trustees

Sec. 18. (a) A person seeking the removal of a trustee for:

(1) neglect of duty;

(2) incompetence;

(3) inability to perform his duties; or

(4) any other good cause;

may file a complaint in the circuit or superior court for the county in which the building authority is located. The complaint must set forth the charges preferred. The action shall be placed on the court's advanced calendar, and the court shall try the action in the same manner as other civil cases, without a jury. If the charges are sustained, the court shall declare the trustee's office vacant.

(b) The trustees may summarily remove a director from office at any time.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-19
Compensation of trustees and directors

Sec. 19. A trustee or director is not entitled to a salary but is entitled to reimbursement for expenses necessarily incurred in the performance of his duties.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-20
Trustees and directors; conflicts of interest

Sec. 20. A trustee or director may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. Any such transaction in which a trustee or director has a pecuniary interest is void.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-21
Preliminary expenses

Sec. 21. All necessary preliminary expenses that must be paid by the board of directors of a building authority before the issuance and delivery of bonds or the negotiation of a loan under this chapter, including expenses incurred in:

(1) making surveys;
(2) estimating costs and receipts;
(3) employing engineers, architects, or consultants;
(4) giving notices; and
(5) taking options;

may be paid out of money provided by the county and county seat, or either of them, from money on hand or derived from taxes levied for that purpose. The fund or funds from which the payments are made shall be fully reimbursed by the board out of the first proceeds of the sale of bonds or the loan negotiated by the authority before any other disbursements are made from those proceeds. The amount advanced to pay preliminary expenses under this section is a first charge against the proceeds resulting from the sale of the bonds or the negotiation of the loan until that amount has been repaid.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.31.

IC 36-9-13-22
Powers and duties of board of directors

Sec. 22. (a) Except as provided in subsection (b), the board of directors of a building authority, acting in the name of the authority, may:

(1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, equip, operate, maintain, and manage land, government buildings, or systems for the joint or separate use of one (1) or more eligible entities;
(2) lease all or part of land, government buildings, or systems to eligible entities;
(3) govern, manage, regulate, operate, improve, reconstruct,

renovate, repair, and maintain any land, government building, or system acquired or financed under this chapter;

(4) sue, be sued, plead, and be impleaded, but all actions against the authority must be brought in the circuit court for the county in which the authority is located;

(5) condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with government buildings or systems regardless of whether that property is then held for a governmental or public use;

(6) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;

(7) enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a government building;

(8) design, order, contract for, and construct, reconstruct, renovate, and maintain land, government buildings, or systems and perform any work that is necessary or desirable to improve the grounds, premises, and systems under its control;

(9) determine, allocate, and adjust space in government buildings to be used by any eligible entity;

(10) construct, reconstruct, renovate, maintain, and operate auditoriums, public meeting places, and parking facilities in conjunction with or as a part of government buildings;

(11) collect all money that is due on account of the operation, maintenance, or management of, or otherwise related to, land, government buildings, or systems, and expend that money for proper purposes;

(12) let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, and vending machines;

(13) employ the managers, superintendents, architects, engineers, consultants, attorneys, auditors, clerks, foremen, custodians, and other employees or independent contractors necessary for the proper operation of land, government buildings, or systems and fix the compensation of those employees or independent contractors, but a contract of employment may not be made for a period of more than four (4) years although it may be extended or renewed from time to time;

(14) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(15) provide coverage for its employees under IC 22-3 and IC 22-4; and

(16) accept grants and contributions for any purpose specified in this subsection.

(b) The building authority in a county having a consolidated city may not purchase, construct, acquire, finance, or lease any land,

government building, or system for use by an eligible entity other than the consolidated city or county, unless that action is first approved by:

(1) the city-county legislative body; and

(2) the governing body of the eligible entity involved.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.188, SEC.6; P.L.37-1988, SEC.32.

IC 36-9-13-22.5

Management contract; terms; annual budget; tax levy

Sec. 22.5. The authority may operate, maintain, and manage all or any part of a government building or system for the benefit of an eligible entity under a management contract entered into for a period of not more than forty (40) years. The management contract may contain any terms agreed to by the authority and the eligible entity, including a covenant of the eligible entity to pay the authority a monthly fee for costs of operation and maintenance of the government building or system pursuant to the annual budget submitted to the governing body by the authority in accordance with the management contract. The annual budget may contain funds for a working balance and funds for a reserve account for nonrecurring general maintenance, improvement, or replacement costs as provided in the management contract. The eligible entity may enter into the contract through adoption of an ordinance, an order, or a resolution of the entity's governing body or, in the case of a city, a resolution of the board that is responsible for the government building or system. No other approvals of the management contract are required. To the extent provision for payment from other available revenues has not been made and subject to the provisions of the management contract for cancellation or termination, the governing body of the eligible entity that executes a management contract shall annually levy a tax sufficient to produce each year the necessary money with which to pay the management fee required by the budget submitted by the authority. These levies may be reviewed by other bodies vested by law with that power to determine that the annual levies are sufficient to raise the amount required to meet the management fee under the contract.

As added by P.L.35-1990, SEC.64.

IC 36-9-13-23

Lease of land, government buildings, or systems to eligible entity by authority; authorization

Sec. 23. (a) An eligible entity may lease land or any part of a government building or system from a building authority, and the authority may lease land or any part of a government building or system to an eligible entity. An eligible entity that enters into such a lease may sublease part of the leased premises to other eligible entities. Such a lease or sublease may not be entered into for a period of more than forty (40) years.

(b) An eligible entity may, in anticipation of:

(1) the construction or purchase of government buildings, including the necessary equipment and appurtenances; or

(2) the purchase of land;

enter into a lease with a building authority before the construction or purchase. Such a lease must require the payment of lease rental by the lessee or lessees to begin when the building or land has been acquired or completed and is ready for occupancy, but not before that time.

(c) Whenever property is to be acquired and reconstructed or renovated under this chapter, an eligible entity may, in anticipation of the acquisition, enter into a lease with a building authority, upon such terms and conditions as may be agreed upon, including:

(1) provisions for the lessee to continue to operate the property until completion of the reconstruction or renovation; and

(2) provisions for the payment of a lease rental by the lessee for the use of the property while it is being reconstructed or renovated.

(d) An eligible entity may, in anticipation of the acquisition of a system, enter into a lease with the building authority before the completion of the acquisition. Such a lease must require the payment of lease rental by the lessee or lessees to begin when acquisition of the system, or a discrete, functional part of the system, has been completed and is ready for use, but not before that time. An opinion or report of an independent expert that the system, or a discrete, functional part of the system, is complete and ready for use is conclusive and binding on all parties and on all taxpayers of an eligible entity.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.188, SEC.7; P.L.37-1988, SEC.33.

IC 36-9-13-24

Leases; options to renew

Sec. 24. A lease under section 23 of this chapter may provide the eligible entity that is the lessee with an option to renew the lease for the same term or a shorter term, on the conditions provided in the lease.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-25

Leases; options to purchase; authorization of bond issue to pay purchase price

Sec. 25. (a) A lease under section 23 of this chapter may give one (1) or more of the lessees acting jointly or severally an option to purchase before the expiration of the term of the lease:

(1) on the date or dates in each year that are fixed by the lease; and

(2) at a price to be computed by a method set forth in the lease.

However, such a lease may not provide, or be construed to provide, that an eligible entity is under an obligation to purchase the leased government building or system or is under an obligation respecting

any creditors or bondholders of the authority.

(b) An eligible entity that exercises an option to purchase may issue general obligation bonds for the purpose of obtaining enough money to pay the purchase price or its proportionate share of the purchase price. The bonds shall be authorized, issued, and sold in the manner prescribed by law for the authorization, issuance, and sale of bonds of the eligible entity for other purposes.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.34.

IC 36-9-13-26

Construction or purchase of building or acquisition of system to be leased; submission of plans and specifications

Sec. 26. (a) A building authority proposing to build or purchase and remodel a government building for lease to an eligible entity must submit the plans, specifications, and estimates for the building or remodeling to the lessee or lessees before the execution of the lease. The plans and specifications must also be submitted to the state department of health, state fire marshal, and any other state agencies designated by law to pass on plans and specifications for public buildings.

(b) A building authority proposing to acquire a system may enter into a lease without submitting plans, designs, or specifications to any eligible entity, government body, or agency. However, before the execution of the lease, the building authority must submit to the lessee or lessees an estimate of the cost and a detailed description of the system.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.35; P.L.2-1992, SEC.893.

IC 36-9-13-27

Leases; notice and hearing; execution

Sec. 27. (a) When a building authority and an eligible entity have agreed upon the terms and conditions of a proposed lease under section 23 of this chapter, a notice of a public hearing to be held in the county by the governing body of the eligible entity shall be given by publication to all interested persons. The notice of the hearing shall be published in accordance with IC 5-3-1. The notice must name the day, place, and hour of the hearing, and set forth a brief summary of the principal terms of the lease agreed upon, including the character of the property to be leased, the location of the property to be leased if the property is a government building, the estimated lease rental to be paid, and the number of years the lease is to be in effect.

(b) The proposed lease, a detailed description of the government building or system, and any drawings, plans, specifications, and estimates that are available for the government building or system shall be kept open for inspection by the public after the notice is published and at the hearing.

(c) At the hearing, all interested persons are entitled to be heard

upon the necessity for the execution of the lease and whether the basis for the determination of the lease rental is fair and reasonable. The hearing may be adjourned to a later date or dates, with the place and date of the continued hearing to be fixed before adjournment.

(d) Following the hearing, the governing body may approve the proposed lease in substantially final form and authorize the execution of the lease within parameters established by the authority at the time the proposed lease is approved, as originally agreed upon or with any modifications that the authority agrees to. The governing body may rely on the testimony of independent experts as to the fairness and reasonableness of the lease. Such an authorization must be by resolution or ordinance entered in the official records of the governing body. The lease must be executed on behalf of the eligible entity by the officer or officers authorized by law to execute contracts on behalf of that entity, and on behalf of the authority by the president or vice president and the secretary of its board of directors.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.45, SEC.47; P.L.37-1988, SEC.36; P.L.35-1990, SEC.65.

IC 36-9-13-28

Leases; notice of approval; objections by taxpayers; petitions; notice and hearing; limitations on actions and appeals

Sec. 28. (a) If the terms and conditions of a proposed lease are approved under section 27 of this chapter, notice of the approval of the lease shall be given on behalf of the eligible entity by publication in accordance with IC 5-3-1. Ten (10) or more taxpayers in the eligible entity:

(1) whose tax rate will be affected by the proposed lease; and

(2) who are of the opinion that there is no necessity for the lease, or that the method of determining the lease rental is not fair and reasonable;

may file a petition in the office of the county auditor within thirty (30) days after publication of notice of the approval of the lease. The petition must set forth their objections to the lease and facts showing that the lease is unnecessary or unwise, or that the method of determining the lease rental is not fair and reasonable.

(b) Upon the filing of a petition under subsection (a), the county auditor shall immediately certify a copy of it, together with any other data necessary to present the questions involved, to the department of local government finance. Not less than five (5) nor more than fifteen (15) days after receipt of the certified petition and data, the department of local government finance shall fix a time and place in the county for the hearing of the matter. The department of local government finance shall give notice of the hearing to the eligible entity and to the first ten (10) petitioners on the petition by registered mail, at least five (5) days before the date of the hearing.

(c) The decision of the department of local government finance on a petition under this section is final.

(d) An action to contest the validity of the lease or to enjoin the

performance of any of its terms and conditions must be instituted within thirty (30) days after publication of notice of the approval of the lease, or if an appeal has been taken to the department of local government finance, within thirty (30) days after the decision of the department.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.45, SEC.48; P.L.35-1990, SEC.66; P.L.90-2002, SEC.510.

IC 36-9-13-29

Sale or lease of land or government building by eligible entity to authority; authorization; procedure

Sec. 29. (a) An eligible entity that wants to have all or part of a government building constructed, reconstructed, or renovated on land owned or to be acquired by it may:

(1) sell that land or building to a building authority; or

(2) lease the land or building to the authority for the same period of years that the eligible entity proposes to lease all or part of the building, and may grant an option to the authority to purchase the land or building within six (6) months after the expiration of the lease on the building if the eligible entity does not exercise an option to purchase the land or building within the terms of the lease.

If the option price of the land or building is not fixed in the lease, then the price to be paid for the land or building under the option shall be determined by an appraisal by one (1) disinterested freeholder residing in the county and two (2) disinterested appraisers licensed under IC 25-34.1, who must be residents of Indiana, and who shall be appointed by the circuit court for the county. One (1) of the appraisers appointed under this subsection must reside not more than fifty (50) miles from the land.

(b) A sale or lease of land or a building under this section must be authorized by resolution or ordinance of the governing body of the eligible entity, which shall be entered in the official records of the governing body. This authorization must be given concurrently with the authorization by the eligible entity of a lease of the building, or part of it, to be constructed, reconstructed, or renovated wholly or in part on the land.

(c) The deed, in the case of a sale of the land, or the lease, must be executed on behalf of the eligible entity by the officer or officers authorized by law to execute contracts on behalf of the entity, and on behalf of the authority by the president or vice president and secretary of its board of directors.

(d) Before the sale of any land or building under this section, a petition must be filed with the circuit court of the county requesting the appointment of:

(1) one (1) appraiser who must be a resident of the eligible entity selling the land or building and a disinterested freeholder; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana. One (1) of the appraisers described

under subdivision (2) must reside not more than fifty (50) miles from the land or building. The appraisers shall fix the fair market value of the land or building and report their decision within three (3) weeks after their appointment. The eligible entity may then sell the land or building to the authority for an amount not less than the fair market value fixed by the appraisers, which amount may be paid from proceeds of bonds of the authority.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.188, SEC.8; P.L.113-2006, SEC.21.

IC 36-9-13-30

Revenue bonds

Sec. 30. (a) For the purpose of obtaining money to pay the cost of:

(1) acquiring or constructing government buildings;

(2) acquiring land;

(3) acquiring systems;

(4) improving, reconstructing, or renovating government buildings, systems, or land;

(5) repaying any advances for preliminary expenses made to the building authority by an eligible entity;

(6) purchasing plans, designs, programs, and devices for governmental buildings or systems; or

(7) refinancing any loan made under section 31 of this chapter;

the board of directors of a building authority may issue revenue bonds of the authority.

(b) The bonds are payable solely from the income and revenues of the particular government buildings, systems, or land for which the bonds were issued.

(c) The bonds must be authorized by resolution of the board. The bonds:

(1) bear interest payable semiannually; and

(2) mature serially, either annually or semiannually, at times determined by the resolution authorizing the bonds.

However, the maturities of the bonds may not extend over a period longer than the period of the lease of the government buildings, systems, or land for which the bonds are issued.

(d) The bonds may, and all bonds maturing after five (5) years from date of issuance shall, be made redeemable before maturity at the option of the board of directors of the building authority. Such a redemption must be at the par value of the bonds, together with the premiums, and under the terms and conditions fixed by the resolution authorizing the issuance of the bonds.

(e) The principal and interest of the bonds may be made payable in any lawful medium.

(f) The resolution authorizing the issuance of the bonds must:

(1) determine the form of the bonds, including the interest coupons (if any) to be attached to them;

(2) fix the denomination or denominations of the bonds; and

(3) fix the place or places of payment of the principal and interest of the bonds, which must be at a state or national bank

or trust company within Indiana and may also be at one (1) or more state or national banks or trust companies outside Indiana.

(g) The bonds are negotiable instruments under IC 26-1.

(h) The resolution authorizing the issuance of the bonds may provide for the registration of any of the bonds in the name of the owner as to principal alone.

(i) The bonds shall be executed by the president of the board of directors, the corporate seal of the authority shall be affixed to the bonds and attested by the secretary of the board, and the interest coupons (if any) attached to the bonds shall be executed by placing the facsimile signature of the treasurer of the board on them.

(j) The bonds may be sold at a private sale, a negotiated sale, or a public sale.

(k) If the bonds are sold at a public sale, notice of the sale of the bonds shall be published in accordance with IC 5-3-1.

(l) The board of directors shall sell the bonds at public sale, for not less than their par value. The board shall award the bonds to the highest bidder, as determined by computing the total interest on the bonds from the date of sale to the dates of maturity and deducting from that amount the premium bid, if any. Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds. If the bonds are not sold on the date fixed for the sale, then the sale may be continued from day to day until a satisfactory bid has been received.

(m) The board of directors may issue temporary bonds, with or without coupons. These bonds, which must be issued in the manner prescribed by this section, may be exchanged for the bonds that are subsequently issued.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.45, SEC.49; Acts 1981, P.L.188, SEC.9; P.L.37-1988, SEC.37; P.L.173-2003, SEC.39.

IC 36-9-13-31

Loans

Sec. 31. (a) In lieu of authorizing and selling bonds under section 30 of this chapter, the board of directors of a building authority may adopt a resolution authorizing the negotiation of a loan or loans for the purpose of obtaining the required money.

(b) The resolution authorizing the loan must set out:

(1) the total amount of the loan desired;

(2) the approximate dates on which money will be required, and the amounts of the money that will be required on those dates; and

(3) any terms, conditions, and restrictions concerning the proposed loan or the submission of proposals that the board considers advisable.

(c) Before the consideration of proposals for such a loan, a notice shall be published in accordance with IC 5-3-1. The notice must set out:

(1) the amount and purpose of the proposed loan;

(2) a brief summary of other provisions of the resolution; and
(3) the time and place where proposals will be considered.

(d) The board of directors may accept the proposal it considers most advantageous to the authority.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.45, SEC.50.

IC 36-9-13-32
Trust indentures securing bonds or loans

Sec. 32. (a) The board of directors of a building authority may secure bonds issued under section 30 of this chapter or loans made under section 31 of this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

(1) mortgage or grant a security interest in all or part of the land, systems, or government buildings for which the bonds are issued or loan is made;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders or lenders, including covenants setting forth the duties of the authority and board concerning:

(A) the construction, operation, extension, remodeling, repair, maintenance, and insurance of the government buildings or systems; and

(B) the custody, safeguarding, and application of all money received or to be received by the authority on account of the government buildings or systems financed by the bonds or loan;

(3) set forth the rights and remedies of the bondholders or lenders and trustee; and

(4) restrict the individual right of action of bondholders or lenders.

(c) Except as otherwise provided by this chapter, the board of directors may, by resolution or in the trust indenture, specify:

(1) the officer, board, or depository to which the proceeds of the bonds or loan shall be paid; and

(2) the method of disbursing those proceeds.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.38.

IC 36-9-13-33
Proceeds; application; liens

Sec. 33. (a) The proceeds of any bonds issued under section 30 of this chapter or of any loans made under section 31 of this chapter shall first be applied to the reimbursement of all amounts advanced for preliminary expenses under section 21 of this chapter. The proceeds shall then be applied solely to the payment of the costs for which the bonds are issued or the loan is negotiated, including incidental expenses and interest during construction or acquisition.

(b) The bondholders under section 30 of this chapter, lenders under section 31 of this chapter, or trustees under section 32 of this chapter have a lien upon the proceeds of the bonds or the loan until those proceeds are applied in the manner prescribed by this section.
As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.39.

IC 36-9-13-34
Tax levy to pay lease rentals

Sec. 34. (a) Except as provided by subsection (d), an eligible entity that executes a lease under this chapter shall annually levy a tax sufficient to produce each year the necessary money with which to pay the lease rental required by the lease. These levies may be reviewed by other bodies vested by law with that authority, in order to determine that the levies are sufficient to raise the amount required to meet the rental under the lease.

(b) The first tax levy shall be made at the first annual tax levy period following the date of the execution of the lease. However, if the lease was entered into in anticipation of the purchase of land, construction or purchase of a government building, or acquisition of a system, the first tax levy shall be made at the first annual tax levy period immediately before the date fixed in the lease for the beginning of the lease rental. The first annual levy shall be made in an amount sufficient to pay the estimated amount of the first annual lease rental to be made under the lease.

(c) The annual lease rental shall be paid to the authority semiannually, following settlements for tax collections.

(d) If a consolidated city executes a lease agreement for all or part of any land, government building, or system, and its use and benefit is for a certain special service district within the consolidated city, the authority may determine that the annual tax required under subsection (a) shall be levied by the special service district benefited by the lease agreement.
As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.40.

IC 36-9-13-35
Review of annual budget

Sec. 35. The annual operating budget of a building authority is subject to review by the county board of tax adjustment and then by the department of local government finance as in the case of other political subdivisions.
As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.90-2002, SEC.511; P.L.224-2007, SEC.134; P.L.146-2008, SEC.790.

IC 36-9-13-36
Property and revenues; tax exemption

Sec. 36. All the property and revenues of a building authority are exempt from taxation for all purposes.
As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-37
Bonds and other securities; tax exemption

Sec. 37. All the bonds and other securities issued by a building authority, including the interest on them, are exempt from taxation for all purposes.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-38
Handling of funds; employees' bonds

Sec. 38. (a) Except as otherwise provided in this chapter, all money coming into possession of the building authority shall be deposited, held, and secured in accordance with the general statutes concerning the handling of public funds. The handling and expenditure of money coming into possession of the authority is subject to audit and supervision by the state board of accounts.

(b) Any employee of the building authority authorized to receive, disburse, or in any other way handle money or negotiable securities of the authority shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana. The bond must be in an amount determined by the board of directors of the authority and must be conditioned upon the faithful performance of the employee's duties and the accounting for all money and property that may come into his hands or under his control. The cost of the bond shall be paid by the authority.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-39
Procedure for awarding contracts

Sec. 39. (a) All contracts let by a building authority for the construction and equipment of a government building must be let in accordance with the general statutes concerning public contracts.

(b) All contracts let by a building authority for the acquisition of a system may be entered into in accordance with the general statutes concerning similar contracts.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.41.

IC 36-9-13-40
Public records

Sec. 40. The records of a building authority are public records.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-41
Dissolution of authority

Sec. 41. (a) This section does not apply to a county having a consolidated city.

(b) The county fiscal body and the municipal fiscal body of the county seat may by concurrent resolution dissolve a building authority. They may consider dissolving the building authority at any time, but they shall consider dissolving the building authority when

they are presented with a petition signed by twenty percent (20%) of the registered voters residing in the county or thirty-five percent (35%) of the registered voters residing in the county seat.

(c) The concurrent resolution must provide a plan for paying any obligations, including bonds, of the building authority and for the disposition of the funds and property of the building authority.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13.1
Repealed

(*Repealed by P.L.99-1995, SEC.14.)*

IC 36-9-14

Chapter 14. Cumulative Building Fund for County Courthouse

IC 36-9-14-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by Acts 1981, P.L.309, SEC.87.

IC 36-9-14-2

Authorization and approval of fund; "courthouse" defined

Sec. 2. (a) A cumulative building fund to provide money for the construction, remodeling, and repair of courthouses may be established by the county legislative body under IC 6-1.1-41.

(b) As used in this section, "courthouse" includes a historical complex consisting of a former county courthouse, jail, and sheriff's residence which is open to the general public for educational or community purposes in a county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

As added by Acts 1981, P.L.309, SEC.87. Amended by P.L.213-1986, SEC.5; P.L.199-1988, SEC.1; P.L.12-1992, SEC.178; P.L.17-1995, SEC.25; P.L.170-2002, SEC.167; P.L.192-2002(ss), SEC.188; P.L.119-2012, SEC.229.

IC 36-9-14-3

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-14-4

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-14-5

Tax levy

Sec. 5. The county fiscal body may provide money for the cumulative building fund by levying a tax in compliance with IC 6-1.1-41 of not more than sixteen and sixty-seven hundredths cents ($0.1667) on each one hundred dollars ($100) of taxable property in the county.

As added by Acts 1981, P.L.309, SEC.87. Amended by P.L.17-1995, SEC.26; P.L.6-1997, SEC.219.

IC 36-9-14-6

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-14-7

Courthouse fund; transfer of funds to nonprofit corporation maintaining or renovating courthouse

Sec. 7. (a) The tax money collected under this chapter shall be held in a special fund to be known as the courthouse fund.

(b) For purposes of this chapter and IC 36-9-14.5, the portion of the property tax levy designated for a courthouse described in section 2(b) of this chapter may be transferred to a nonprofit corporation that has a lease with the county requiring the corporation to maintain or renovate the courthouse. Before appropriated funds may be transferred to a qualified nonprofit corporation, the corporation must submit a plan for the use of the funds to the county fiscal body for its approval. An officer or employee of a corporation who receives funds under this section and knowingly uses the funds for a purpose other than a purpose approved by the fiscal body commits a Class D felony.

As added by Acts 1981, P.L.309, SEC.87. Amended by P.L.199-1988, SEC.2; P.L.1-1995, SEC.85; P.L.17-1995, SEC.27.

IC 36-9-14.5

Chapter 14.5. County Cumulative Capital Development Fund

IC 36-9-14.5-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by P.L.44-1984, SEC.16.

IC 36-9-14.5-2

Authorization of fund; purpose

Sec. 2. The county legislative body may establish a cumulative capital development fund under IC 6-1.1-41 to provide money for any purpose for which property taxes may be imposed within the county under the authority of:

IC 3-11-6-9;
IC 8-16-3;
IC 8-16-3.1;
IC 8-22-3-25;
IC 14-27-6-48;
IC 14-33-14;
IC 16-22-8-41;
IC 16-22-5-2 through IC 16-22-5-15;
IC 36-9-14;
IC 36-9-15;
IC 36-9-16-2;
IC 36-9-16-3;
IC 36-9-27-100; or
IC 36-10-3-21.

As added by P.L.44-1984, SEC.16. Amended by P.L.5-1986, SEC.60; P.L.213-1986, SEC.7; P.L.199-1988, SEC.3; P.L.2-1993, SEC.206; P.L.1-1995, SEC.86; P.L.17-1995, SEC.28.

IC 36-9-14.5-3

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-14.5-4

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-14.5-5

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-14.5-6

Tax levy; rate of tax

Sec. 6. (a) Except as provided in subsection (c), the county fiscal body may provide money for the cumulative capital development fund by levying a tax in compliance with IC 6-1.1-41 on the taxable property in the county.

(b) The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year in a county in which the county option income tax or the county adjusted gross income tax is in effect on January 1 of that year, depends upon the number of years the county has previously imposed a tax under this chapter and is determined under the following table:

NUMBER OF YEARS	TAX RATE PER $100 OF ASSESSED VALUATION
0	$0.0167
1 or more	$0.0333

(c) The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year in a county in which neither the county option income tax nor the county adjusted gross income tax is in effect on January 1 of that year, depends upon the number of years the county has previously imposed a tax under this chapter and is determined under the following table:

NUMBER OF YEARS	TAX RATE PER $100 OF ASSESSED VALUATION
0	$0.0133
1 or more	$0.0233

As added by P.L.44-1984, SEC.16. Amended by P.L.17-1995, SEC.29; P.L.146-2008, SEC.791.

IC 36-9-14.5-7
Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-14.5-8
Cumulative capital development fund; transfer between funds; expenditures

Sec. 8. (a) The tax money collected under this chapter shall be held in a special fund to be known as the cumulative capital development fund.

(b) In a county having a consolidated city, money may be transferred from the fund to the fund of a department of the consolidated city responsible for carrying out a purpose for which the cumulative capital development fund was created. The department may not expend any money so transferred until an appropriation is made and the department may not expend any money so transferred for operating costs of the department.

(c) Money held in the cumulative capital development fund may be spent for purposes other than the purposes stated in section 2 of this chapter, if the purpose is to protect the public health, welfare, or safety in an emergency situation that demands immediate action or to contribute to an authority established under IC 36-7-23. Money may be spent under the authority of this subsection only after the county executive:

(1) issues a declaration that the public health, welfare, or safety

is in immediate danger that requires the expenditure of money in the fund; or

(2) certifies in the minutes of the county executive that the money is contributed to the authority for capital development purposes.

As added by P.L.44-1984, SEC.16. Amended by P.L.82-1985, SEC.4; P.L.346-1989(ss), SEC.8; P.L.17-1995, SEC.30.

IC 36-9-15

Chapter 15. Cumulative Building Fund, Sinking Fund, and Debt Service Fund for Certain Law Enforcement Purposes

IC 36-9-15-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by Acts 1981, P.L.309, SEC.88.

IC 36-9-15-2

Authorization of funds and tax levies

Sec. 2. (a) A county fiscal body may establish cumulative building funds under IC 6-1.1-41 or sinking funds in the same manner as cumulative funds are established under IC 6-1.1-41 for the:

(1) construction, repair, remodeling, enlarging, and equipment of:

(A) a county jail; or

(B) a juvenile detention center to be operated under IC 31-31-9;

(2) purchase, lease, or payment of all or part of the purchase price of motor vehicles for the use of a community corrections program; or

(3) in a county having a consolidated city, purchase, lease, or payment of all or part of the purchase price of motor vehicles for the use of the sheriff's department.

(b) The county fiscal body may levy taxes to provide money for:

(1) cumulative building funds established under this chapter in compliance with IC 6-1.1-41; or

(2) sinking funds established under this chapter in the same manner a tax is levied for a cumulative fund under IC 6-1.1-41.

(c) IC 6-1.1-41 applies to a sinking fund under this chapter to the same extent as if the sinking fund was a cumulative fund.

As added by Acts 1981, P.L.309, SEC.88. Amended by P.L.82-1985, SEC.5; P.L.17-1995, SEC.31; P.L.1-1997, SEC.156; P.L.67-2012, SEC.6.

IC 36-9-15-3

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15-4

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15-5

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15-6

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15-7
Repealed
(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15-8
Repealed
(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15-9
Repealed
(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15-10
Debt service fund; creation; purposes; tax levy

Sec. 10. (a) The county fiscal body may establish a debt service fund for the payment of:

(1) a debt or other obligation arising out of money borrowed or advanced for a jail that it purchases from the proceeds of a bond issue for capital construction under IC 36-2-6-18; or

(2) a lease to provide capital construction under IC 36-1-10.

(b) The county fiscal body shall levy a tax each year in an amount sufficient to pay all debt service obligations for jails for that year. IC 6-1.1-18.5-8 applies to such a tax levy.

As added by Acts 1981, P.L.309, SEC.88. Amended by P.L.73-1983, SEC.21.

IC 36-9-15.5

Chapter 15.5. Municipal Cumulative Capital Development Fund

IC 36-9-15.5-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by P.L.44-1984, SEC.17.

IC 36-9-15.5-2

Authorization of fund; purpose

Sec. 2. The legislative body of a municipality may establish a cumulative capital development fund under IC 6-1.1-41 to provide money for any purpose for which property taxes may be imposed within the municipality under the authority of:

IC 8-16-3;
IC 8-22-3-25;
IC 14-27-6-48;
IC 14-33-14;
IC 16-23-1-40;
IC 36-8-14;
IC 36-9-4-48;
IC 36-9-16-2;
IC 36-9-16-3;
IC 36-9-16.5;
IC 36-9-17;
IC 36-9-26;
IC 36-9-27-100;
IC 36-10-3-21; or
IC 36-10-4-36.

As added by P.L.44-1984, SEC.17. Amended by P.L.2-1993, SEC.208; P.L.1-1995, SEC.87; P.L.17-1995, SEC.32.

IC 36-9-15.5-3

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15.5-4

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15.5-5

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15.5-6

Tax levy; rate of tax

Sec. 6. (a) Except as provided in subsection (c), the municipal fiscal body may provide money for the cumulative capital development fund by levying a tax in compliance with IC 6-1.1-41

on the taxable property in the municipality.

(b) The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year in a municipality that is either wholly or partially located in a county in which the county option income tax or the county adjusted gross income tax is in effect on January 1 of that year depends upon the number of years the municipality has previously imposed a tax under this chapter and is determined under the following table:

NUMBER OF YEARS	TAX RATE PER $100 OF ASSESSED VALUATION
0	$0.0167
1	$0.0333
2 or more	$0.05

(c) The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year in a municipality that is wholly located in a county in which neither the county option income tax nor the county adjusted gross income tax is in effect on January 1 of that year depends upon the number of years the municipality has previously imposed a tax under this chapter and is determined under the following table:

NUMBER OF YEARS	TAX RATE PER $100 OF ASSESSED VALUATION
0	$0.0133
1	$0.0267
2 or more	$0.04

As added by P.L.44-1984, SEC.17. Amended by P.L.17-1995, SEC.33; P.L.146-2008, SEC.792.

IC 36-9-15.5-7
Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-15.5-8
Cumulative capital development fund; transfer between funds; expenditures

Sec. 8. (a) The tax money collected under this chapter shall be held in a special fund to be known as the cumulative capital development fund.

(b) In a consolidated city, money may be transferred from the fund to the fund of a department of the consolidated city responsible for carrying out a purpose for which the cumulative capital development fund was created. The department may not expend any money so transferred until an appropriation is made and the department may not expend any money so transferred for operating costs of the department.

(c) Money held in the cumulative capital development fund may be spent for purposes other than the purposes stated in section 2 of this chapter, if the purpose is to protect the public health, welfare, or

safety in an emergency situation that demands immediate action or to make a contribution to an authority established under IC 36-7-23. Money may be spent under the authority of this subsection only after the executive of the municipality:

(1) issues a declaration that the public health, welfare, or safety is in immediate danger that requires the expenditure of money in the fund; or

(2) certifies in the minutes of the municipal legislative body that the contribution is made to the authority for capital development purposes.

As added by P.L.44-1984, SEC.17. Amended by P.L.82-1985, SEC.6; P.L.346-1989(ss), SEC.9; P.L.17-1995, SEC.34.

IC 36-9-16

Chapter 16. Municipal Cumulative Building or Sinking Fund and Cumulative Capital Improvement Fund

IC 36-9-16-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by Acts 1981, P.L.309, SEC.89. Amended by P.L.199-1988, SEC.4.

IC 36-9-16-2

Authorization of funds; purposes

Sec. 2. (a) A unit may establish a cumulative building or sinking fund or cumulative capital improvement funds to provide money for one (1) or more of the following purposes:

(1) To purchase, construct, equip, and maintain buildings for public purposes.

(2) To acquire the land, and any improvements on it, that are necessary for the construction of public buildings.

(3) To demolish any improvements on land acquired under this section, and to level, grade, and prepare the land for the construction of a public building.

(4) To acquire land or rights-of-way to be used as a public way or other means of ingress or egress to land acquired for the construction of a public building.

(5) To improve or construct any public way or other means of ingress or egress to land acquired for the construction of a public building.

(b) In addition to the purposes described in subsection (a), a cumulative capital improvement fund may be used to purchase body armor (as defined in IC 35-47-5-13(a)) for active members of a police department under:

(1) IC 36-5-7-7;

(2) IC 36-8-4-4.5;

(3) IC 36-8-9-9; and

(4) IC 36-8-10-4.5.

(c) A municipality may establish a cumulative capital improvement fund for a purpose described in IC 6-7-1-31.1.

As added by Acts 1981, P.L.309, SEC.89. Amended by P.L.199-1988, SEC.5; P.L.8-2009, SEC.3; P.L.113-2010, SEC.152; P.L.34-2010, SEC.9; P.L.42-2011, SEC.85.

IC 36-9-16-3

Cumulative capital improvement fund; additional purposes

Sec. 3. A unit may establish cumulative capital improvement funds to provide money for one (1) or more of the following purposes:

(1) To acquire land or rights-of-way to be used for public ways or sidewalks.

(2) To construct and maintain public ways or sidewalks.

(3) To acquire land or rights-of-way for the construction of sanitary or storm sewers, or both.
(4) To construct and maintain sanitary or storm sewers, or both.
(5) To acquire, by purchase or lease, or to pay all or part of the purchase price of a utility.
(6) To purchase or lease land, buildings, or rights-of-way for the use of any utility that is acquired or operated by the unit.
(7) To purchase or acquire land, with or without buildings, for park or recreation purposes.
(8) To purchase, lease, or pay all or part of the purchase price of motor vehicles for the use of any combination of the police, a community corrections program, or the fire department, including ambulances and firefighting vehicles with the necessary equipment, ladders, and hoses.
(9) To retire in whole or in part any general obligation bonds of the unit that were issued for the purpose of acquiring or constructing improvements or properties that would qualify for the use of cumulative capital improvement funds.
(10) To purchase or lease equipment and other nonconsumable personal property needed by the unit for any public transportation use.
(11) In a county or a consolidated city, to purchase or lease equipment to be used to illuminate a public way or sidewalk.
(12) The fund may be used for any of the following purposes:
(A) To purchase, lease, upgrade, maintain, or repair one (1) or more of the following:
(i) Computer hardware.
(ii) Computer software.
(iii) Wiring and computer networks.
(iv) Communication access systems used to connect with computer networks or electronic gateways.
(B) To pay for the services of full-time or part-time computer maintenance employees.
(C) To conduct nonrecurring inservice technology training of unit employees.
(13) To purchase body armor (as defined in IC 35-47-5-13(a)) for active members of a police department under:
(A) IC 36-5-7-7;
(B) IC 36-8-4-4.5;
(C) IC 36-8-9-9; and
(D) IC 36-8-10-4.5.

As added by Acts 1981, P.L.309, SEC.89. Amended by P.L.82-1985, SEC.7; P.L.199-1988, SEC.6; P.L.41-2001, SEC.1; P.L.8-2009, SEC.4; P.L.34-2010, SEC.10; P.L.67-2012, SEC.7.

IC 36-9-16-4
Establishment of fund and approval of levy; department of local government finance hearing and action; appeal

Sec. 4. (a) A cumulative building fund or cumulative capital improvement fund may be established by a resolution that is:

(1) adopted by the unit's legislative body; and

(2) approved by the department of local government finance.

(b) Notice of the proposed levy to provide money for the cumulative building fund or cumulative capital improvement fund shall be given to all taxpayers in the unit before the proposed action is presented to the department of local government finance for approval. Notice shall be given by publication of the proposal in accordance with IC 5-3-1.

(c) If, after the public hearing, the proposed action is submitted for approval to the department of local government finance, the department shall require notice of that submission to be given to the taxing district involved in the manner prescribed by subsection (b).

(d) Fifty (50) or more taxpayers in the taxing district who will be affected by the tax rate may, not later than ten (10) days after the publication of the notice, file with the county auditor a petition setting forth their objections to the proposed levy. The county auditor shall immediately certify the petition to the department of local government finance, which, within a reasonable time, shall fix a date for a hearing on the petition. The hearing shall be held in the county in which the unit is located. Notice of the hearing shall be given to the executive of the unit and to the first ten (10) taxpayers whose names appear upon the petition, by a letter signed by the commissioner or deputy commissioner of the department of local government finance and sent by mail to the executive and the taxpayers at their usual place of residence at least five (5) days before the date fixed for the hearing.

(e) After a hearing upon the proposal, the department of local government finance shall certify its approval, disapproval, or modification of the proposed tax levy to the auditor of the county in which the unit is located.

(f) A:

(1) taxpayer who signed a petition filed under subsection (d); or

(2) unit against which a petition under subsection (d) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (e).

As added by Acts 1981, P.L.309, SEC.89. Amended by Acts 1981, P.L.317, SEC.14; P.L.199-1988, SEC.7; P.L.90-2002, SEC.512; P.L.256-2003, SEC.40.

IC 36-9-16-5

Cumulative building fund; tax levy; appropriations

Sec. 5. (a) The unit's fiscal body may levy a tax not to exceed thirty-three cents ($0.33) on each one hundred dollars ($100) of taxable property within the taxing district to provide for a cumulative building fund. The tax may be levied annually for any period not to exceed ten (10) years.

(b) Appropriations may be made from the cumulative building fund for the purposes authorized by this chapter.

As added by Acts 1981, P.L.309, SEC.89. Amended by P.L.199-1988, SEC.8; P.L.6-1997, SEC.220.

IC 36-9-16-6
Cumulative capital improvement fund; tax levy; additions to fund; appropriations

Sec. 6. (a) The unit's fiscal body may levy a tax not to exceed thirty-three cents ($0.33) on each one hundred dollars ($100) of taxable property within the taxing district to provide for a cumulative capital improvement fund. The tax may be levied annually for any period not to exceed ten (10) years and may be decreased or increased from year to year, except that the tax may not be increased above the levy approved by the department of local government finance.

(b) Surplus money in other accounts of the unit, or other sources, and money acquired from other activities of the unit, or other sources, may, by resolution of the legislative body and with the approval of the department of local government finance, be added to the cumulative capital improvement fund.

(c) Appropriations may be made:

(1) as provided by law from the cumulative capital improvement fund for purposes of this chapter; or

(2) for a contribution to an authority established under IC 36-7-23.

As added by Acts 1981, P.L.309, SEC.89. Amended by P.L.199-1988, SEC.9; P.L.346-1989(ss), SEC.10; P.L.6-1997, SEC.221; P.L.90-2002, SEC.513.

IC 36-9-16.5

Chapter 16.5. Municipal Cumulative Street Fund

IC 36-9-16.5-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by Acts 1981, P.L.307, SEC.2.

IC 36-9-16.5-2

Establishment by municipality; purposes

Sec. 2. (a) A municipality may establish a cumulative street fund to provide money for:

(1) the acquisition of rights-of-way for public ways or sidewalks; or

(2) the construction or reconstruction of public ways or sidewalks.

(b) A cumulative street fund may be established by a municipal legislative body through the adoption of a resolution.

As added by Acts 1981, P.L.307, SEC.2.

IC 36-9-16.5-3

Source of revenues

Sec. 3. (a) Revenues which may be deposited to the cumulative street fund include:

(1) all or part of the revenues from any property tax levy dedicated for road and street purposes;

(2) all or part of the municipality's federal revenue sharing funds; or

(3) other sources by resolution of the municipal legislative body.

(b) Appropriations may be made from the cumulative street fund for the purpose authorized under section 2.

(c) Monies in the cumulative street fund do not revert to the general fund at the end of any fiscal year.

As added by Acts 1981, P.L.307, SEC.2.

IC 36-9-17

Chapter 17. Municipal General Improvement Fund

IC 36-9-17-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by Acts 1981, P.L.309, SEC.90.

IC 36-9-17-2

Preliminary financing resolution

Sec. 2. Whenever the works board of a municipality wants to improve a public way or public place, or to construct, repair, or reconstruct a sidewalk, curb, gutter, sewer, or drain in the municipality, it shall adopt a preliminary resolution designating whether the proposed improvement is to be financed and paid for in the manner prescribed by this chapter.

As added by Acts 1981, P.L.309, SEC.90.

IC 36-9-17-3

Authorization and composition of fund

Sec. 3. A municipality may, by ordinance and in compliance with the procedures for the establishment of a cumulative fund under IC 6-1.1-41, establish a general improvement fund, which shall be used to construct, repair, or improve streets, alleys, sidewalks, curbs, gutters, and sewers. This fund consists of:

(1) the special assessments collected under this chapter for benefits to property from constructing, repairing, or improving streets, alleys, sidewalks, curbs, gutters, and sewers; and

(2) any appropriation made from the general fund of the municipality or from taxes levied by the municipal legislative body for these purposes.

However, special assessments collected by a municipality under any statute other than this chapter may not be deposited in the fund.

As added by Acts 1981, P.L.309, SEC.90. Amended by P.L.17-1995, SEC.35.

IC 36-9-17-4

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-17-5

Appropriations; tax levies

Sec. 5. (a) Subject to tax limitations and to the review of appropriations and tax levies, the legislative body of a municipality that establishes a general improvement fund may appropriate money from the general fund of the municipality and transfer that money to the general improvement fund, levy a tax for the benefit and use of the general improvement fund in compliance with the procedures for a levy for a cumulative fund under IC 6-1.1-41, or both.

(b) During the year in which a municipality establishes a general

improvement fund, the municipal legislative body may make an emergency appropriation from the general fund of the municipality and transfer that appropriation to the general improvement fund in the manner prescribed by statute for the making of emergency appropriations.

(c) Any sum may be appropriated or levied under this section in any one (1) year, but the aggregate sum that may be appropriated and levied under this section, including emergency appropriations under subsection (b), may not exceed the equivalent of sixteen and sixty-seven hundredths cents ($0.1667) on each one hundred dollars ($100) net taxable valuation of property in the municipality.

As added by Acts 1981, P.L.309, SEC.90. Amended by P.L.17-1995, SEC.36; P.L.6-1997, SEC.222.

IC 36-9-17-6

Limitations on disbursements

Sec. 6. Disbursements may be made from the general improvement fund for any purpose only if benefits are to be:

(1) assessed against the properties benefited in the manner provided by the street and sewer improvement statutes; and

(2) collected in the manner provided by law for the collection of Barrett Law assessments, with all interest and penalties paid into the general fund of the municipality.

As added by Acts 1981, P.L.309, SEC.90.

IC 36-9-17-7

Procedure for awarding contracts; assessments

Sec. 7. (a) Contracts for public improvements authorized by this chapter shall be let according to the statutes authorizing municipalities to make and finance public improvements.

(b) As soon as any contract for the construction of a public improvement has been let, the municipal works board shall:

(1) carefully compute the entire cost of the project, including payments made and to be made to the contractor and all incidental costs, expenses, and damages paid and incurred according to law; and

(2) prepare and make out an assessment roll listing the assessments against the properties benefited.

In determining and fixing the amount of assessments, the giving of notice of assessments, the holding of public hearings, and the making of final determinations, subject to the right of appeal from those determinations, the municipal works board is governed by the street and sewer improvement statutes.

(c) Assessments made under this chapter are liens on the properties benefited from the time of the letting of the contract and shall be collected in the manner provided by law for the collection of Barrett Law assessments. However, the municipal works board shall fix a period of not more than five (5) years within which the assessments shall be paid. Any property owner liable for an assessment may elect to pay it in annual installments over the period

of time fixed by the municipal works board by executing a waiver in the manner provided by the street and sewer improvement statutes.

(d) All payments of assessments and all payments made by the municipality for public improvements under this chapter shall be made into the general improvement fund.

As added by Acts 1981, P.L.309, SEC.90.

IC 36-9-17.5

Chapter 17.5. Cumulative Township Vehicle and Building Fund

IC 36-9-17.5-1

Applicability of chapter

Sec. 1. This chapter applies to all townships.

As added by P.L.129-1999, SEC.2.

IC 36-9-17.5-2

Establishment and purpose

Sec. 2. A township may establish a cumulative township vehicle and building fund under IC 6-1.1-41 to provide money to:

(1) acquire township vehicles;

(2) purchase, construct, equip, and maintain buildings for public purposes;

(3) acquire the land and any improvements on the land that are necessary for the construction of public buildings;

(4) demolish any improvements on land acquired under this section and level, grade, and prepare the land for the construction of a public building;

(5) acquire land or rights-of-way to be used as a public way or other means of ingress or egress to land acquired for the construction of a public building; and

(6) improve or construct any public way or other means of ingress or egress to land acquired for the construction of a public building.

As added by P.L.129-1999, SEC.2.

IC 36-9-17.5-3

Deposit of revenues

Sec. 3. (a) The following revenues may be deposited in the cumulative township vehicle and building fund:

(1) All or part of the revenues from a property tax levy dedicated for township vehicle and building purposes.

(2) Other sources of revenue specified by resolution of the township legislative body.

(b) Appropriations may be made from the cumulative township vehicle and building fund only for the purposes specified in section 2 of this chapter.

(c) Money in the cumulative township vehicle and building fund does not revert to the township general fund at the end of a township fiscal year.

As added by P.L.129-1999, SEC.2.

IC 36-9-17.5-4

Tax levied to provide for fund

Sec. 4. (a) To provide for the cumulative township vehicle and building fund authorized under this chapter, the legislative body of a township may levy a tax on all taxable property within the

township in compliance with IC 6-1.1-41. The tax rate may not exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation of property in the township for property taxes first due and payable before January 1, 2002, or one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of assessed valuation of property in the township for property taxes first due and payable after December 31, 2001.

(b) As the tax is collected, it shall be deposited in a qualified public depository or depositories and held in a special fund known as the cumulative township vehicle and building fund.

As added by P.L.129-1999, SEC.2.

IC 36-9-17.5-5

Property tax levy limits

Sec. 5. Notwithstanding any other law, the property tax levy limits imposed under IC 6-1.1-18.5-3 apply to property taxes imposed by a township under this chapter. For purposes of computing the property tax levy limit imposed on the township under IC 6-1.1-18.5-3, the township's property tax levy for a particular calendar year includes the levy imposed under this chapter.

As added by P.L.129-1999, SEC.2.

IC 36-9-18
Repealed

(*Repealed by P.L.98-1993, SEC.16.)*

IC 36-9-19
Repealed

(*Repealed by P.L.98-1993, SEC.16.)*

IC 36-9-20
Repealed

(*Repealed by P.L.98-1993, SEC.16.)*

IC 36-9-21
Repealed

(*Repealed by P.L.98-1993, SEC.16.)*

IC 36-9-22

Chapter 22. Contracts With Property Owners for Sewer Construction by Municipalities

IC 36-9-22-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by Acts 1981, P.L.309, SEC.95.

IC 36-9-22-2

Terms of contract; power to fix; duration; share of cost; parties bound; waiver of rights

Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

(b) The works board of a municipality may contract with owners of real property for the construction of sewage works within the municipality or within four (4) miles outside its corporate boundaries in order to provide service for the area in which the real property of the owners is located. The contract must provide, for a period of not to exceed fifteen (15) years, for the payment to the owners and their assigns by any owner of real property who:

(1) did not contribute to the original cost of the sewage works; and

(2) subsequently taps into, uses, or deposits sewage or storm waters in the sewage works or any lateral sewers connected to them;

of a fair pro rata share of the cost of the construction of the sewage works, subject to the rules of the board and notwithstanding any other law relating to the functions of local governmental entities. However, the contract does not apply to any owner of real property who is not a party to it unless it has been recorded in the office of the recorder of the county in which the real property of the owner is located before the owner taps into or connects to the sewers and facilities. The board may provide that the fair pro rata share of the cost of construction includes interest at a rate not exceeding the amount of interest allowed on judgments, and the interest shall be computed from the date the sewage works are approved until the date payment is made to the municipality.

(c) The contract must include, as part of the consideration running to the municipality, the release of the right of the parties to the contract and their successors in title to remonstrate against pending or future annexations by the municipality of the area served by the sewage works. Any person tapping into or connecting to the sewage works contracted for is considered to waive his rights to remonstrate against the annexation of the area served by the sewage works.

(d) Subsection (c) does not apply to a landowner if all of the following conditions apply:

(1) The landowner is required to connect to the sewage works because a person other than the landowner has polluted or contaminated the area.

(2) The costs of extension of or connection to the sewage works are paid by a person other than the landowner or the municipality.

As added by Acts 1981, P.L.309, SEC.95. Amended by P.L.172-1995, SEC.5.

IC 36-9-22-3

Sewage works; approval of plans and specifications before construction; ownership by municipality; maintenance and operation

Sec. 3. (a) Plans and specifications for the sewage works contracted for must be approved by the municipal works board before construction is begun.

(b) Upon their completion, final inspection, and approval the sewage works become the property of the municipality, and the works board may:

(1) approve the construction of the sewage works;

(2) accept sewage from the sewers and pumping stations subject to the sewage rates that the municipality establishes;

(3) operate and maintain the disposal plants subject to the sewage rates that the municipality establishes; and

(4) accept storm water from sewers or approve the location of discharge of storm water.

(c) After the sewage works are approved and accepted by the works board, all further maintenance and operation of them are the responsibility of the municipality.

(d) Subsections (b) and (c) do not apply to lateral sewers or other extensions that, upon completion, become the property and responsibility of the landowners whose property they benefit.

As added by Acts 1981, P.L.309, SEC.95. Amended by Acts 1982, P.L.77, SEC.21.

IC 36-9-22-4

Taps into sewage works; prerequisites; amounts received under contracts; pay out without appropriation; unauthorized taps; removal and disposal without liability

Sec. 4. (a) A person may not be granted a permit or be authorized to tap into, use, or deposit sewage into any sewage works contracted for under this chapter, or any extension of them, during the period prescribed in the contract without first:

(1) obtaining the approval of the municipal works board; and

(2) paying to the municipality:

(A) charges made or assessed for the tap, use, or deposit, or for the sewers constructed in connection with the tap, use, or deposit; and

(B) the amount required by the contract.

All amounts received by the municipality under the contract shall be

paid out, without appropriation, under the terms of the contract within sixty (60) days after they are received.

(b) Whenever any tap or connection is made in violation of subsection (a), the works board shall:

(1) remove or cause to be removed the unauthorized tap or connection and all connecting tile located in the right-of-way for the sewage works; and

(2) dispose of the unauthorized materials that are removed, without any liability on the part of the municipality.

As added by Acts 1981, P.L.309, SEC.95.

IC 36-9-22-5

Sewer connected to existing works; certain cases; amounts to be included in cost estimate and assessments; payment of assessments in installments; amount of bonds; cash payments

Sec. 5. (a) This section applies when:

(1) any part of the cost of a sewer, whether local or general, storm, sanitary, combination, or otherwise, is to be assessed against the owners of real property;

(2) the proposed sewer is to be connected into sewage works constructed under this chapter; and

(3) the owners did not contribute to the cost of those sewage works.

(b) There shall be included in:

(1) the engineer's estimate submitted to the municipal works board before the hearing on the proposed sewer; and

(2) the assessments;

a sum equal to the amount provided in or computed from the contract as the fair pro rata share due from the owners upon and for the contracted sewage works, including any interest owed. The sum included in the engineer's estimate must be separately itemized.

(c) If an owner elects to pay his assessment by installments in anticipation of which bonds and coupons are issued, the amount of the bonds and coupons must include the fair pro rata share of the cost of the contracted sewage works. However, an owner may elect to pay the fair pro rata share in cash within sixty (60) days after the assessment is final and to pay the remainder of the assessment in installments.

As added by Acts 1981, P.L.309, SEC.95.

IC 36-9-23

Chapter 23. Municipal Sewage Works

IC 36-9-23-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 28 of this chapter (and to IC 32-9-1-2.5, before its repeal) by P.L.236-1993 apply to deposits held by a municipal sewage works under section 28 of this chapter, as amended by this act, after June 30, 1993.

As added by P.L.220-2011, SEC.683.

IC 36-9-23-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-2

Municipal powers

Sec. 2. A municipality may:

(1) acquire, construct, improve, operate, and maintain sewage works under this chapter;

(2) acquire, by gift, grant, purchase, condemnation, or otherwise, all lands, rights-of-way, and other property that are necessary for the sewage works;

(3) issue revenue bonds to pay the cost of acquiring, constructing, and improving the sewage works and property; and

(4) lease sewage works from a person, an entity, a corporation, a public utility, or a unit for a term not to exceed fifty (50) years.

A sewage works leased under this section is subject to IC 5-16-7.

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.35-1990, SEC.68.

IC 36-9-23-3

Supervision and control

Sec. 3. The construction, acquisition, improvement, operation, and maintenance of sewage works under this chapter shall be supervised and controlled by the municipal works board. However, the municipal legislative body may, by ordinance, transfer the powers and duties of the works board under this chapter to:

(1) a sanitary board established under section 4 of this chapter; or

(2) the utility service board, if the municipality has such a board operating one (1) or more municipally owned utilities.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-4

Sanitary board

Sec. 4. (a) A sanitary board established under this chapter consists

of:

(1) the municipal executive; and

(2) two (2) persons appointed by the municipal legislative body, one (1) of whom must be a registered professional engineer.

The legislative body may not appoint any paid or unpaid municipal officer or employee to the board.

(b) One (1) of the original appointees to the sanitary board serves for a term of two (2) years, and the other serves for a term of three (3) years.

(c) When the term of a member of the sanitary board expires, a successor shall be appointed for a term of three (3) years in the manner prescribed by subsection (a).

(d) Vacancies on the sanitary board shall be filled for the unexpired term in the manner prescribed by subsection (a).

(e) The municipal executive is the chairman of the sanitary board.

(f) The sanitary board shall select a vice chairman from its members, and shall select a secretary and a treasurer, who need not be members of the board. However, the board may combine the offices of secretary and treasurer into a single office of secretary-treasurer. The officers selected under this subsection serve at the pleasure of the board.

(g) Each member of the sanitary board is entitled to the compensation, if any, that is fixed by:

(1) the executive, with the approval of the legislative body, in a city; or

(2) the legislative body, in a town;

as a salary or as payment for meetings attended. Each member is also entitled to payment for reasonable expenses incurred in the performance of his duties.

(h) The compensation of the secretary and treasurer of the sanitary board shall be fixed by:

(1) the executive, with the approval of the legislative body, in a city; or

(2) the legislative body, in a town.

(i) The municipal legislative body shall fix the bond required of each member of the sanitary board and of the treasurer of the board. These bonds shall be filed with the county recorder under IC 5-4-1-5.1.

(j) The sanitary board may establish rules and bylaws for its own government.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-5

Board defined

Sec. 5. As used in sections 6 through 37 of this chapter, "board" means:

(1) the municipal works board; or

(2) if the municipality has transferred the powers and duties of the works board under section 3 of this chapter, the:

(A) sanitary board; or

(B) utility service board;

to which those powers have been transferred.

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.1-2007, SEC.247; P.L.114-2008, SEC.28.

IC 36-9-23-6

Contracts

Sec. 6. (a) The board may enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. However, the board may not obligate itself or the municipality beyond the extent to which money has been or may be provided under this chapter.

(b) A contract relating to the financing of the acquisition or construction of any sewage works, or to any trust indenture authorized by this chapter, is not effective until it is approved by the municipal legislative body.

(c) A contract or an agreement with any contractor or contractors for labor, equipment, or materials shall be let and entered into under the statutes governing the letting of contracts by agencies of municipalities.

(d) The board or any public utility (as defined in IC 8-1-6-3) contracting with the board for the treatment, purification, or disposal in a sanitary manner of liquid and solid waste, sewage, night soil, or industrial waste may contract with a water utility furnishing water service to users or property served in the municipality or by the public utility to do the following:

(1) Ascertain the amount of water consumed.

(2) Compute the amount of the charge to be billed for sewer services to each user or property served.

(3) Bill and collect the amounts due for sewer services.

(4) Discontinue water service to delinquent sewer users.

A contract under this subsection is enforceable without the approval of the Indiana utility regulatory commission.

(e) The procedures in IC 36-9-25-11.5(a) through IC 36-9-25-11.5(e) apply to the discontinuance of water service to a delinquent sewer user under a contract between the board and a water utility described in subsection (d).

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.27-1995, SEC.7; P.L.34-1999, SEC.6.

IC 36-9-23-7

Board; operation of works

Sec. 7. After the completion or acquisition of the sewage works, the board shall operate, manage, and control the works and may order and complete any extensions or improvements it considers necessary. The board shall adopt rules for the use and operation of the sewage works and of other sewers and drains connected to the works, to the extent that they may affect the operation of the works.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-8
Board; restoration of works

Sec. 8. If requested to do so by the proper authority, the board shall, to the extent possible from money provided under this chapter, restore to their original condition any public ways or public works damaged by the board in the performance of its duties.
As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-9
Board; authority relating to employees; payment of expenses

Sec. 9. The board may employ, fix the compensation of, and prescribe the duties of engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and any other employees it considers necessary. The expenses incurred under this section shall be paid solely from money provided under this chapter.
As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-10
Ordinance prior to construction or acquisition of works; contents; notice

Sec. 10. (a) Before the construction, acquisition, or lease of any sewage works under this chapter, the municipal legislative body shall adopt an ordinance or ordinances:

(1) setting forth a brief general description of the works and, if the works are to be constructed, a reference to the plans and specifications prepared and filed by an engineer chosen by the board;
(2) setting forth the cost of the works, as estimated by the engineer;
(3) ordering the construction, acquisition, or lease of the works;
(4) setting forth an estimate of the fees for the several classes of users or property to be served;
(5) ordering the issuance of revenue bonds of the municipality under this chapter, in the amount necessary to pay the cost of the works; and
(6) containing any other necessary provisions.

(b) Unless all or part of the works is being constructed in compliance with an order of the department of environmental management to abate water pollution, notice of the adoption and the purport of the ordinance or ordinances shall immediately be given by publication in accordance with IC 5-3-1.
As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.143-1985, SEC.197; P.L.35-1990, SEC.69.

IC 36-9-23-11
Cost estimate

Sec. 11. The engineer's estimate of costs under section 10(a)(2) of this chapter must include:

(1) the cost of acquiring or constructing the sewage works;
(2) the cost of all property, easements, franchises, and other

rights considered necessary or convenient for the works;

(3) interest on bonds before and during the construction or acquisition, and for a period not exceeding twenty-four (24) months after completion of the construction or acquisition;

(4) engineering expenses, including expenses for plans, specifications, and surveys;

(5) legal expenses;

(6) expenses for estimates of cost and of revenues;

(7) administrative expenses; and

(8) other expenses necessary or incidental to:

(A) determining the feasibility of the works;

(B) financing the works;

(C) constructing or acquiring the works; and

(D) placing the works in operation.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-12

Petition objecting to construction or acquisition of works; court hearing; notice; bond; further proceedings on project prohibited if petition sustained

Sec. 12. (a) This section does not apply to undertakings in compliance with orders of the department of environmental management for which no objections are authorized.

(b) Forty (40) or more owners of property connected or to be connected to and served by sewage works authorized by an ordinance under section 10(a) of this chapter may file a written petition objecting to the construction or acquisition of the works. The petition must be filed with the municipal legislative body, must contain the names and addresses of the petitioners, and must set forth the following objections:

(1) The works are not required by the public needs.

(2) The cost of the proposed works would be excessive considering the value of the service to be rendered to the affected community.

(3) Any other ground of objection.

The petition shall be filed within twenty (20) days after the publication of notice under section 10(b) of this chapter.

(c) Unless the proposed works are abandoned, the municipal clerk shall file in the office of the clerk of the circuit or superior court of the county a copy of the ordinance or ordinances together with the petition. The court shall then set the matter for hearing at the earliest date possible, which must be within twenty (20) days after the filing of the petition with the court. The court shall send notice of the hearing by certified mail to the municipality and to the first ten (10) signers of the petition at the addresses shown on the petition. All interested parties shall appear in the court without further notice, and the municipality may not conduct any further proceedings concerning the works until the matters presented by the petition have been heard and determined by the court.

(d) The petitioners shall file with their petition a bond in the sum

and with the security fixed by the court. The bond must be conditioned on the petitioners' payment of all or part of the costs of the hearing and any damages awarded to the municipality if the petition is denied, as ordered by the court.

(e) Upon the date fixed in the notice, the court shall, without a jury, hear the evidence produced. The court may confirm the decision of the municipal legislative body or sustain the objecting petition. The order of the court is final and conclusive upon all parties to the proceeding and parties who might have appeared at the hearing, subject only to the right of direct appeal. All questions that were presented or might have been presented are considered to have been adjudicated by the order of the court, and no collateral attack upon the decision of the municipal legislative body or order of the court is permitted.

(f) If the court sustains the petition, or if it is sustained on appeal, the municipal legislative body may not institute any further proceedings for the construction of the sewage works described in the ordinance or ordinances for a period of one (1) year after the date of the order, unless the construction is required by a subsequent order of the state department of environmental management to abate water pollution.

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.143-1985, SEC.198.

IC 36-9-23-12.5

User moving to new residence; forwarding final bill

Sec. 12.5. Whenever a sewer user moves to a different residence from the one being supplied sewer service, but within the same municipality, the sewer utility shall forward the user's final sewer bill to the new address.

As added by P.L.349-1985, SEC.4.

IC 36-9-23-13

Preliminary expenses; payment from general fund; repayment from bond proceeds

Sec. 13. (a) All necessary preliminary expenses actually incurred by the board before the issuance and delivery of revenue bonds, including expenses incurred in:

(1) making surveys;
(2) estimating costs and revenues;
(3) employing engineers or other employees;
(4) giving notices; and
(5) taking options;

may be paid in the manner prescribed by this section.

(b) The board shall, from time to time, certify the items of expense to the municipal fiscal officer, directing him to pay the amounts certified. The fiscal officer shall draw a warrant or warrants in the correct amounts on the general fund, without appropriation. If there is no money in the general fund, the fiscal officer shall request the municipal legislative body to transfer from other funds of the

municipality an amount sufficient to meet the items of expense, or to make a temporary loan for this purpose. The legislative body shall comply with the request promptly.

(c) Money transferred under subsection (b) shall be repaid by the board to the fund from which it was taken, out of the first proceeds of the sale of revenue bonds and before any other disbursements are made from those proceeds. The amount advanced to pay the preliminary expenses constitutes a first charge against the proceeds resulting from the sale of the revenue bonds until repaid.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-14

Condemnation; authority; security for damages to owner from failure to accept and pay for property; purchase or condemnation of existing works; option or contract; repair estimate

Sec. 14. (a) A municipality may, in the manner prescribed by IC 32-24, condemn:

(1) sewage works; and

(2) any land, easements, franchises, and other property it considers necessary for the construction of sewage works or for improvements to sewage works.

However, the municipality may pay for any property condemned or purchased only from money provided under this chapter.

(b) In any proceedings to condemn, orders that are just to the municipality and to the owners of the property to be condemned may be made. An undertaking or other security securing the property owners against any loss or damage resulting from the failure of the municipality to accept and pay for the property may be required, but the undertaking or security imposes liability upon the municipality only in the amount that may be paid from money provided under this chapter.

(c) If the board wants to purchase sewage works, it may obtain and exercise an option for the purchase of the works, or may enter into a contract for the purchase in the manner and under the terms and conditions that it considers proper.

(d) If the board wants to purchase or condemn sewage works already constructed, it must, at or before the time of adoption of the ordinance authorizing the acquisition, determine what repairs, replacements, additions, and other actions are required to make the works effective for their purpose. An estimate of the cost of these actions shall be included in the estimate of cost made under section 11 of this chapter. These actions shall be taken upon the acquisition of the works, as a part of the cost of the acquisition.

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.2-2002, SEC.122.

IC 36-9-23-15

Acquisition of property subject to lien or other encumbrance

Sec. 15. Property upon which any lien or other encumbrance exists may not be acquired under this chapter unless, at the time the

property is acquired, a sufficient sum of money is deposited in trust to pay and redeem the lien or encumbrance in full.
As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-16
Sewage treatment plant prerequisite; contracts and revenues; construction of connecting sewers; payment of cost; effect on maturity date of bonds

Sec. 16. (a) A municipality that does not have a sewage treatment plant, and wants to acquire, construct, improve, operate, and maintain sewage works other than a sewage treatment plant, may proceed under this chapter only if it first contracts for the required treatment of the sewage emanating from its works.

(b) A municipality owning and operating facilities for sewage treatment may contract to treat all or part of the sewage of:

(1) any other municipality;
(2) any facility of the department of correction; or
(3) if a contract described in subdivision (2) is in effect, any person or entity, a municipal corporation, a private corporation, or a federal government facility that is located within five (5) miles of the sewer line connecting the municipality to the facility of the department of correction under the contract.

The contracts must be authorized by ordinance and are subject to approval by the department of environmental management according to rules adopted by the water pollution control board as to the sufficiency of the provision for sewage treatment.

(c) Unless otherwise provided in the authorizing ordinance or governing indenture, the revenues received by the owner under the contract are considered a part of the revenues of the owner's sewage treatment facilities, and shall be applied in accordance with the applicable statutes.

(d) The necessary intercepting and connecting sewers and appurtenances to connect the sewage treatment facilities and sewage works of the contracting parties may be constructed in part or in whole by either of the contracting parties, as provided in the contract. For a municipality, the money to pay for this construction may be provided by the issuance of bonds under the applicable statutes, as part of the cost of the facilities or works of the respective parties.

(e) All bonds issued under this section are payable before the expiration date of the contract. The parties may contract for the terms of the bonds, and for any term or terms beyond the last maturity of the bonds.
As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.143-1985, SEC.199; P.L.318-1989, SEC.1.

IC 36-9-23-17
Sources of funds

Sec. 17. (a) This chapter does not authorize a municipality to make any contract or to incur any obligation that is not payable solely from money provided under this chapter.

(b) Money for the costs of the sewage works or any improvement of the works may be provided only:

(1) by the issuance of revenue bonds of the municipality;

(2) from a cumulative fund established by the municipality for that purpose; or

(3) by grant or loan from the federal government or any of its agencies.

(c) A municipality obtaining a loan from the federal government or a federal agency may issue its obligations under this chapter to the federal government or federal agency to evidence its indebtedness. The obligations are not a corporate indebtedness of the municipality, are payable solely from the revenues of the sewage works, and may be made of equal priority or subordinate to any other revenue bonds issued or to be issued under this chapter.

(d) Notwithstanding subsection (b), money to finance the construction of any of the self-liquidating works authorized by this chapter may be obtained from any state or federal agency.

(e) Notwithstanding subsection (b), any industrial cost recovery received by the municipality and required to be paid by industrial users under the terms of a federal grant are not considered revenues under this chapter. The municipal legislative body may use industrial cost recovery grants as provided by the terms of federal grants.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-18

Bonds; liability of municipality; interest; redemption; form; registration; sale; temporary bonds; additional bonds; exemption from taxation

Sec. 18. (a) Revenue bonds issued under this chapter are payable solely from the revenues of the sewage works for which they are issued, and are not a corporate indebtedness of the municipality.

(b) The revenue bonds bear interest at a rate not to exceed the maximum rate per annum specified by the municipal legislative body, payable annually or at shorter intervals, and mature at the time or times determined by ordinance.

(c) The revenue bonds may be made redeemable before maturity at the option of the municipality, to be exercised by the board, at not more than their par value plus a premium of five percent (5%), under the terms and conditions fixed by the ordinance authorizing the issuance of the bonds.

(d) The principal and interest of the revenue bonds may be made payable in any lawful medium.

(e) The ordinance authorizing the issuance of the revenue bonds must determine the form of the bonds, including any interest coupons to be attached to them, and must fix the denomination or denominations of the bonds and the place or places of payment of their principal and interest, which may be at any bank or trust company in Indiana or another state.

(f) The revenue bonds must contain a statement on their face that the municipality is not obligated to pay the principal or interest on

them, except from the special fund provided from the net revenues of the sewage works.

(g) The revenue bonds are negotiable instruments.

(h) Provision may be made for the registration of any of the revenue bonds in the name of the owner as to principal alone, or as to both principal and interest, but fully registered bonds shall be made convertible to coupon bonds at the option of the registered owner.

(i) The revenue bonds shall be executed in the same manner as other revenue bonds issued by municipalities are executed.

(j) The revenue bonds shall be sold by the municipal fiscal officer in the manner that is determined to be in the best interests of the municipality, but at not less than par value and only at public sale in accordance with the statutes concerning the sale of municipal bonds.

(k) Before the preparation of the definite revenue bonds, temporary revenue bonds may be issued with or without coupons. The temporary revenue bonds, which shall be issued in the manner prescribed by this section, may be exchanged for the definite revenue bonds when they are issued.

(l) If the proceeds of the revenue bonds are less than the cost of the sewage works, additional revenue bonds may be issued under this section to provide the amount of the deficit. Unless otherwise provided in the ordinance authorizing the first issue, or in the trust indenture authorized by section 22 of this chapter, the additional revenue bonds are considered part of the first issue and are entitled to payment from the same fund, without priority for the first issue.

(m) Subject to the provisions and limitations of any ordinance or trust indenture pertaining to any outstanding revenue bonds, additional bonds payable from the revenues of the sewage works may be authorized and issued in the manner prescribed by this section, for the purpose of improving any works acquired or constructed under this chapter.

(n) Revenue bonds issued under this section are exempt from taxation for all purposes.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-19

Bonds; actions to contest validity; limitations

Sec. 19. Any action to contest the validity of revenue bonds issued under this chapter must be brought at least five (5) days before the advertised date for the sale of the bonds.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-20

Bonds; disposition of proceeds; lien of holders or trustee

Sec. 20. (a) The first proceeds of any revenue bonds issued under this chapter shall be used to repay all amounts advanced for preliminary expenses under section 13 of this chapter. The remaining proceeds of the bond issue shall be applied to the cost of acquiring, constructing, or improving the sewage works.

(b) After the payments required by subsection (a) have been made, any proceeds of the bond issue that have not been spent shall be deposited in the sinking fund established by section 21 of this chapter.

(c) The holders of the revenue bonds, or the trustees under section 22 of this chapter, have a lien on the bond proceeds until they are applied under this section.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-21

Bonds; sinking fund

Sec. 21. At or before the time of issuance of revenue bonds under this chapter, the municipal legislative body, by ordinance, shall:

(1) establish a sinking fund for the payment of:

(A) the principal of and interest on the bonds; and

(B) the charges of banks or trust companies for making payment of the principal or interest; and

(2) pledge the net revenues of the sewage works, after the payment of the reasonable expense of operation, repair, and maintenance of the works, to the payment of the expenses described in subdivision (1).

The ordinance may also provide for the accumulation of reasonable reserves in the sinking fund as a protection against default, and for the payment of premiums on bonds retired by call or purchase under this chapter.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-22

Bonds; security by trust indenture permitted; terms of indenture

Sec. 22. (a) The municipal legislative body may secure revenue bonds issued under this chapter by a trust indenture between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana, or another state. However, such a trust indenture may not convey or mortgage any part of the sewage works.

(b) The ordinance authorizing the revenue bonds may provide that:

(1) the trust indenture may contain reasonable provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the municipality and the board in relation to:

(A) the construction, acquisition, improvement, operation, repair, maintenance, and insurance of the sewage works; and

(B) the custody, safeguarding, and application of all money; and

(2) the works shall be contracted for, constructed, and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers or their successors, assigns, or nominees, who may be given the right to specify the security to be given by contractors and by any depository of the proceeds

of bonds, revenues of the works, or other money pertaining to the works.

(b) The trust indenture may set forth the rights and remedies of the bondholders and trustee, restricting the individual right of action of bondholders as is customary in a trust indenture securing bonds and debentures of corporations. Except as otherwise provided in this chapter, the municipal legislative body may, by ordinance or in the trust indenture, specify:

(1) the officer, board, or depository that shall collect the proceeds of the sale of the bonds and the revenues of the sewage works; and

(2) the method of disbursing the proceeds and revenues.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-23

Bonds; enforcement rights of holders; receivership

Sec. 23. (a) The rights granted by this section are subject to any restrictions contained in the ordinance authorizing the issuance of revenue bonds or in any trust indenture securing the bonds.

(b) The holder of any revenue bonds or any coupons attached to them, and the trustee, if any, may, either at law or in equity, protect and enforce all rights granted by this chapter or under the ordinance or trust indenture, including the making and collecting of reasonable and sufficient fees for services rendered by the sewage works.

(c) If the principal or interest of any of the revenue bonds is not paid on the date named in the bonds for payment, any court having jurisdiction of the action may appoint a receiver to administer the sewage works on behalf of the municipality, the bondholders, and the trustee, if any. The receiver may:

(1) charge and collect fees sufficient to provide for the payment of the expenses of operation, repair, and maintenance of the works;

(2) pay any revenue bonds and interest outstanding; and

(3) apply the revenues in conformity with this chapter, the ordinance authorizing the bond issue, and the trust indenture, if any.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-24

Fees; municipality subject to fees of sewage works

Sec. 24. The municipality is subject to the fees established under this chapter or to fees established in harmony with this chapter, for services rendered the municipality, and shall pay the fees when due. The fees are considered part of the revenues of the sewage works and are subject to the disposition authorized or required for other revenues of the works.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-25

Fees; factors used to establish; persons obligated to pay;

disposition of certain fees; adoption of different schedules permitted

Sec. 25. (a) Subject to section 37 of this chapter, the municipal legislative body shall, by ordinance, establish just and equitable fees for the services rendered by the sewage works, and provide the dates on which the fees are due.

(b) Just and equitable fees are the fees required to maintain the sewage works in the sound physical and financial condition necessary to render adequate and efficient service. The fees must be sufficient to:

(1) pay all expenses incidental to the operation of the works, including legal expenses, maintenance costs, operating charges, repairs, lease rentals, and interest charges on bonds or other obligations;

(2) provide the sinking fund required by section 21 of this chapter;

(3) provide adequate money to be used as working capital; and

(4) provide adequate money for improving and replacing the works.

Fees established after notice and hearing under this chapter are presumed to be just and equitable.

(c) The fees are payable by the owner of each lot, parcel of real property, or building that:

(1) is connected with the sewage works by or through any part of the municipal sewer system; or

(2) uses or is served by the works.

Unless the municipal legislative body finds otherwise, the works are considered to benefit every lot, parcel of real property, or building connected or to be connected with the municipal sewer system as a result of construction work under the contract, and the fees shall be billed and collected accordingly.

(d) The municipal legislative body may use one (1) or more of the following factors to establish the fees:

(1) A flat charge for each sewer connection.

(2) The amount of water used on the property.

(3) The number and size of water outlets on the property.

(4) The amount, strength, or character of sewage discharged into the sewers.

(5) The size of sewer connections.

(6) Whether the property has been or will be required to pay separately for any part of the sewage works.

(7) Whether the property, although vacant or unimproved, is benefited by a local or lateral sewer because of the availability of that sewer. However, the owner must have been notified, by recorded covenants and restrictions or deed restrictions in the chain of title of his property, that a fee or assessment for sewer availability may be charged, and the fee may reflect only the capital cost of the sewer and not the cost of operation and maintenance of the sewage works.

(8) The cost of collecting, treating, and disposing of garbage in

a sanitary manner, including equipment and wages.

(9) The amount of money sufficient to compensate the municipality for the property taxes that would be paid on the sewage works if the sewage works were privately owned.

(10) Any other factors the legislative body considers necessary.

Fees collected under subdivision (8) may be spent for that purpose only after compliance with all provisions of the ordinance authorizing the issuance of the revenue bonds for the sewage works. The board may transfer fees collected in lieu of taxes under subdivision (9) to the general fund of the municipality.

(e) The municipal legislative body may exercise reasonable discretion in adopting different schedules of fees, or making classifications in schedules of fees, based on variations in:

(1) the costs, including capital expenditures, of furnishing services to various classes of users or to various locations; or

(2) the number of users in various locations.

As added by Acts 1981, P.L.309, SEC.96. Amended by Acts 1981, P.L.317, SEC.23; P.L.35-1990, SEC.70; P.L.114-2008, SEC.29.

IC 36-9-23-26

Fees; hearing; notice; adoption; readjustment

Sec. 26. (a) After the introduction of the ordinance establishing fees under section 25 of this chapter, but before it is finally adopted, the municipal legislative body shall hold a public hearing at which users of the sewage works, owners of property served or to be served by the works, and other interested persons may be heard concerning the proposed fees. Notice of the hearing, setting forth the proposed schedule of fees, shall be:

(1) published in accordance with IC 5-3-1;

(2) mailed to owners of vacant or unimproved property if the ordinance includes a fee for sewer availability to vacant or unimproved property; and

(3) mailed to users of the sewage works for service to property located outside the municipality's corporate boundaries.

The notice may be mailed in any form so long as the notice of the hearing is conspicuous. The hearing may be adjourned from time to time. Notice mailed under subdivision (3) must include the statement required by IC 8-1.5-3-8.1(c).

(b) After the hearing, the municipal legislative body shall adopt the ordinance establishing the fees, either as originally introduced or as modified. A copy of the schedule of fees adopted shall be kept on file and available for public inspection in the offices of the board and the municipal clerk. An ordinance adopted after March 31, 2012, that imposes different rates and charges on users of the works for service to property located outside the corporate boundaries of the municipality or to property located within the corporate boundaries of the municipality must state in plain language the percentage difference between the rates and charges, as required by IC 8-1.5-3-8.1(d).

(c) Subject to section 37 of this chapter, the fees established for

any class of users or property shall be extended to cover any additional property that is subsequently served and falls within the same class, without any hearing or notice.

(d) The municipal legislative body may change or readjust the fees in the same manner by which they were established.

(e) Fees collected under this chapter are considered revenues of the sewage works.

As added by Acts 1981, P.L.309, SEC.96. Amended by Acts 1981, P.L.45, SEC.62; P.L.77-1991, SEC.4; P.L.114-2008, SEC.30; P.L.139-2012, SEC.5.

IC 36-9-23-26.1

Objections to rates and charges; bonds; hearings

Sec. 26.1. (a) Owners of property connected or to be connected to and served by the sewage works authorized under this chapter may file a written petition objecting to the rates and charges of the sewage works so long as:

(1) the petition contains the names and addresses of the petitioners;

(2) the petitioners attended the public hearing provided under section 26 of this chapter;

(3) the written petition is filed with the municipal legislative body within five (5) days after the ordinance establishing the rates and charges is adopted under section 26 of this chapter;

(4) the written petition states specifically the ground or grounds of objection; and

(5) the petitioners have not filed a petition with the commission under IC 8-1.5-3-8.3 appealing the same rates and charges of the utility.

(b) Unless the objecting petition is abandoned, the municipal clerk shall file in the office of the clerk of the circuit or superior court of the county a copy of the rate ordinance or ordinances together with the petition. The court shall then set the matter for hearing at the earliest date possible, which must be within twenty (20) days after the filing of the petition with the court. The court shall send notice of the hearing by certified mail to the municipality and to the first signer of the petition at the address shown on the petition. All interested parties shall appear in the court without further notice, and the municipality may not conduct any further proceedings concerning the rates and charges until the matters presented by the petition have been heard and determined by the court.

(c) At the discretion and upon direction of the court, the petitioners shall file with the petition a bond in the sum and with the security fixed by the court. The bond must be conditioned on the petitioners' payment of all or part of the costs of the hearing and any damages awarded to the municipality if the petition is denied, as ordered by the court.

(d) Upon the date fixed in the notice, the court shall, without a jury, hear the evidence produced. The court may confirm the decision of the municipal legislative body or sustain the objecting

petition. The order of the court is final and conclusive upon all parties to the proceeding and parties who might have appeared at the hearing, subject only to the right of direct appeal. All questions that were presented or might have been presented are considered to have been adjudicated by the order of the court, and no collateral attack upon the decision of the municipal legislative body or order of the court is permitted.

(e) If the court sustains the petition, or if it is sustained on appeal, the municipal legislative body shall set the rates and charges in accordance with the decision of the court.

As added by P.L.77-1991, SEC.5. Amended by P.L.139-2012, SEC.6.

IC 36-9-23-27

Fees; collection upon commencement of construction; amount

Sec. 27. After a contract for the construction of sewage works has been let and actual work has commenced, the municipality may bill and collect fees for the services to be rendered, in an amount sufficient to pay:

(1) the interest on the revenue bonds; and

(2) other expenses payable before the completion of the works.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-28

Deposit to ensure payment of fees; amount of deposit; refund; forfeiture; use to pay judgment; unclaimed deposits

Sec. 28. (a) The legislative body of a municipality that operates sewage works under this chapter may, by ordinance, require the owners, lessees, or users of property served by the works to pay a deposit to ensure payment of sewer fees.

(b) The deposit required may not exceed the estimated average payment due from the property served by the sewage works for a three (3) month period. The deposit must be retained in a separate fund.

(c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:

(1) has been conveyed or transferred to another person; or

(2) no longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

(d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, he forfeits his deposit and all accrued interest. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner prescribed by section 31 or 32 of this chapter.

(e) A deposit may be used to satisfy all or part of any judgment awarded the municipality under section 31 of this chapter.

(f) A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of the municipality. IC 32-34-1 (unclaimed property) does not apply to a deposit described in this subsection.

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.236-1993, SEC.2; P.L.31-1995, SEC.8; P.L.2-2002, SEC.123.

IC 36-9-23-28.5

Unclaimed overpayments of sewer fees becoming property of municipality

Sec. 28.5. (a) This section does not apply to a deposit made under section 28 of this chapter.

(b) IC 32-34-1 does not apply to an overpayment described in subsection (d).

(c) As used in this section, "payor" refers to the owner, lessee, or user of property served by the sewage works who has paid for service from the sewage works.

(d) An overpayment of sewer fees that remains unclaimed by a payor for more than seven (7) years after the termination of the service for which the overpayment was made becomes the property of the municipality.

As added by P.L.40-1996, SEC.12. Amended by P.L.2-2002, SEC.124.

IC 36-9-23-29

Connections to sewer by abutting property; approval required; fees; liens; disposition of fees

Sec. 29. (a) If, as part of the construction of sewage works under this chapter, a municipality constructs a sewer suitable for use as a local or lateral sewer by abutting or adjoining property, it may charge a fee for connections to the sewer. The fee must be based on the pro rata cost of constructing a local or lateral sewer sufficient to serve the property.

(b) The board may approve or disapprove applications for connections and may fix the amount of the connection fee.

(c) A person who applies for a connection shall agree to pay the connection fee. If payment is not made as agreed, the fee constitutes a lien on the property for which the connection is made. Such a lien may be enforced in the manner prescribed by section 34 of this chapter.

(d) The municipal legislative body shall determine by ordinance whether the proceeds of connection fees collected under this section and other laws are to be used as:

(1) net revenues of the sewage works;

(2) payment toward the cost of construction of the works; or

(3) payment toward the cost of improving the works in the future.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-30

Municipal power to require connections to sewer and discontinuance of privies, cesspools, septic tanks, and similar structures; conditions; penalties; court order; attorney's fees

Sec. 30. (a) Subject to subsection (b), a municipality that operates sewage works under this chapter or under any statute repealed by IC 19-2-5-30 (repealed September 1, 1981) may require:

(1) connection to its sewer system of any property producing sewage or similar waste; and

(2) discontinuance of the use of privies, cesspools, septic tanks, and similar structures.

(b) A municipality may exercise the powers granted by subsection (a) only if:

(1) there is an available sanitary sewer within three hundred (300) feet of the property line of the affected property; and

(2) it has given notice by certified mail to the property owner at the address of the property, at least ninety (90) days before the date specified for connection in the notice.

(c) A municipality may establish, enforce, and collect reasonable penalties for failure to make a connection under this section.

(d) A municipality may apply to the circuit or superior court for the county in which it is located for an order to require a connection under this section. The court shall assess the cost of the action and reasonable attorney's fees of the municipality against the property owner in such an action.

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.3-1990, SEC.135.

IC 36-9-23-31

Fees; nonpayment; delinquency penalty; civil action to recover

Sec. 31. If fees assessed against real property under this chapter or any statute repealed by IC 19-2-5-30 (repealed September 1, 1981) are not paid within the time fixed by the municipal legislative body, they are delinquent. A penalty of ten percent (10%) of the amount of the fees attaches to the delinquent fees. The amount of the fee, the penalty, and a reasonable attorney's fee may be recovered by the board in a civil action in the name of the municipality.

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.3-1990, SEC.136.

IC 36-9-23-32

Fees; nonpayment; creation of lien; priority; time of attachment; notice; subsequent owners; release

Sec. 32. (a) Fees assessed against real property under this chapter or under any statute repealed by IC 19-2-5-30 constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsections (b) and (c), the lien attaches when notice of the lien is filed in the county recorder's office under section 33 of this chapter.

(b) A fee is not enforceable as a lien against a subsequent owner

of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner. If the property is conveyed before the lien can be filed, the municipality shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not more than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

(c) A lien attaches against real property occupied by someone other than the owner only if the utility notified the owner within twenty (20) days after the time the utility fees became sixty (60) days delinquent. However, the utility is required to give notice to the owner if the owner has given the general office of the utility written notice of the address to which the owner's notice is to be sent. A notice sent to the owner under this subsection must be sent by certified mail, return receipt requested, or an equivalent service permitted under IC 1-1-7-1 to:

(1) the owner of record of real property with a single owner; or

(2) at least one (1) of the owners of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice. The cost of sending notice under this subsection is an administrative cost that may be billed to the owner.

(d) The municipality shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.131-2005, SEC.7; P.L.113-2010, SEC.153.

IC 36-9-23-33

Unpaid fees and penalties

Sec. 33. (a) An officer described in subsection (b) may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.

(b) Except as provided in subsection (l), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare either of the following:

(1) A list of the delinquent fees and penalties that are enforceable under this section, which must include the following:

(A) The name or names of the owner or owners of each lot

or parcel of real property on which fees are delinquent.

(B) A description of the premises, as shown by the records of the county auditor.

(C) The amount of the delinquent fees, together with the penalty.

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

(c) The officer shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording the list or each individual instrument in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars ($5), which is in addition to the recording fee charged under this subsection and under subsection (f), shall be added to each delinquent fee that is recorded.

(d) This subsection applies only to a county containing a consolidated city. Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall certify to the county auditor a list of the liens that remain unpaid according to a schedule agreed upon by the county treasurer and the officer for collection with the next cycle's property tax installment. The county and its officers and employees are not liable for any material error in the information on the list.

(e) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (c), certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on this list.

(f) The officer shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(g) On receipt of the list under subsection (e), the county auditor of each county shall add a fifteen dollar ($15) certification fee for each lot or parcel of real property on which fees are delinquent, which fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due not later than the due date of the next installment of property taxes. The county treasurer shall then include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

(h) After certification of liens under subsection (e), the officer may not collect or accept delinquent fees, penalties, service charges,

recording fees, or certification fees from property owners whose property has been certified to the county auditor. This subsection does not apply to a county containing a consolidated city.

(i) If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(j) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the municipality. The county treasurer shall retain the service charges and certification fees that have been collected, and shall deposit them in the county general fund.

(k) Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 32(d) of this chapter, files a verified demand with the county auditor.

(l) A board may write off a fee or penalty under subsection (a) that is for less than forty dollars ($40).

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.354-1987, SEC.1; P.L.45-1990, SEC.8; P.L.1-1993, SEC.249; P.L.57-1993, SEC.18; P.L.88-1995, SEC.11; P.L.236-1997, SEC.1; P.L.10-1997, SEC.36; P.L.98-2000, SEC.29; P.L.171-2002, SEC.2; P.L.174-2003, SEC.1; P.L.39-2008, SEC.6.

IC 36-9-23-34

Liens; foreclosure; attorney's fees

Sec. 34. (a) A municipality or board may foreclose a lien established by this chapter in order to collect fees and penalties. The municipality or board shall recover the amount of the fees and penalties, and a reasonable attorney's fee. The court shall order the sale to be made without relief from valuation or appraisement laws.

(b) Except as otherwise provided by this chapter, actions under this chapter are subject to the general statutes regarding municipal public improvement assessments.

As added by Acts 1981, P.L.309, SEC.96.

IC 36-9-23-35

Proceedings under other chapters not required; powers of department of environmental management, water pollution control board, and state department of health not affected

Sec. 35. No proceedings other than those prescribed by this chapter are required for:

(1) the construction or acquisition of sewage works;

(2) the issuance or sale of bonds; or

(3) the establishment of fees;

under this chapter. However, the functions, powers, and duties of the department of environmental management, the water pollution

control board, and the state department of health are not affected by this chapter.

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.143-1985, SEC.200; P.L.2-1992, SEC.894.

IC 36-9-23-36

Municipal powers; areas outside corporate boundaries

Sec. 36. (a) Except as provided in subsections (b) and (c), a municipality may exercise powers granted by this chapter in areas within ten (10) miles outside its corporate boundaries.

(b) The mileage limitation in subsection (a) does not apply to the provision of sewage treatment service for an entity that is described in section 16(b)(2) of this chapter.

(c) In an area referred to in subsection (a), a municipality may not:

(1) impose fees under this chapter; or

(2) otherwise exercise powers granted by this chapter;

to provide storm water management services to the area if the county provides storm water management services to the area under IC 8-1.5-5.

As added by Acts 1981, P.L.309, SEC.96. Amended by P.L.318-1989, SEC.2; P.L.114-2008, SEC.31.

IC 36-9-23-37

Memorandum of understanding between municipality and storm water board to provide storm water management services

Sec. 37. (a) As used in this section:

(1) "service" means:

(A) imposing fees; and

(B) otherwise exercising powers;

to provide storm water management services; and

(2) "storm water board" refers to a board defined in IC 8-1.5-5-2.

(b) This section applies only if actions of:

(1) a board under section 36 of this chapter; and

(2) a storm water board under IC 8-1.5-5;

are pending at the same time to service the same area outside a municipality's corporate boundaries.

(c) The board and the storm water board must negotiate the adoption by the board and the storm water board of a memorandum of understanding that permits only the board or only the storm water board to service the area referred to in subsection (b). Neither the board nor the storm water board may service the area before a memorandum of understanding is adopted under this subsection. The entity designated to service the area in the memorandum of understanding may finalize the entity's action referred to in subsection (b). The entity not designated to service the area in the memorandum of understanding must terminate the entity's action referred to in subsection (b).

As added by P.L.114-2008, SEC.32.

IC 36-9-24

Chapter 24. Leasing of Sewage Disposal Facilities

IC 36-9-24-1

Application of chapter

Sec. 1. This chapter applies to all municipalities that own and operate sewage works under IC 36-9-23.

As added by Acts 1981, P.L.309, SEC.97.

IC 36-9-24-2

"Sewage disposal facilities" defined

Sec. 2. As used in this chapter, "sewage disposal facilities" means all or part of the facilities of a sewage disposal company furnishing service within the corporate boundaries of a municipality, or within one (1) mile outside those boundaries, including:

(1) certificates of territorial authority;
(2) indeterminate permits;
(3) franchises;
(4) rights-of-way; and
(5) easements;

but does not include the company's corporate stock, going-concern value, or good will.

As added by Acts 1981, P.L.309, SEC.97.

IC 36-9-24-3

Authorization

Sec. 3. (a) A municipality may lease sewage disposal facilities from a sewage disposal company that:

(1) holds a certificate of territorial authority under IC 8-1-2-89; and
(2) is a corporation organized under Indiana law for the purpose of acquiring, constructing, and leasing sewage disposal facilities to a municipality.

(b) In addition to the authority described in subsection (a), a municipality may lease from any person facilities to provide for treatment or disposal of sludge generated by the municipality's sewage works. The lessor under this subsection may be an individual, partnership, corporation, or other entity organized to lease sewage works to a municipality. Notwithstanding any other law, a lessor may acquire, construct, and lease facilities described in this subsection to a municipality without the approval of the utility regulatory commission.

(c) The municipality may operate the leased facilities in conjunction with the operation of the municipally owned sewage works.

As added by Acts 1981, P.L.309, SEC.97. Amended by P.L.5-1988, SEC.222; P.L.186-1988, SEC.2.

IC 36-9-24-4

Maximum duration; options to renew

Sec. 4. The term of a lease under this chapter may not exceed fifty (50) years. However, the lease must provide that the municipality has an option to renew the lease for a further term on similar conditions.
As added by Acts 1981, P.L.309, SEC.97.

IC 36-9-24-5
Options to purchase; authorization of bonds to finance purchase; disposition of property when option not exercised

Sec. 5. (a) A lease under this chapter must provide that the municipality has an option to purchase the property covered by the lease, under the terms and conditions specified in the lease.

(b) If the municipality exercises the option to purchase, it may obtain money to pay the purchase price by issuing and selling revenue bonds under the statutes governing the issuance and sale of sewage works revenue bonds for additions and extensions to the municipally owned sewage works.

(c) If the municipality does not exercise the option to purchase, the property covered by the lease becomes the absolute property of the municipality when:

(1) the lease has expired; and

(2) the municipality has discharged and performed all its obligations under the lease.

The lessor shall then execute proper instruments conveying good and merchantable title to the property to the municipality.
As added by Acts 1981, P.L.309, SEC.97.

IC 36-9-24-6
Optional provisions of leases; payment of taxes, assessments, insurance, and maintenance expenses

Sec. 6. (a) A lease under this chapter may provide that:

(1) as part of the lease rental for the facilities, the municipality shall agree to:

(A) pay all property taxes and assessments levied against or on account of the facilities; and

(B) maintain insurance on the facilities for the benefit of the lessor; and

(2) the municipality shall assume all responsibilities for the operation, maintenance, repair, alteration, and extension of the facilities.

(b) However, the lease rental and the expenses incurred under this chapter are payable solely from the revenues derived from sewage and sewer fees to be collected by the municipality from property and users in the area served by the facilities.
As added by Acts 1981, P.L.309, SEC.97. Amended by P.L.186-1988, SEC.3.

IC 36-9-24-7
Proposed leases; notice and hearing

Sec. 7. (a) When a municipality and a lessor agree on the terms and conditions of a lease proposed to be entered into under this

chapter, notice of a hearing to be held before the municipal legislative body shall be given to all interested persons by publication in accordance with IC 5-3-1. The notice must name the date, place, and hour of the hearing, and set forth a summary of the principal terms of the lease agreed upon, including the name of the lessor, the character of the property to be leased, the lease rental to be paid, and the number of years the lease is to be in effect.

(b) The date of the hearing may not be less than twenty (20) days after publication of the notice.

(c) The proposed lease shall be kept available for inspection by the public before and at the hearing.

(d) At the hearing, all interested persons are entitled to be heard as to the necessity for the execution of the lease and whether the rental to be paid to the proposed lessor under the lease is a fair and reasonable rental for the facilities. The hearing may be adjourned to a later date or dates.

(e) After the hearing, the municipal legislative body may authorize the execution of the lease as originally agreed on, or may, with the consent of the proposed lessor, modify the lease. However, the lease rental as set out in the published notice may not be increased without a new notice and hearing.

As added by Acts 1981, P.L.309, SEC.97. Amended by Acts 1981, P.L.45, SEC.63; P.L.186-1988, SEC.4.

IC 36-9-24-8

Notice of signing of lease contract; petitions, notice, and hearing concerning objections to lease rental

Sec. 8. (a) When a municipal legislative body authorizes the execution of a lease under section 7 of this chapter, notice of the signing of the contract shall be given by publication in the manner prescribed by section 7 of this chapter. Within thirty (30) days after publication of the notice, fifty (50) or more of the:

(1) users in the municipality served by the municipally owned sewage works; or

(2) users served by the facilities to be leased;

may file with the utility regulatory commission (if the lessor is leasing facilities under section 3(a) of this chapter), or with the circuit or superior court of the county where the facility is located (if the lessor is leasing facilities under section 3(b) of this chapter), a petition setting forth their objections to the lease rental, including facts showing that the lease rental is not fair and reasonable.

(b) On receipt of the petition, the commission or the court shall fix a time and place for a hearing on whether the lease rental is fair and reasonable. The hearing may not be less than twenty (20) nor more than sixty (60) days after the commission's or the court's receipt of the petition. At least ten (10) days before the date of the hearing, the commission or the court shall mail notice of the hearing to:

(1) the municipal executive;

(2) the municipality; and

(3) the first ten (10) petitioners listed on the petition, at their

usual place of residence.

(c) The decision of the commission or the court as to whether the lease rental is fair and reasonable is final.

As added by Acts 1981, P.L.309, SEC.97. Amended by P.L.23-1988, SEC.126; P.L.186-1988, SEC.5.

IC 36-9-24-9

Limitations on actions to contest leases

Sec. 9. An action to contest the validity of a lease under this chapter, or to enjoin the performance of any of the terms and conditions of such a lease, may not be instituted later than:

(1) thirty (30) days after publication of notice under section 8(a) of this chapter; or

(2) if a petition has been filed with the utility regulatory commission or the court twenty (20) days after the decision of the commission or the court.

As added by Acts 1981, P.L.309, SEC.97. Amended by P.L.23-1988, SEC.127; P.L.186-1988, SEC.6.

IC 36-9-24-10

Determination of sufficiency by department of environmental management

Sec. 10. A lease under this chapter does not become effective until its provisions for sewage treatment have been found sufficient by the department of environmental management according to rules adopted by the state water pollution control board.

As added by Acts 1981, P.L.309, SEC.97. Amended by P.L.143-1985, SEC.201.

IC 36-9-24-11

Fees; establishment; procedure

Sec. 11. (a) A municipality that leases facilities under this chapter may, by ordinance, establish, bill, and collect fees from the property and users in the area served by the leased facilities. The fees must be sufficient to pay the costs of operation, maintenance, repair, alterations, depreciation, additions, and extensions of the leased facilities, and to pay the lease rental as it becomes due.

(b) The municipal legislative body may use one (1) or more of the following factors to establish the fees:

(1) A flat charge for each sewer connection.

(2) The amount of water used on or in the property.

(3) The number and size of water outlets on the property.

(4) The amount, strength, or character of the sewage discharged into the sewers.

(5) The size of sewer connections.

(6) Any other factors the legislative body considers necessary.

(c) After introduction of the ordinance establishing the fees, but before it is finally adopted, the municipal legislative body shall hold a public hearing at which all of the users of the leased facilities and owners of property served or to be served by the facilities may be

heard concerning the proposed fees. Notice of the hearing, setting forth the proposed schedule of fees, shall be published in accordance with IC 5-3-1. The hearing may be adjourned from time to time.

(d) After the hearing, the municipal legislative body shall adopt the ordinance establishing the fees, either as originally introduced or as modified.

(e) The fees established for any class of users shall be extended to cover any additional property that is subsequently served and falls within the same class, without any hearing or notice.

(f) The municipal legislative body may change or readjust the fees in the same manner by which they were established.

(g) The fees established and collected by the municipality are not subject to the jurisdiction of the utility regulatory commission.

(h) The municipality may collect delinquent fees in the manner provided by IC 36-9-23-31 through IC 36-9-23-34.

As added by Acts 1981, P.L.309, SEC.97. Amended by Acts 1981, P.L.45, SEC.64; P.L.23-1988, SEC.128; P.L.186-1988, SEC.7.

IC 36-9-24-12

Tax liability and exemptions

Sec. 12. Facilities leased to a municipality under this chapter are exempt from all state, county, and other taxes. However, the rental paid to a lessor under the terms of such a lease is subject to all applicable taxes.

As added by Acts 1981, P.L.309, SEC.97. Amended by P.L.186-1988, SEC.8.

IC 36-9-24-13

Exception from compliance with certain statutes

Sec. 13. Except as specifically required in this chapter, a municipality acting under this chapter need not comply with other statutes concerning the lease and acquisition of facilities by municipalities.

As added by Acts 1981, P.L.309, SEC.97. Amended by P.L.186-1988, SEC.9.

IC 36-9-24-14

Operation and lease of facilities within one mile of boundaries considered furnishing of sewage and sewer service

Sec. 14. A municipality that leases and operates sewage disposal facilities in an area within one (1) mile outside its corporate boundaries is considered to be furnishing sewage and sewer service in that area for purposes of IC 36-4-3-13.

As added by Acts 1981, P.L.309, SEC.97.

IC 36-9-25

Chapter 25. Sanitation Department in Certain Cities

IC 36-9-25-1

Application of chapter

Sec. 1. (a) This chapter applies to the following:

(1) A second class city located in a county having a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000).

(2) Each municipality in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) in which the legislative body has adopted this chapter by ordinance.

(b) This chapter also applies to each second class city not in such a county in which the legislative body has adopted this chapter by ordinance.

(c) In addition, in a consolidated city, sections 9 through 38 of this chapter apply to the department of public works and the board of public works, subject to IC 36-3-4-23.

As added by Acts 1981, P.L.309, SEC.98. Amended by P.L.12-1992, SEC.179; P.L.80-1997, SEC.19; P.L.170-2002, SEC.168; P.L.119-2012, SEC.230.

IC 36-9-25-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to a board of sanitary commissioners, or board of public works of a consolidated city.

"Department" refers to a department of public sanitation, or department of public works of a consolidated city.

"District" means the area within the jurisdiction of a department.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-3

Establishment of department; composition of board of commissioners; oaths, surety bonds, and compensation of commissioners

Sec. 3. (a) A department of public sanitation is established as an executive department of the municipality. However, in the case of a district described in subsection (b)(2), the department is established as an executive department of each municipality in the district.

(b) The department is under the control of a board of sanitary commissioners, which is composed as follows:

(1) If the department is established under section 1(a) of this chapter, the board consists of not less than three (3) but not more than five (5) commissioners. All of the commissioners shall be appointed by the municipal executive, unless one (1) commissioner is the municipal engineer. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not

more than three (3) may be of the same political party.

(2) Notwithstanding subdivision (1), if the department is established under section 1(a) of this chapter and the district contains at least one (1) city having a population of less than one hundred thousand (100,000) and at least one (1) town, the board consists of one (1) commissioner from each municipality in the district. The executive of each of those municipalities shall appoint one (1) commissioner. If after all appointments are made the board has fewer than five (5) commissioners, the executive of the municipality with the largest population shall appoint the number of additional commissioners needed to bring the total to five (5). Not more than three (3) of the commissioners may be of the same political party.

(3) If the department is established under section 1(b) of this chapter, the board consists of not less than three (3) commissioners but not more than five (5) commissioners. One (1) commissioner is the city civil engineer. All other commissioners shall be appointed by the city executive. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not more than three (3) of the commissioners may be of the same political party. However, if the department is located in a county having a population of:

(A) more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000);

(B) more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000);

(C) more than one hundred seventy thousand (170,000) but less than one hundred seventy-five thousand (175,000); or

(D) more than one hundred twenty-five thousand (125,000) but less than one hundred thirty-five thousand (135,000);

and the city does not have a city civil engineer, one (1) of the commissioners must be a licensed engineer, appointed by the executive, with at least five (5) years experience in civil or sanitary engineering. In addition, in such a city the commissioners may not hold another public office. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not more than three (3) of the commissioners may be of the same political party.

(c) Before beginning the commissioner's duties, each commissioner shall take and subscribe the usual oath of office. The oath shall be endorsed upon the certificate of appointment and filed with the municipal clerk.

(d) Each commissioner shall also execute a bond in the penal sum of five thousand dollars ($5,000) payable to the state and conditioned upon the faithful performance of the commissioner's duties and the faithful accounting for all money and property that comes under the commissioner's control. The bond must be approved by the municipal executive.

(e) The appointed commissioners are entitled to a salary of not less than three thousand six hundred dollars ($3,600) a year during actual construction and not less than six hundred dollars ($600) a year in other years.

(f) Notwithstanding IC 36-1-8-10, whenever this section requires that the membership of the board of sanitary commissioners not exceed a stated number of members from the same political party, at the time of appointment the appointee must:

(1) have voted in the two (2) most recent primary elections held by the party with which the appointee claims affiliation; or

(2) if the appointee did not vote in the two (2) most recent primary elections or only voted in one (1) of those elections, be certified as a member of the party with which the appointee claims affiliation by that party's county chairman for the county in which the appointee resides.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1982, P.L.1, SEC.64; P.L.319-1989, SEC.1; P.L.320-1989, SEC.1; P.L.12-1992, SEC.180; P.L.170-2002, SEC.169; P.L.175-2006, SEC.21; P.L.17-2007, SEC.1; P.L.119-2012, SEC.231.

IC 36-9-25-4

Commissioners; terms of office; vacancies

Sec. 4. (a) The initial terms of the commissioners are as follows:

(1) If the department is established under section 1(a) of this chapter, the initial terms are one (1), two (2), and three (3) years for the first three (3) commissioners. If additional commissioners are appointed, their initial terms are four (4) years.

(2) If the department is established under section 1(b) of this chapter, the initial terms of the two (2) appointed commissioners are four (4) and three (3) years respectively. However, if a third commissioner has also been appointed, the commissioner's initial term is two (2) years.

All terms begin on January 1 following the establishment of the department.

(b) As the initial terms expire, successors shall be appointed for four (4) year terms. In a county that is listed in section 3(b)(3) of this chapter, the appointments must be made before January 16 in the year the term begins. If a vacancy occurs on the board, the appointing authority shall appoint a commissioner for the remainder of the term within thirty (30) days after the vacancy occurs.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1982, P.L.1, SEC.65; P.L.320-1989, SEC.2; P.L.12-1992, SEC.181.

IC 36-9-25-5

Commissioners; removal from office; appeals

Sec. 5. (a) A commissioner may not be removed from office except upon charges preferred before the municipal executive and a hearing held on them. The only permissible reasons for removal are neglect of duty and incompetence. The commissioner must be given

at least ten (10) days' notice of the time and place of the hearing and the opportunity to produce evidence and examine and cross-examine witnesses. All testimony shall be given under oath. The municipal executive shall put his findings in writing and file them with the municipal clerk.

(b) If the charges are sustained and the commissioner removed, he may appeal the findings within ten (10) days after the date they are filed with the clerk to the circuit or superior court of the county in which the municipality is located. The commissioner shall file an original complaint against the executive, stating the charges preferred and the findings made. The court shall hear the appeal within thirty (30) days after it is filed without a jury and shall either ratify or reverse the finding of the executive. The judgment of the court is final and an appeal may not be taken.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-6

Commissioners; meetings; officers; quorum; approval of actions; adoption of rules

Sec. 6. (a) Within six (6) months after the date this chapter is adopted by ordinance, or within thirty (30) days after the commissioners are appointed in a county that is listed in section 3(b)(3) of this chapter, the board shall hold a meeting for the purpose of organization. The board shall choose one (1) of its members to be president and another to be vice president, who shall perform the usual duties of those offices. The officers serve for a period of one (1) year or until their successors are elected and qualified. The municipal fiscal officer shall perform the same duties with the funds and accounts of the board as with the funds and accounts of the other executive departments of the municipality, except as otherwise provided in this chapter. The fiscal officer receives no additional compensation for performing these duties.

(b) A majority of the members of the board constitutes a quorum, and the concurrence of a majority is necessary for any action of the board. The board shall hold regular meetings at the times it fixes and may call special meetings at the times and upon the notice that it fixes by rule or resolution. All meetings must be open to the public. The board may adopt the rules that it considers necessary to conduct its meetings and business and to control and manage the property under its jurisdiction.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1982, P.L.1, SEC.66; P.L.12-1992, SEC.182.

IC 36-9-25-7

Certain cities; effect of adoption of chapter; enabling ordinances

Sec. 7. (a) This section applies to cities in a county that is listed in section 3(b)(3) of this chapter. However, subsections (b) and (c) of this section also apply to municipalities that adopt this chapter by ordinance under section 1(a) of this chapter.

(b) This chapter does not affect the enabling ordinances, the

duties of the municipality, or the rights of bondholders with regard to sewage works revenue bonds or other outstanding revenue bonds issued before this chapter was adopted by ordinance.

(c) Adoption of this chapter by ordinance does not affect the system of fees for sewage treatment. All revenue derived from fees shall be applied only to the following purposes:

(1) The administrative expense, operation, construction, and maintenance of sewage works.

(2) The retirement of outstanding revenue bonds and any additional revenue bonds that may be issued for construction of sewage works and improvements, additions, and extensions to them.

(3) The payment of the cost of improvements, additions, and extensions to the extent permitted by the ordinances authorizing the issuance of revenue bonds.

(d) The ordinance adopting this chapter must specify that the district initially includes all territory within the corporate boundaries of the city, including any territory, addition, platted subdivision, or unplatted land lying outside the corporate boundaries of the city that has been taken into or has been connected with the public sanitation system of the city in accordance with another statute if the sewage or drainage of that area discharges into or through the sewage system of the city.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1982, P.L.1, SEC.67; P.L.12-1992, SEC.183.

IC 36-9-25-8

Certain cities; enabling ordinances, specifications of purpose; interim board members; prior approval of bonds

Sec. 8. (a) This section applies to cities in a county having a population of more than one hundred twenty-five thousand (125,000) but less than one hundred thirty-five thousand (135,000).

(b) The ordinance adopting this chapter must specify the purpose or purposes for which the district is established, which must be one (1) or more of the following:

(1) To provide for the collection, treatment, and disposal of sanitary sewage and other water-carried wastes of the district.

(2) To provide for the drainage of storm and surface water to relieve sanitary sewers of that water.

(3) To reduce the pollution of watercourses in the district.

(4) To provide for the collection and disposal of trash, garbage, and solid waste.

If not all of these purposes are listed in the ordinance, one (1) or more of the remaining purposes may, by subsequent ordinance, be added to the purposes of the district.

(c) After adoption of the ordinance, three (3) interim members of the board shall be appointed for terms until the January 1 following the adoption. On the January 1 following the adoption, members shall be appointed as provided in sections 3 and 4 of this chapter.

(d) Bonds of the district may not be sold without the prior

approval of the city legislative body. In addition, the legislative body must approve all budgets and tax levies of the district.
As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1982, P.L.1, SEC.68; P.L.12-1992, SEC.184; P.L.170-2002, SEC.170; P.L.119-2012, SEC.232.

IC 36-9-25-9
Jurisdiction of board

Sec. 9. The board shall manage and control all sewage works of the district. The board has concurrent power with the works board of the municipality to construct, reconstruct, maintain, repair, and regulate the use of all connecting and intercepting sewers. The board shall collect and remove garbage, ashes, and other waste materials to prevent the pollution of watercourses within the district and to protect the public health. The board may purchase, acquire, construct, reconstruct, operate, repair, and maintain all sewage works.
As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-10
Powers of board

Sec. 10. In performing its duties the board may do the following:

(1) If needed for sewage works, condemn, appropriate, lease, rent, purchase, and hold any real or personal property within the district or within five (5) miles outside the boundaries of the district.

(2) Enter upon any lots or lands for the purpose of surveying or examining them to determine the location of any sewage works or other structures, roads, levees, or walls connected with or necessary for the use or operation of the facilities.

(3) Design, order, contract for, construct, reconstruct, and maintain the sewage works.

(4) Build or have built all roads, levees, walls, other structures, or lagoons that may be desirable in connection with sewage works and make improvements to the grounds and premises under its control, including the erection and operation of a plant for the removal of sand and gravel from the grounds.

(5) Compel the owners, operators, or lessees of all factories, shops, works, plants, or other structures to treat, purify, or eliminate from the sewage and trade waste of the premises any ingredients that interfere with the successful operation of the sewage works. It may compel the owners, operators, or lessees of the premises located on a watercourse to direct an excessive flow of water into the watercourse.

(6) Review and approve plans for privately constructed plants for the treatment or elimination of trade waste. This is to insure that an owner, operator, or lessee of a house, factory, shop, works, plant, or other structure that may be directly or indirectly connected with sewers emptying into the sewage works does not construct a purification plant, machine, or other device for

eliminating or treating the trade waste from those places for the purpose of eliminating ingredients that would harm the sewage works until the plans have been submitted to and approved by the board. After plans have been submitted to the board, it may reject them in their entirety or order changes to be made that include its supervision and regulation of the operation. An appeal may be taken from the decision of the board rejecting the plans submitted or ordering changes by the owner, operator, or lessee of a proposed private plant, in the same manner as appeals from the works board as far as applicable.

(7) Build or have built a plant or plants and all appurtenances for the treatment of sludge, pressing of sludge, or converting sludge into marketable fertilizer.

(8) Sell any byproduct from the sewage works, or furnish any byproduct free for the use of the municipality or for other public uses, with revenue derived from the sale above the amount needed for maintenance to be paid into the sanitary district bond fund, or if no bonds are outstanding, to revert to its general fund.

(9) Compel the owners, lessees, or agents in possession of lots or land from which sewers discharge sewage or drainage and pollute a watercourse or body of water or constitute a menace to public health and welfare to connect the sewers with drains leading directly or indirectly into sewage works regulating the use and assessing reasonable charges.

(10) Construct or have constructed regulating devices at the junction of combined sewers with intercepting sewers to regulate the discharge into the intercepting and connecting sewers to prevent the pollution of streams or bodies of water or a menace to the public health and welfare.

(11) Construct, add to, reconstruct, or maintain an incinerating or reduction plant or other plants for the conversion, destruction, or disposal of garbage, filth, ashes, dirt, and rubbish. The board may operate the plant in connection with sewage works, and sell any byproducts derived from the garbage, filth, ashes, or rubbish, including sand and gravel taken from lands under the control of the board at prices that are determined by the board, or furnish it free to the municipality or for other public uses, with revenue derived above the amount needed for maintenance to be paid into the sanitary district bond fund, or if no bonds are outstanding, to revert to its general fund.

(12) Take charge of all real property, belonging to the municipality and under the control of the works board, suitably located for sewage works if the board demands the works board, subject to contracts, to relinquish and transfer control of real and personal property used by the works board for the collection and removal of garbage and ashes. The transfer of personal property must be made by resolution adopted by the works board describing the property, with a copy of the

resolution to be delivered to the board and made a matter of record in the minutes of the proceedings of the board.

(13) Collect and remove, or contract for the collection and removal of, all garbage, ashes, dead animals, refuse, and wastes from domestic premises, and construct or have constructed stations, including barns, garages, sheds, blacksmith shops, dumps, incinerators, and all other useful or necessary improvements for this purpose. This includes the power to collect and remove soil and other sewage in areas not provided with sewers, and then to discharge or dispose of it into sewage works.

(14) Enter into contracts in the name of the municipality, with the approval of the executive as provided by law. However, in the case of a district described in section 3(b)(2) of this chapter, the board may enter into contracts in the name of:

(A) a municipality in the district, with the approval of the executive of the municipality; or

(B) the district, with the approval of the board.

(15) Employ and pay for all engineering, architectural, legal, and other professional services needed in carrying out this chapter, including determining the number, prescribing the duties, and fixing the compensation for all its engineers, chemists, attorneys, bacteriologists, surveyors, inspectors, clerks, stenographers, laborers, supervisors, and other employees as provided by law for other executive departments of the municipality.

(16) Adopt resolutions, rules, and bylaws that are necessary to carry out this chapter, including repealing or amending them consistent with this chapter.

(17) Prepare a schedule of reasonable service fees and collect them from persons who own, lease, or possess or control as tenants or as agents lots or lands located outside the boundaries of the district if the lots or lands are benefited by connection into the sanitary sewer system of the district as described in this chapter, with the proceeds from sewage connections and treatment service credited to the general fund of the district for general use and maintenance purposes. The fees may be fixed, repealed, or amended, or the service discontinued, by the board at its discretion.

(18) Sue or be sued in the name of the municipality, with payment for obligations and of a judgment against the municipality in an action to be made solely from funds of the department and its district that may be available for this purpose. In the case of a district described in section 3(b)(2) of this chapter, the board may sue or be sued in the name of any municipality in the district or in the name of the district. If a judgment is entered against a municipality in the district, payment of obligations and the judgment shall be made solely from available funds of the department or the district.

(19) Pay for services rendered or for any other obligations

incurred by the board while executing its powers, or pay any judgments, including interest and costs, by issuing and selling the bonds of the district, or obtaining temporary loans or levying taxes as authorized by this or other statutes for any other purpose.

(20) Lease, rent, purchase, and hold real or personal property more than five (5) miles outside the boundaries of the district if the property is needed:

(A) to store sludge;

(B) to convert sludge into marketable fertilizer; or

(C) by the district to conduct activities that are related to activities described in clause (A) or (B).

As added by Acts 1981, P.L.309, SEC.98. Amended by P.L.175-2006, SEC.22.

IC 36-9-25-11

Fees; establishment; modification; collection; procedure

Sec. 11. (a) In connection with its duties, the board may fix fees for the treatment and disposal of sewage and other waste discharged into the sewerage system, collect the fees, and establish and enforce rules governing the furnishing of and payment for sewage treatment and disposal service. The fees must be just and equitable and shall be paid by any user of the sewage works and the owner of every lot, parcel of real property, or building that is connected with and uses the sewage works of the district by or through any part of the sewerage system. This section applies to owners of property that is partially or wholly exempt from taxation, as well as owners of property subject to full taxation.

(b) The board may change fees from time to time. The fees, together with the taxes levied under this chapter, must at all times be sufficient to produce revenues sufficient to pay operation, maintenance, and administrative expenses, to pay the principal and interest on bonds as they become due and payable, and to provide money for the revolving fund authorized by this chapter.

(c) Fees may not be established until a public hearing has been held at which all the users of the sewage works and owners of property served or to be served by the works, including interested parties, have had an opportunity to be heard concerning the proposed fees. After introduction of the resolution fixing fees, and before they are finally adopted, notice of the hearing setting forth the proposed schedule of fees shall be given by publication in accordance with IC 5-3-1. After the hearing the resolution establishing fees, either as originally introduced or as amended, shall be passed and put into effect. However, fees related to property that is subject to full taxation do not take effect until they have been approved by ordinance of the municipal legislative body or, in the case of a district described in section 3(b)(2) of this chapter, under section 11.3 of this chapter.

(d) A copy of the schedule of the fees shall be kept on file in the office of the board and must be open to inspection by all interested

parties. The fees established for any class of users or property served shall be extended to cover any additional premises thereafter served that fall within the same class, without the necessity of hearing or notice.

(e) A change of fees may be made in the same manner as fees were originally established. However, if a change is made substantially pro rata for all classes of service, hearing or notice is not required, but approval of the change by ordinance of the municipal legislative body is required, and, in the case of a district described in section 3(b)(2) of this chapter, approval under section 11.3 of this chapter is required.

(f) If a fee established is not paid within thirty (30) days after it is due, the amount, together with a penalty of ten percent (10%) and a reasonable attorney's fee, may be recovered by the board from the delinquent user or owner of the property served in a civil action in the name of the municipality.

(g) Fees assessed against real property under this section also constitute a lien against the property assessed. The lien attaches at the time of the filing of the notice of lien in the county recorder's office. The lien is superior to all other liens except tax liens, and shall be enforced and foreclosed in the same manner as is provided for liens under IC 36-9-23-33 and IC 36-9-23-34.

(h) A fee assessed against real property under this section constitutes a lien against the property assessed only when the fee is delinquent for no more than three (3) years from the day after the fee is due.

(i) In addition to the penalties under subsections (f) and (g) and section 11.5 of this chapter, a delinquent user may not discharge water into the public sewers and may have the property disconnected from the public sewers.

(j) The authority to establish a user fee under this section includes fees to recover the cost of construction of sewage works from industrial users as defined and required under federal statute or rule. Any industrial users' cost recovery fees may become a lien upon the real property and shall be collected in the manner provided by law. In addition, the imposition of the fees, the use of the amounts collected, and the criteria for the fees must be consistent with the regulations of the federal Environmental Protection Agency.

(k) The authority to establish a user fee under this section includes fees to recover the costs associated with providing financial assistance under section 42 of this chapter. A fee that is:

(1) established under this subsection or any other law; and

(2) used to provide financial assistance under section 42 of this chapter;

is considered just and equitable if the project for which the financial assistance is provided otherwise complies with the requirements of this chapter.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1981, P.L.45, SEC.65; Acts 1982, P.L.77, SEC.22; P.L.55-1988, SEC.13; P.L.64-1989, SEC.3; P.L.175-2006, SEC.23; P.L.168-2009, SEC.10.

IC 36-9-25-11.1
Deposits to secure payment of fees

Sec. 11.1. In a consolidated city, the board may also require the users of the sewage service to make a reasonable deposit in advance of a connection or reconnection to the sewerage system to secure payment of the fees. The deposit may not exceed thirty-three percent (33%) of the estimated annual cost of the service for a particular user.

As added by P.L.349-1985, SEC.1.

IC 36-9-25-11.2
Fees; notice of delinquency

Sec. 11.2. If a fee established under section 11 of this chapter is not paid within thirty (30) days after it is due, a copy of any notice of delinquency sent to a delinquent user who is a tenant must be sent to the owner of the property occupied by the tenant at the latest address of the owner as shown on the property tax records of the county in which the property is located.

As added by P.L.237-1997, SEC.1.

IC 36-9-25-11.3
Procedure for setting fees in certain districts

Sec. 11.3. (a) This section applies to a board and district created under section 3(b)(2) of this chapter.

(b) For purposes of this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(c) For purposes of this section, "fees" means fees:

(1) for the treatment and disposal of sewage and other waste discharged into the sewer system of the district; and

(2) related to property that is subject to full taxation.

(d) Fees do not take effect until the fees are:

(1) approved by the board; and

(2) either:

(A) approved in an ordinance adopted by the legislative body of each municipality in the district; or

(B) established by the commission under this section.

(e) Not earlier than thirty (30) days after fees are approved under subsection (d)(1), the board may petition the commission to establish the fees under:

(1) the procedures set forth in IC 8-1-2; and

(2) subsection (f).

(f) The commission shall observe the following requirements when establishing fees for a district:

(1) Fees must be sufficient to enable the district to furnish reasonably adequate services and facilities.

(2) Fees for a service must be nondiscriminatory, reasonable, and just and must produce sufficient revenue, together with taxes levied under this chapter, to do the following:

(A) Pay all legal and other necessary expenses incident to the operation of the utility, including the following:

(i) Maintenance costs.
(ii) Operating charges.
(iii) Upkeep.
(iv) Repairs.
(v) Depreciation.
(vi) Interest charges on bonds or other obligations, including leases.

(B) Provide a sinking fund for the liquidation of bonds or other obligations, including leases.

(C) Provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the board. The amount may not exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals, if any.

(D) Provide adequate money for working capital.

(E) Provide adequate money for making extensions and replacements to the extent not provided for through depreciation in clause (A).

(F) Provide money for the payment of taxes that may be assessed against the district.

(3) The fees charged by the district must produce an income sufficient to maintain district property in a sound physical and financial condition to render adequate and efficient service. Fees may not be too low to meet these requirements.

(4) If the board petitions the commission under subsection (e), the fees established must produce a reasonable return on the sanitary district facilities.

(5) Fees other than fees established for a municipally owned utility taxed under IC 6-1.1-8-3 must be sufficient to compensate the municipality for taxes that would be due the municipality on the utility property located in the municipality if the property were privately owned.

(6) The commission must grant a request by the board to postpone an increase in fees until after the occurrence of a future event.

(g) The board may transfer fees in lieu of taxes established under subsection (f)(5) to the general fund of the appropriate municipality.

(h) Fees established by the commission under this section take effect to the same extent as if the fees were approved by an ordinance adopted by the legislative body of each municipality in the district.

As added by P.L.175-2006, SEC.24.

IC 36-9-25-11.5

Discontinuance of water service; disputed bills; notice; liability of utility

Sec. 11.5. (a) As an alternative to the penalties provided in section 11 of this chapter, the board may require that the water utility providing water service to a delinquent user discontinue service until payment of all overdue user fees, together with any penalties provided in this section, are received by the municipality.

(b) If a fee established is not paid within one (1) monthly billing cycle after it is due, the board or its designee shall send notice to the delinquent user stating:

(1) the delinquent amount due, together with any penalty;

(2) that water service may be disconnected if the user continues not to pay the delinquency and any penalty; and

(3) the procedure for resolving disputed bills.

The municipality shall provide by ordinance a procedure for resolving disputed bills that includes an opportunity for a delinquent user to meet informally with designated personnel empowered to correct incorrect charges. Payment of a disputed bill and penalties by a user does not constitute a waiver of rights to subsequently claim and recover from the municipality sums improperly charged to the user.

(c) If the user fails to pay the delinquent amount or otherwise resolve the charges as specified in subsection (a), the board or its designee shall give written notice to the water utility serving the user to discontinue water service to the premises designated in the notice until notified otherwise. The notice must identify the delinquent sewer user in enough detail to enable the water utility to identify the water service connection that is to be terminated. Upon receipt of the notice, the water utility shall disconnect water service to the user.

(d) Water service may not be shut off under this section if a local board of health has found and certified to the municipality that the termination of water service will endanger the health of the user and others in the municipality.

(e) The water utility that discontinues water service in accordance with an order from the board or its designee does not incur any liability except to the extent of its own negligence or improper conduct.

(f) If the water utility does not discontinue service within thirty (30) days after receiving notice from the municipality, the utility is liable for any user fees incurred thirty (30) days after receipt of notice to discontinue water service and that are not collected from the user.

As added by P.L.349-1985, SEC.2. Amended by P.L.55-1988, SEC.14; P.L.64-1989, SEC.4; P.L.93-1993, SEC.9; P.L.98-1993, SEC.6.

IC 36-9-25-11.7

Overdue user fees; ordinance to expense as bad debts

Sec. 11.7. A municipality may, by ordinance, establish a procedure to expense as bad debt overdue user fees, together with any penalties provided under this chapter, if the amount of fees and penalties involved does not exceed twenty-five dollars ($25).

As added by P.L.55-1988, SEC.15.

IC 36-9-25-12

Basis of fees; measurement of water and sewage usage

Sec. 12. (a) The fees for the treatment and disposal of sewage may

be based on:

(1) a flat charge for each sewer connection;

(2) the amount of water used on the premises;

(3) the number and size of water outlets on the premises;

(4) the amount, strength, or character of sewage discharged into the sewers;

(5) the size of sewer connections; or

(6) any combination of these factors or other factors that the board determines necessary in order to establish just and equitable rates and charges.

(b) The board may enter into contracts with a water utility furnishing water service to users or property served in the district relative to:

(1) ascertaining the amount of water consumed;

(2) the computation of the amount of charge to be billed to each user or property served;

(3) the billing and collection of the amounts; and

(4) the discontinuance of water service to delinquent users as provided in section 11.5 of this chapter.

(c) As an alternative to subsection (b), the board may require a water utility furnishing water service to users or property served in the district to perform the functions listed in subsection (b). If the water utility and the board do not agree upon the reasonable compensation to be paid to the water utility for the services described in subsection (b), the board or the water utility may apply to the utility regulatory commission to establish the reasonable compensation for the services. Upon receipt of an application, the utility regulatory commission, after notice to the water utility and the board and after a hearing, shall establish the reasonable compensation to be paid for the services. The water utility shall then render the services described in return for the compensation fixed.

(d) If a person owns or occupies real property that is connected to the sewage works and either directly or indirectly uses water obtained from a source other than a water utility that is not measured by a water meter acceptable to the board, then the board may require the person, at his own expense, to furnish, install, and maintain a water or sewage measuring device acceptable to the board.

As added by Acts 1981, P.L.309, SEC.98. Amended by P.L.349-1985, SEC.3; P.L.23-1988, SEC.129.

IC 36-9-25-13

Authorized actions; regulation of kinds or amounts of chemicals and strengths of waste and other substances detrimental to sewage works

Sec. 13. (a) The board, in the name of the municipality, may bring an action to recover damages for:

(1) the breach of an agreement, express or implied, relating to the construction, management, or repair of sewage works under its control, including real property; or

(2) injury to the personal or real property used in the sanitary

disposal of sewage in a municipality located within the district.

(b) The board may recover possession of property, may bring an action for the specific performance of an agreement, and may use, in the name of the municipality, any legal or equitable remedy necessary to protect and enforce the rights and perform the duties of the department.

(c) The board may establish limits on the kinds or amounts of chemicals and the strength of the waste or other substances the board considers detrimental to the sewage works. If a person discharges sewage into the sewage works that exceeds limits set by the board, the board may order the person to cease using the sewage works upon a hearing with notice. However, if evidence indicates a public health hazard is being created, the board may summarily order the person to cease without notice or hearing. Orders of the board may be enforced by bringing an action to enjoin discharges into the sewer works in any court in the county having jurisdiction to hear equity actions. A person aggrieved by an order of the board is entitled to appeal the order to the circuit or superior court of the county in which the city is located. If an order is given without notice, an appeal must be perfected within ten (10) days after receipt of the order or the right to appeal is considered waived.

(d) The board of a department in a district described in section 3(b)(2) of this chapter may bring an action in the name of:

(1) a municipality in the district with the approval of the executive of the municipality; or

(2) the district, with the approval of the board.

As added by Acts 1981, P.L.309, SEC.98. Amended by P.L.175-2006, SEC.25.

IC 36-9-25-14

Special taxing districts; incorporation of territory upon request; sewer service agreements

Sec. 14. (a) As to each municipality to which this chapter applies:

(1) all the territory included within the corporate boundaries of the municipality; and

(2) any territory, town, addition, platted subdivision, or unplatted land lying outside the corporate boundaries of the municipality that has been taken into the district in accordance with a prior statute, the sewage or drainage of which discharges into or through the sewage system of the municipality;

constitutes a special taxing district for the purpose of providing for the sanitary disposal of the sewage of the district in a manner that protects the public health and prevents the undue pollution of watercourses of the district.

(b) Upon request by:

(1) a resolution adopted by the legislative body of another municipality in the same county; or

(2) a petition of the majority of the resident freeholders in a platted subdivision or of the owners of unplatted land outside the boundaries of a municipality, if the platted subdivision or

unplatted land is in the same county;

the board may adopt a resolution incorporating all or any part of the area of the municipality, platted subdivision, or unplatted land into the district.

(c) A request under subsection (b) must be signed and certified as correct by the secretary of the legislative body, resident freeholders, or landowners. The original shall be preserved in the records of the board. The resolution of the board incorporating an area in the district must be in writing and must contain an accurate description of the area incorporated into the district. A certified copy of the resolution, signed by the president and secretary of the board, together with a map showing the boundaries of the district and the location of additional areas, shall be delivered to the auditor of the county within which the district is located. It shall be properly indexed and kept in the permanent records of the offices of the auditor.

(d) In addition, upon request by ten (10) or more interested resident freeholders in a platted or unplatted territory, the board may define the limits of an area within the county and including the property of the freeholders that is to be considered for inclusion into the district. Notice of the defining of the area by the board, and notice of the location and limits of the area, shall be given by publication in accordance with IC 5-3-1. Upon request by a majority of the resident freeholders of the area, the area may be incorporated into the district in the manner provided in this section. The resolution of the board incorporating the area into the district and a map of the area shall be made and filed in the same manner.

(e) In addition, a person owning or occupying real property outside the district may enter into a sewer service agreement with the board for connection to the sewage works of the district. If the agreement provides for connection at a later time, the date or the event upon which the service commences shall be stated in the agreement. The agreement may impose any conditions for connection that the board determines. The agreement must also provide the amount of service charge to be charged for connection if the persons are not covered under section 11 of this chapter, with the amount to be fixed by the board in its discretion and without a hearing.

(f) All sewer service agreements made under subsection (e) shall be recorded in the office of the recorder of the county where the property is located. The agreements run with the property described and are binding upon the persons owning or occupying the property, their personal representatives, heirs, devisees, grantees, successors, and assigns. Each recorded agreement that provides for the property being served to be placed on the tax rolls shall be certified by the board to the auditor of the county where the property is located. The certification must state the date the property is to be placed on the tax rolls, and upon receipt of the certification together with a copy of the agreement, the auditor shall immediately place the property certified upon the rolls of property subject to the levy and collection of taxes for the district. An agreement may provide for the collection of a

service charge for the period services are rendered before the levy and collection of the tax.

(g) Except as provided in subsection (i), sewer service agreements made under subsection (e) must contain a provision that persons (other than municipalities) who own or occupy property agree for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that they will:

(1) neither object to nor file a remonstrance against the proposed annexation of the property by a municipality within the boundaries of the district;

(2) not appeal from an order or a judgment annexing the property to a municipality; and

(3) not file a complaint or an action against annexation proceedings.

(h) This section does not affect any sewer service agreements entered into before March 13, 1953.

(i) Subsection (g) does not apply to a landowner if all of the following conditions apply:

(1) The landowner is required to connect to a sewer service because a person other than the landowner has polluted or contaminated the area.

(2) The costs of extension of service or connection to the sewer service are paid by a person other than the landowner or the municipality.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1981, P.L.45, SEC.66; P.L.172-1995, SEC.6.

IC 36-9-25-15

Special taxing districts; incorporation of territory by board

Sec. 15. (a) The board, on its own initiative, whenever any territory, by its contour and watershed, or because of the extension of sewers by the municipality, is capable of draining sewage into or connecting with the sanitary system, may incorporate any territory, whether platted or unplatted, into the district by adopting a resolution to that effect describing the reason it is to be included. A certified copy of the resolution is conclusive evidence in any proceeding that the territory described was properly incorporated and constitutes a part of the district, subject to this chapter.

(b) Immediately after the passage of a resolution under subsection (a), a notice stating the time and place for a public hearing on the resolution shall be published in accordance with IC 5-3-1. By the date and time of the hearing any affected person may file in the office of the board a written remonstrance to having his lands included. The board shall either confirm, modify, or rescind the resolution after the hearing. An appeal may be taken from the decision by one (1) or more persons considering themselves aggrieved or injuriously affected, as long as those appealing have filed written remonstrances, as provided in this subsection, by filing their complaint within thirty (30) days after the final decision of the board. The appeal shall be governed by IC 34-13-6.

(c) If the court is satisfied upon hearing an appeal under subsection (b):

(1) that less than seventy-five percent (75%) of the persons owning property in the territory sought to be incorporated in the district have remonstrated; and

(2) that the incorporation of the territory into the district will be for its interest and will cause no manifest injury to the persons owning property in the territory;

the court shall so find and the incorporation shall be ordered. If the court is satisfied that seventy-five percent (75%) or more of the persons owning property in the territory sought to be incorporated have remonstrated, then the incorporation may not be ordered unless the court further finds from the evidence that unless it is incorporated, the health and welfare of residents of the territory or of the adjoining lands will be materially affected and that the safety and welfare of the inhabitants and property of other persons and property will be endangered.

(d) Pending an appeal under subsection (b) and during the time within which the appeal may be taken, the territory sought to be incorporated is not a part of the district. Upon the determination of the appeal, the judgment must particularly describe the resolution upon which the appeal is based. The clerk of the court shall deliver a certified copy of the judgment to the secretary of the board, who shall record it in the minute book of the board and make a cross-reference to the page upon the margin where the original resolution was recorded. If a decision is adverse to an incorporation, further proceedings may not be taken by the board to incorporate that territory within the district for a period of one (1) year after the rendition of the judgment.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1981, P.L.45, SEC.67; P.L.1-1998, SEC.216.

IC 36-9-25-16

Tax levies; liability of disannexed and newly added territory

Sec. 16. (a) If any bonds of the district are outstanding, and until they are fully paid, all property included within the district at the time the bonds were issued and sold remains subject to taxes levied and for its proportion of the indebtedness, notwithstanding that the property and territory may have been disannexed from the district.

(b) Any property in territory added to the district, as a condition of the special benefits it receives, becomes liable for its proportion of all taxes levied to pay all bonds of the special taxing district that are either outstanding or are later issued and sold. The proportion of taxation shall be determined in the same manner as when territory is annexed to a municipality under IC 36-4-3.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-17

Payment of preliminary expenses

Sec. 17. (a) All preliminary expenses actually incurred by the

board in providing necessary records, giving notice, employing clerks, engineers, attorneys, and other employees, making surveys, and all other expenses that must be paid before the issue and sale of the bonds under section 27 of this chapter, and before the collection of taxes levied under section 32 of this chapter, shall be met and paid according to this section. The board shall, from time to time, certify items of expense to the municipal fiscal officer, directing him to pay those amounts. The fiscal officer shall at once draw his warrant, with the warrant to be paid out of the unappropriated part of the general fund of the municipality, without a special appropriation being made by the municipal legislative body.

(b) If there is no unappropriated money in the general fund, the fiscal officer shall recommend to the legislative body either the temporary transfer from other funds of the municipality of a sufficient amount to meet the items of expense, or the making of a temporary loan for this purpose. The legislative body shall, at once, make the transfer or authorize the temporary loan in the same manner that other temporary loans are made by the municipality. However, the fund or funds of the municipality from which payments are made must be fully reimbursed and repaid by the board:

(1) out of the first proceeds of the sale of bonds to the extent that expenses paid are chargeable to the cost of acquiring land or the construction of a work under a resolution adopted and confirmed under section 18 of this chapter; or

(2) out of the fund raised by taxation under section 32 of this chapter to the extent that expenses paid are in the nature of a general expense of the board.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-18

Findings; preparation of general plans in connection with project; declaratory resolutions; adoption; remonstrance; hearings and appeals

Sec. 18. (a) If upon investigation it is found by the board of a municipality located on or near a watercourse that:

(1) the watercourse is being polluted by the discharge of sewage, drainage, or other harmful matter from the sewage or drainage systems of the municipality;

(2) a system of sewage disposal is necessary for the public health and welfare; and

(3) the construction of a system for the disposal of the sewage and drainage of the territory will be of public utility and benefit;

the board shall have prepared general plans for the entire project, including a plat showing the general scope of it and the location and bounds of all real property then considered necessary to be acquired or removed, or that would be injuriously affected, in connection with the project. It shall also have prepared separate descriptions of all real property and of all personal property affected, and shall determine the estimated cost of all the work, including the estimated damages to be awarded to the owners of the real and personal

property. The adoption or filing of any specifications covering all or parts of the project and details of other matters is optional with the board, and it may also receive and file alternate plans and specifications, submitted by any person for all or any part of the project. The board may, at the final hearing, adopt all or any of these materials in place of the board's plans and specifications.

(b) When general plans under subsection (a) have been prepared by the board, it shall adopt a resolution declaring that, upon investigation, it has been found:

(1) that the watercourse particularly described in the resolution is being polluted by the discharge of sewage, drainage, or other harmful matter accumulating within the boundaries of the district; and

(2) that it is necessary for the public health and welfare and will be of public utility and benefit to construct and maintain sewage works to prevent the pollution of the watercourse, and, for that purpose, to appropriate the property described.

The board shall adopt all general plans and estimates in the resolution, which must be open to inspection by all persons interested in or affected by the appropriation of property or the construction of the work.

(c) Upon the adoption of the resolution, the board shall, in accordance with IC 5-3-1, publish notice of:

(1) the adoption; and

(2) the fact that general plans and estimates have been prepared and can be inspected.

The notice must name a date on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings and when it will determine the public utility and benefit of the project. A similar notice shall be mailed to each owner of land to be appropriated under the resolution. If a nonresident owner's residence is unknown to the board, then he is considered to have been notified of the pendency of the proceedings by the publication of notice. All persons affected in any manner by the proceeding, including all taxpayers in the district, are considered to be notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the board by the original notice by publication.

(d) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by metes and bounds whether the property is composed of one (1) or more lots or parcels and whether it is owned by one (1) or more persons. If the land or a part of it is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(e) The board may, at any time before the adoption of the resolution, obtain from the owner or owners of the land an option for its purchase or may enter into a contract for its purchase upon terms and conditions that the board considers best. The option or contract

is subject to the final action of the board confirming, modifying, or rescinding the resolution and to the condition that the land may be paid for only out of the special fund resulting from the sale of sanitary district bonds as provided in this chapter.

(f) The title to any land, rights-of-way, or other property acquired under the resolution, whether by purchase or by appropriation, does not vest in the municipality until it is paid for out of the special fund created by the sale of bonds. Neither an indebtedness nor an obligation of any kind is incurred by the municipality in its corporate capacity because of the acquisition of land, rights-of-way, or other property. All land, rights-of-way, or other property acquired shall be held by the municipality in trust for sanitary purposes for the use and benefit of the district and for the general public.

(g) At or before the time fixed for the hearing, an owner of land, rights-of-way, or other property to be appropriated under the resolution or injuriously affected, including any person owning real or personal property located within the boundaries of the district, may file a written remonstrance with the board. At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering them, the board shall take final action determining the public utility and benefit of the proposed proceedings and confirm, modify and confirm, or rescind the resolution. The final action shall be recorded, and is final and conclusive upon all persons. However, a person who has remonstrated in writing as provided in this subsection and who is aggrieved by the decision of the board, may, within ten (10) days, take an appeal to the superior court of the county in which the district is located.

(h) The remonstrator shall file in the office of the clerk of the court a copy of the order of the board and his remonstrance, together with his bond conditioned to pay the costs of the appeal if the appeal is determined against him. The only ground of remonstrance that the court has jurisdiction to hear on appeal is whether it will be of public utility and benefit to establish and construct the proposed sewage works described in the resolution. The burden of proof is on the remonstrator. The cause shall be summarily tried by the court without a jury as other civil cases are tried. All of the judges of the court shall sit in the trial. All remonstrances upon which an appeal is taken shall be consolidated and heard as one (1) cause of action by the court. The cause shall be heard and determined by the court within thirty (30) days after the time of the filing of the appeal. Upon the date fixed for hearing, the court shall hear evidence upon the remonstrances and shall either confirm the final action of the board or sustain the remonstrance. The judgment of the court is final and conclusive upon all persons, and an appeal may not be taken from the judgment of the court.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1981, P.L.45, SEC.68; P.L.38-1984, SEC.4; P.L.17-1985, SEC.26.

IC 36-9-25-19
Construction of sewage works; special tax

Sec. 19. After final action of the board or of the court confirming the resolution in its original or a modified form, all property located within the boundaries of the district is subject to a special tax to provide money to pay the total cost of the construction of the sewage works, including the acquisition of all necessary land or rights-of-way as described in the resolution of the board and all necessary incidental expenses. The special tax constitutes the amount of benefits resulting to the property from the proceedings and shall be levied as provided in this chapter.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-20
Construction of sewage works; condemnation; list of affected property and owners

Sec. 20. If the resolution provides for the appropriation of property or rights-of-way, after final action by the board or by the court on appeal, the board shall have prepared a list of all the owners or holders of property and of interests sought to be taken or that will be injuriously affected. The list must also show with reasonable certainty a description of the property to be appropriated or injuriously affected belonging to those persons or owners, and this certainty in names and descriptions need not exceed that required in the assessment of taxes.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-21
Construction of sewage works; condemnation awards; notification of owners

Sec. 21. (a) After completion of the list, the board shall consider, determine, and award the damages sustained by the owners of the parcels of land or rights-of-way required to be taken and appropriated or that will be injuriously affected. When the awards are completed, the board shall have a written notice served upon the owner of each piece of property, showing the amount of the award, by leaving a copy at his last usual place of residence in the municipality or county or by delivering the copy to the owner personally.

(b) If the person is a nonresident, or if his residence is unknown, he shall be notified by publication in accordance with IC 5-3-1. The notice must name a date on which the board shall receive or hear remonstrances from persons regarding the amount of their respective awards of damages. Persons not included in the lists of awards, but claiming to be entitled to them, are considered to have been notified of the pendency of the proceedings by the original notice of the resolution of the board as provided in section 18 of this chapter.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1981, P.L.45, SEC.69.

IC 36-9-25-22

Construction of sewage works; condemnation awards; mentally incompetent persons

Sec. 22. (a) If a person having an interest in land affected by the proceedings is mentally incompetent or under eighteen (18) years of age, the board shall certify that fact to its attorney.

(b) The attorney shall apply to the proper court and secure the appointment of a guardian for that person. The board shall then give notice to the guardian, who shall appear and protect the interest of the protected person. However, if the mentally incompetent person or person under eighteen (18) years of age already has a guardian, the notice may be served upon that guardian. The requisites of notice to the guardian are the same as for other notices.

(c) If there are defects or irregularities in the proceedings with respect to one (1) or more interested persons, they do not affect the proceedings unless they touch the interests or property of the person or persons and do not affect any other person. If a defect does exist, supplementary proceedings may be had in order to supply them.

As added by Acts 1981, P.L.309, SEC.98. Amended by P.L.33-1989, SEC.128.

IC 36-9-25-23

Construction of sewage works; condemnation awards; remonstrances; hearings

Sec. 23. (a) A person notified or considered to be notified under the preceding sections of this chapter may appear before the board on the day fixed for hearing remonstrances regarding awards and remonstrate in writing against them. All persons appearing before the board who have an interest in land or rights-of-way to be appropriated or injuriously affected must be given a hearing.

(b) After the remonstrances have been received and the hearing held, the board shall either sustain the awards or modify the awards by increasing or decreasing them.

(c) A person remonstrating in writing who is aggrieved by the decision of the board may, within ten (10) days after the decision, take an appeal to the circuit or superior court in the county in which the municipality is located. The appeal affects only the amount of the award of the person appealing.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-24

Construction of sewage works; condemnation awards; appeals

Sec. 24. (a) An appeal may be taken by filing an original complaint in court against the board stating the action of the board regarding the award and stating the facts relied upon as showing an error on the part of the board. The court shall hear the matter of the award de novo and confirm, decrease, or increase the award. The cause shall be tried by the court without a jury as other civil cases are tried.

(b) All appeals shall be heard and determined by the court within thirty (30) days after the appeal is filed. The plaintiff in the appeal

may recover costs only if the court increases the amount of damages awarded in favor of the property owner by ten percent (10%) or more.
As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1981, P.L.317, SEC.24.

IC 36-9-25-25
Construction of sewage works; condemnation awards; manner of payment

Sec. 25. (a) The board shall, upon the completion of the award of damages or upon the determination of appeals taken, make out certificates for the proper amounts and in favor of the proper persons. Upon the presentation of the certificate to the municipal fiscal officer, the person is entitled to the amount due out of the separate and specific fund derived from the sale of bonds provided in section 27 of this chapter. The payments may not be made from other sources or funds.

(b) Certificates or vouchers shall, whenever practical, be actually tendered to the person entitled to them. If this is impractical, they shall be kept for the persons in the office of the board. The making and filing of the certificates constitute valid and effectual tender to the person entitled to them at the time or as soon as there is sufficient money to pay them. They shall be delivered to him on request.

(c) In case of dispute or doubt as to which person is entitled to the money, the board shall make out the certificate in favor of the attorney appointed by the board for the use of persons entitled to it. The attorney shall then draw the money and pay it into the court in a proceeding requiring the various claimants to interplead and have their respective rights determined.

(d) If an injunction is obtained because damages have not been paid or tendered, the board may tender the certificate for the amount with interest from the time of entry upon the property if entry has been made, plus all accrued costs. The injunction shall then be disposed of, if there is sufficient money to pay the certificate. The pendency of an appeal as provided in section 24 of this chapter does not affect the validity of a tender made under this section, but the board may enter upon and take possession of the property in question.
As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-26
Construction of sewage works; notice of confirmation of resolution; bids; contracts

Sec. 26. (a) If the board, or the court hearing an appeal, finally confirms the resolution, the board shall have published, in accordance with IC 5-3-1, a notice of the general nature of the work and of the fact that detailed plans, drawings, and specifications are on file in the office of the board.

(b) The board may advertise for and receive construction bids at any time after confirming the resolution. The board shall require

each bidder to deposit with his bid a certified check or satisfactory bond by an incorporated surety company in good standing and qualified to do business in Indiana in an amount that the board determines to be at least sufficient to insure the execution of the contract for which the bid is made. Each bidder shall also file with his bid an affidavit that he has not, directly or indirectly, entered into any combination, collusion, understanding, or agreement with another bidder to maintain the price of the work or contract, to prevent another bidder from bidding, or to induce a bidder to refrain from bidding on the contract or work. The affidavit must also state that the bidding is made without regard to any other bidder and without any agreement, understanding, or combination, either directly or indirectly, with any other persons concerning the bidding.

(c) If, after a contract has been let, it appears that the successful bidder is guilty of collusion, combination, understanding, or agreement, as defined in the affidavit, the successful bidder forfeits the contract and the work shall be relet by the board. The board may impose conditions upon the bidders regarding bond surety, guaranteeing the good faith and responsibility of the bidders and the faithful performance of the work according to contract, keeping the work in repair for a given length of time, or for another purpose. The board may reject any bids, but if it does reject all bids notices must be published as originally required before other bids may be received.

(d) The board may let part of the proposed work under different contracts. A contract may not be let at a bid higher than the estimate of cost of the work to be performed under the contract. However, the board may make a new estimate of the cost of the work at any time after the adoption of the resolution required by section 18 of this chapter and before the advertising for the receipt of bids for the construction of the work. If a new estimate is made, notice shall be given by publication in accordance with IC 5-3-1 naming a date when a public hearing will be held to determine the public utility of the new estimate.

(e) The contracts must expressly state that payments for all work shall be made only from the special fund derived from the proceeds of bonds authorized for this purpose. If a contract is executed for the construction of sewage works under this chapter, the validity of the contract may be questioned only in an action to enjoin the performance of the contract brought within fifteen (15) days after the date of execution. Sixteen (16) days after execution, all proceedings and orders of the board preliminary to and including the contract are valid, conclusive, and binding upon all persons and are not subject to attack.

(f) Additions or extensions to sewage works constructed under this chapter shall be built under contract entered into under this section in the same manner as the contract for the original works. The cost of additions or extensions, including additional land or rights-of-way acquired by the board, may be met by the sale of additional bonds to be issued and sold by the board and the levy of

special taxes to retire the bonds as provided in this chapter.
As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1981, P.L.45, SEC.70.

IC 36-9-25-27
Construction of sewage works; bond issues

Sec. 27. (a) To raise money to pay for the property and the construction, and in anticipation of the special tax to be levied as provided in sections 19 and 29 of this chapter, the board may have issued, in the name of the municipality, the bonds of the district. The bonds may not exceed in amount the estimated cost of all land, rights-of-way, and other property to be acquired and the estimated cost of all construction as provided in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the cost of supervision and inspection during the period of construction. The expenses to be covered by the bond issue include all expenses of every kind actually incurred preliminary to acquisition of the property and the construction of the work, such as the cost of necessary records, engineering expenses, publication of notices, salaries, and other expenses.

(b) If different parcels of land are to be acquired, or if more than one (1) contract for work is let by the board at approximately the same time, whether under one (1) or more resolutions of the board, the estimated cost may be combined in one (1) bond issue. The bonds shall be issued in denominations of at least one thousand dollars ($1,000) each and shall have a final maturity of not later than fifty (50) years from the date of issue. The bonds are negotiable unless registered, but may be made registrable for principal only or principal and interest. The bonds may be made redeemable before the stated maturities on terms and conditions and at the premiums that the board determines in the resolution authorizing the issuance of the bonds.

(c) Upon adoption of a resolution ordering bonds, the board shall certify a copy of the resolution to the municipal fiscal officer, who shall then prepare the bonds. The municipal executive shall execute the bonds and the fiscal officer shall attest them. The bonds and interest are exempt from taxation for all purposes, except the financial institutions tax imposed under IC 6-5.5 or an inheritance tax imposed under IC 6-4.1. All bonds issued by the board shall be sold by the fiscal officer to the highest bidder, but not for less than par, after giving notice of the sale by publication in accordance with IC 5-3-1.

(d) The bonds are not a corporate obligation or indebtedness of the municipality, but constitute an indebtedness of the district as a special taxing district. Except as provided in section 29(c) of this chapter, the bonds and interest are payable only out of a special tax levied upon all the property of the district as provided in this chapter. The bonds must recite these terms upon their face, together with the purpose for which they are issued.

(e) The board may sell bonds of the district to run for a period of five (5) years from the date of sale. The five (5) year bonds are exempt from taxation for all purposes except for the financial institutions tax imposed under IC 6-5.5. The board may sell bonds of the district in series for the purpose of refunding at any time the five (5) year bonds. Actions questioning the validity of the bonds issued or to prevent their issue may not be brought after the date set for the sale of the bonds, and all bonds are incontestable for any cause after that date.

(f) The total amount of the bond issue, including bonds already issued and to be issued, may not exceed twelve percent (12%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15. All bonds issued in violation of this subsection are void.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1981, P.L.45, SEC.71; P.L.27-1986, SEC.5; P.L.21-1990, SEC.57; P.L.80-1997, SEC.20; P.L.254-1997(ss), SEC.34; P.L.6-1997, SEC.223; P.L.2-1998, SEC.86; P.L.2-1998, SEC.87.

IC 36-9-25-28
Deposit and use of funds

Sec. 28. (a) All proceeds from the sale of bonds under section 27 of this chapter shall be kept as a separate and specific fund to pay the cost of land, rights-of-way, and other property acquired and for construction under the resolution, including all costs and expenses incurred in connection with the project. The proceeds may not be used for any other purpose. The proceeds shall be deposited at interest with the depository or depositories of other public funds of the municipality, and all interest collected on them belongs to the fund. Any surplus of funds remaining out of the proceeds after all expenses are paid shall be paid into and becomes a part of the sanitary district bond fund.

(b) Money derived from sources other than the sale of bonds, such as state or federal reimbursement grants, matching funds, or other contributions, including money derived from a project financed from bond monies, shall be deposited in:

(1) the sanitary district bond fund;
(2) the sanitary maintenance and general expense fund; or
(3) a separate fund established by the board for extensions, additions, and improvements to the sewage works of the district.

The money may be expended as other money is expended by the board.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-29
Construction of sewage works; payment of bonds; tax levy; use of revenues in lieu of levy

Sec. 29. (a) In order to raise money to pay all bonds issued under section 27 of this chapter, including interest, and except as set forth

in subsection (c), the board shall levy each year a special tax upon all the property of the district, to meet and pay the principal of the bonds as they mature, together with all accrued interest. The board shall have the tax levied each year certified to the municipal fiscal officer and to the auditor of the county in which the district is located by October 1. The tax as levied and certified shall be estimated and entered upon the tax duplicate by the county auditor. The tax shall be collected and enforced by the county treasurer in the same manner as state and county taxes are estimated, entered, collected, and enforced.

(b) As the tax is collected by the county treasurer, it shall be accumulated and kept in a separate fund to be known as the sanitary district bond fund. It shall be applied to the payment of the bonds and interest as they mature and not to another purpose. All accumulations of the fund before their use for the payment of the bonds and interest shall be deposited with the depository or depositories of other public funds in the municipality. The fund may also be invested as other funds are invested. In determining the amount of levy necessary for this section, the board shall consider the amount of revenue, if any, to be derived from the collection of fees for sewage treatment service above the amount of revenues necessary to be applied to the operation, maintenance, and administrative expenses of the district.

(c) In lieu of making a levy under this section, or to reduce the amount of the levy, the board may set aside, by resolution, the revenues of the district to be collected before the maturity of the principal and interest of the bonds payable in the following calendar year. If the board adopts the resolution, then the board may not use any part of the amount set aside out of the revenues for any purpose other than the payment of the bonds and interest. A proportionate payment of the amount shall be made to the bond fund monthly.

As added by Acts 1981, P.L.309, SEC.98. Amended by P.L.80-1997, SEC.21.

IC 36-9-25-30

Construction of sewers, drains, or appurtenances; procedure

Sec. 30. (a) If the board finds it necessary to build, alter, or repair a sewer, drain, or appurtenance used in connection with sewage works in a public way or other public place in the district or a highway outside its boundaries, it shall file with the works board of the municipality, or the executive of the county in which the municipality is located, a petition and a map showing the route of the sewer or drain or the location of the structure or appurtenance proposed to be built, altered, or repaired, including the part of the public way or other public place to be used in the work. That body shall then adopt a resolution granting the board the right to use the public way or other public place.

(b) If the board shows in the petition that it is necessary to open or vacate a public way or public place, the appropriate body shall promptly begin the proceedings necessary for the opening or vacation. Within a reasonable time after the completion of the work,

the board shall restore the surface of a public way or public place to the same condition that it was in before the performance of the work.

(c) If the land on which it is necessary to build, alter, or repair a sewer, drain, structure, or appurtenance in connection with the sewage works is already in use for another public purpose or has been condemned or appropriated for a use authorized by statute and is being used for that purpose by the body appropriating it, the public use or prior condemnation does not bar the board from condemning the use of the land for purposes in connection with the sewage works. However, the use by the board does not permanently prevent the use of the land for the public use or by the body condemning or appropriating the land. In addition, in a proceeding prosecuted by the board to condemn the use of the land for purposes permitted by this chapter, the burden is upon the board to show that its proposed use will not permanently interfere with the continued public use of the land or by the body condemning it, including its successors.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-31

Payment of general expenses; special tax levy for payment of bonds

Sec. 31. To provide money to pay for general expenses of the board not chargeable to the cost of any property acquired or work done under a resolution of the board for which bonds of the district are issued, the board may issue the bonds of the district in an aggregate amount not to exceed two percent (2%) of the adjusted value of the taxable property within the district as determined under IC 36-1-15. The bonds are payable from a special tax, which the board shall levy annually at the rate required to finance the bonds. The tax shall be levied, collected, and expended according to section 32 of this chapter.

As added by Acts 1981, P.L.309, SEC.98. Amended by P.L.6-1997, SEC.224.

IC 36-9-25-32

General expenses and operation of sewage works; tax levy; procedure; loans

Sec. 32. (a) To provide money to pay:

(1) all general expenses of the board, including salaries of officers and employees, fees and expenses for professional services, and other items of expense not chargeable to the cost of property acquisition or work done under a resolution of the board for which bonds of the district are issued; and

(2) for the operation, maintenance, and repair of sewage works, including the cost of the collection and removal of garbage and ashes;

a tax on all the taxable property in the district, at the rate required to provide the money needed to defray all expenses, shall be levied annually by the board.

(b) The county auditor shall estimate the taxes and enter them upon the tax duplicate, and the county treasurer shall collect and

enforce the taxes in the same manner as state and county taxes are estimated, entered, collected, and enforced. The county treasurer shall, by the tenth day of each month, notify the board of the amount of taxes collected during the preceding month and shall credit a fund to be known as the sanitary maintenance and general expense fund with that amount. The fund may not be used for a purpose other than one stated in this section. The board has complete and exclusive authority to expend on behalf of the district all money thus realized. Warrants for the expenditures shall be drawn by the municipal fiscal officer upon vouchers of the board.

(c) The board may, by resolution, make:

(1) temporary loans in anticipation of taxes actually levied under this section; or

(2) emergency loans for the expenditure of any sums not provided for in the current levy of the board, for which a levy shall then be made in the next annual budget of the board.

The loans mature and shall be paid within one (1) year after the date the loan is made and may bear interest at any rate payable at the maturity of the loan. The warrants or other evidence of the loans may not be sold for less than par. Before making the loan, notice of the time, place, amount, and terms of the loan shall be given by publication in accordance with IC 5-3-1. The warrants carry no personal obligation for their payment and are payable only out of the tax levied.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1981, P.L.45, SEC.72; Acts 1982, P.L.77, SEC.23.

IC 36-9-25-33

Disposition of surplus funds; funds belonging to sanitary districts

Sec. 33. (a) All money remaining in a fund to the credit of the board at the end of the calendar year belongs to the fund for use by the board for the purposes for which the fund was created. In addition, all money raised under this section shall be deposited at interest with the depository of other public funds of the municipality, with all interest collected on the fund belonging to the fund.

(b) Notwithstanding the provisions of any other statute, money collected for or belonging to a sanitary district belongs to the sanitary district, and not to any city or town in the sanitary district. This money shall be deposited in an interest bearing account, and all interest earned from this deposit shall belong to the sanitary district. If no statutory provision exists to require the crediting or deposit of this interest to a specific fund of the sanitary district, the interest shall be deposited in the sanitary district's sanitary maintenance and general expense fund.

(c) Notwithstanding subsections (a) through (b), money may be transferred from the fund as provided in IC 36-1-8-4.

As added by Acts 1981, P.L.309, SEC.98. Amended by Acts 1981, P.L.318, SEC.1; P.L.57-1991, SEC.4.

IC 36-9-25-34

Deposit and use of fees; revolving fund for payment of preliminary expenses

Sec. 34. (a) All revenues derived from the collection of fees for sewage treatment become a part of the sanitary maintenance and general expense fund established under section 32 of this chapter and shall be deposited, held, and used as provided in that section, except any part that the board sets aside in the sanitary district bond fund established under section 29 of this chapter or the sinking fund established under section 41 of this chapter.

(b) The board may appropriate and set aside from the sanitary maintenance and general expense fund an amount of money to be used as a revolving fund for the payment of necessary preliminary expenses incurred by the board in connection with proposed projects, such as making surveys, estimating cost, employing engineers and other employees, preparing plans and specifications, and all other expenses to be paid before the issuance and sale of bonds under section 27 of this chapter.

(c) The revolving fund shall be fully repaid by the board out of the first proceeds of the sale of bonds to the extent that the expenses paid are chargeable to the cost of acquiring land or construction under a resolution adopted and confirmed under section 18 of this chapter. The appropriations to the revolving fund shall be made in accordance with statutes governing appropriations by municipal corporations, but it is not necessary to appropriate the money set aside in the revolving fund before making expenditures from it.

As added by Acts 1981, P.L.309, SEC.98. Amended by P.L.80-1997, SEC.22.

IC 36-9-25-35

Payment of contracts, condemnation awards, etc.; retention of portion of contract payments

Sec. 35. (a) From the sanitary district bond fund and not from any other source, the board shall pay to the appropriate parties the amounts respectively due them for land, rights-of-way, or other property taken or purchased or for work done by contract or otherwise. If all or part of the land, rights-of-way, or other property is secured by purchase or contract, payment shall be made according to the terms of the contract. If property is taken by condemnation under this chapter, the amount of damages assessed shall be paid within ninety (90) days after the final determination of the condemnation proceedings or as soon after that as the fund from the bonds is available. The title to the land, rights-of-way, or other property or that part paid for or otherwise acquired for that purpose then vests in the municipality in the manner, to the extent, for the purpose, and subject to the limitations of this chapter.

(b) The board shall order that payments from the funds be made to contractors in the amounts and at the times they determine. The board may retain a part of the amount otherwise due the contractor. The amount that may be retained by the board is as follows:

(1) Until work is fifty percent (50%) complete, not more than

ten percent (10%) of the payment claimed.

(2) When work is fifty percent (50%) complete, five percent (5%) of the value of all work satisfactorily completed to date, as long as the contractor is making satisfactory progress and there is no specific cause for greater withholding.

(3) When the work is substantially complete (operational or beneficially occupied), an amount below five percent (5%) that is necessary to assure completion.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-36

Property acquisitions; filing and recording requirements

Sec. 36. Within sixty (60) days after land or a right in it is paid for and acquired under this chapter, the board shall file and have recorded in the recorder's office in the county in which the land is located a description of it sufficiently accurate for its identification, together with a statement of the purpose for which it is acquired or taken signed by a majority of the board members.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-37

Authority to expend money; warrants and vouchers

Sec. 37. Money raised under this chapter may be expended only upon warrants drawn by the municipal fiscal officer upon vouchers of the board. An appropriation is not necessary, but all money raised under this chapter is considered appropriated to the respective purposes stated and is under the control of the board. The board has complete and exclusive authority to expend the money for the purposes provided.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-38

Construction of sewers connecting with sewage works

Sec. 38. After the erection and completion of sewage works under this chapter, any municipality within the boundaries of the district shall construct and maintain sewers so that they directly or indirectly convey all sewage and drainage matter into the sewage works.

As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-39

Certain departments; temporary loans in anticipation of funds

Sec. 39. (a) This section applies only to departments in a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) The board may secure temporary loans in anticipation of revenues of the district actually levied and in the course of collection for the fiscal year in which loans are made. The loans must be

authorized by a resolution of the board, and the securities evidencing them shall be issued and sold in the same manner as tax anticipation warrants by second class cities in anticipation of property tax revenues as provided in IC 36-4-6-20. The temporary loans shall be evidenced by time warrants of the district in terms designating the nature of the consideration, the time or times payable, the funds and revenues in anticipation of which the warrants are issued and out of which they are payable, and the place where they are payable upon presentation on or after the date of maturity. The interest accruing on the warrants to date of maturity shall be included in their face value. The resolution authorizing the issue of the temporary loans must appropriate and pledge a sufficient amount of the current revenues in anticipation of which the warrants are issued for their payment.
As added by Acts 1981, P.L.309, SEC.98. Amended by P.L.12-1992, SEC.185; P.L.119-2012, SEC.233.

IC 36-9-25-40
Certain districts; exercise of powers on behalf of second class city alone

Sec. 40. If the district of a department established under section 1(b) of this chapter includes territory of another municipality, the powers granted the board over local sewers and drains, solid waste collection, and collection of dead animals may be exercised for the use and benefit of the second class city alone as long as all of the direct and allocable costs of the service are paid from money raised solely from the property located within the city, from charges made to persons within the city, or both.
As added by Acts 1981, P.L.309, SEC.98.

IC 36-9-25-41
Consolidated cities; revenue bonds for sewage works

Sec. 41. (a) This section applies to each consolidated city.

(b) To raise money to pay the costs of acquiring, constructing, and improving sewage works and property necessary for sewage works, the board may have issued, in the name of the municipality, revenue bonds payable solely from the revenues of the sewage works for which they are issued. Revenue bonds issued under this section are not a corporate indebtedness of the district or the municipality.

(c) The revenue bonds bear interest at a rate not to exceed the maximum rate per annum specified by the board and will be payable and mature at the time or times determined by the board in the resolution.

(d) The revenue bonds may be made redeemable before maturity at the option of the board, to be exercised by the board, at not more than their par value plus a premium of five percent (5%), under the terms and conditions fixed by the resolution authorizing the issuance of the bonds.

(e) The principal and interest of the revenue bonds may be made payable in any lawful medium.

(f) The resolution authorizing the issuance of the revenue bonds

must determine the form of the bonds and must fix the denomination or denominations of the bonds and the place or places of payment of their principal and interest, which may be at any bank or trust company in Indiana or another state.

(g) The revenue bonds must contain a statement on their face that neither the district nor the municipality is obligated to pay the principal or interest on them, except from the net revenue of the sewage works that are deposited in the sinking fund established by subsection (t).

(h) The revenue bonds are negotiable instruments.

(i) Provision may be made for the registration of any of the revenue bonds in the name of the owner as to principal alone or as to both principal and interest.

(j) The revenue bonds shall be executed in the same manner as other bonds issued under section 27 of this chapter.

(k) The revenue bonds shall be sold by the district and the municipal fiscal officer in the manner that is determined to be in the best interests of the district, but only at public sale in accordance with the statutes concerning the sale of municipal bonds.

(l) Before the preparation of the definite revenue bonds, temporary revenue bonds may be issued with or without coupons. The temporary revenue bonds, which shall be issued in the manner prescribed by this section, may be exchanged for the definite revenue bonds when they are issued.

(m) If the proceeds of the revenue bonds are less than the cost of the sewage works, additional revenue bonds may be issued under this section to provide the amount of the deficit. Unless otherwise provided in the resolution authorizing the first issue, the additional revenue bonds are considered part of the first issue and are entitled to payment from the same fund, without priority for the first issue.

(n) Subject to the provisions and limitations of any resolution or trust indenture pertaining to any outstanding revenue bonds, additional bonds payable from the revenues of the sewage works may be authorized and issued in the manner prescribed by this section for the purpose of improving any works acquired or constructed under this chapter without priority of one (1) issue over another.

(o) Revenue bonds issued under this section are exempt from taxation for all purposes.

(p) Any action to contest the validity of revenue bonds issued under this section must be brought at least five (5) days before the advertised date for the sale of the bonds.

(q) The first proceeds of any revenue bonds issued under this section shall be used to repay all amounts advanced for preliminary expenses. The remaining proceeds of the bond issue shall be applied to the cost of acquiring, constructing, or improving the sewage works.

(r) After the payments required by subsection (q) have been made, any proceeds of the bond issue that have not been spent shall be deposited in the sinking fund established by subsection (t).

(s) The holders of the revenue bonds have a lien on the bond

proceeds until they are applied under this section.

(t) At or before the time of issuance of revenue bonds under this section, the board, by resolution, shall:

(1) establish a sinking fund for the payment of:

(A) the principal of and interest on the revenue bonds; and

(B) the charges of banks or trust companies for making payment of the principal or interest on the revenue bonds; and

(2) pledge the net revenues of the sewage works, after the payment of the reasonable expense of operation, repair, and maintenance of the works, to the payment of the expenses described in subdivision (1).

The resolution may also provide for the accumulation of reasonable reserves in the sinking fund as a protection against default, and for the payment of premiums on bonds retired by call or purchase under this section.

(u) The rights granted by this section are subject to any restrictions contained in the resolution authorizing the issuance of revenue bonds or in any trust indenture securing the bonds. The holder of any revenue bonds or any coupons attached to them, and the trustee, if any, may, either at law or in equity, protect and enforce all rights granted by this section or under the resolution or trust indenture, including the making and collecting of reasonable and sufficient fees for services rendered by the sewage works. If the principal or interest of any of the revenue bonds is not paid on the date named in the bonds for payment, any court having jurisdiction of the action may appoint a receiver to administer the sewage works on behalf of the district, municipality, the bondholders, and the trustee, if any. The receiver may:

(1) charge and collect fees sufficient to provide for the payment of the expenses of operation, repair, and maintenance of the works;

(2) pay any revenue bonds and interest outstanding; and

(3) apply the revenues in conformity with this chapter, the resolution authorizing the bond issue, and the trust indenture, if any.

(v) Bonds issued under this section are subject to the requirements of IC 36-3-5-8.

As added by P.L.80-1997, SEC.23.

IC 36-9-25-42

Financial assistance to certain property owners

Sec. 42. (a) The board may adopt a resolution authorizing the board to provide financial assistance, including grants, to property owners to construct or install regulating devices, improvements, or overhead plumbing or backflow prevention devices for one (1) or more of the following purposes:

(1) To regulate or prevent discharge into private dwellings.

(2) To prevent the pollution of streams or bodies of water.

(3) To reduce or ameliorate inflow and infiltration in sewage

works.

(4) To remedy or prevent a menace to the public health and welfare.

(b) A resolution adopted by the board under subsection (a) must do the following:

(1) State that provided financial assistance as described in subsection (a) will accomplish one (1) or more of the purposes listed in subsection (a)(1) through (a)(4).

(2) State that the board anticipates that the costs associated with providing the financial assistance will be less than the financial burdens potentially incurred if the financial assistance is not provided.

(3) Find that providing financial assistance as described in subsection (a) is necessary to avoid or reduce additional financial burdens.

(4) Establish rules and regulations concerning financial assistance provided under subsection (a). A rule or regulation must provide that:

(A) a grant or other financial assistance provided by the board may not exceed eighty percent (80%); and

(B) the property owner that receives the financial assistance must pay for at least twenty percent (20%);

of the total anticipated cost of the project for which the financial assistance is provided.

As added by P.L.168-2009, SEC.11.

IC 36-9-26

Chapter 26. Cumulative Building Fund for Municipal Sewers

IC 36-9-26-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by Acts 1981, P.L.309, SEC.100.

IC 36-9-26-2

Authority to establish fund; purposes

Sec. 2. (a) A municipality may, by ordinance, establish a cumulative building and sinking fund under IC 6-1.1-41 to provide money for one (1) or more of the following purposes:

(1) The planning, erection, remodeling, extension, and repair of sewage disposal plants and sewers to convey sanitary sewage to those plants.

(2) The construction, remodeling, repair, and extension of storm sewers.

(3) Relief sewers and drains in aid of the sanitary system or storm sewers.

(4) The payment of the municipality's part of the costs of any public sewer or drainage project that:

(A) lies partly or wholly within the municipality; and

(B) aids or is connected to the sewage collection or drainage system of the municipality.

(5) The payment of the part of any project that is allocable to property owners by special assessment under IC 36-9-39, for repayment to the cumulative building and sinking fund.

(b) The statement for repayment under subsection (a)(5) shall be mailed to the property owner separately from the property tax statement.

As added by Acts 1981, P.L.309, SEC.100. Amended by P.L.98-1993, SEC.15; P.L.17-1995, SEC.37.

IC 36-9-26-3

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-26-4

Tax levy

Sec. 4. A municipality that has established a cumulative building and sinking fund may levy a tax in compliance with IC 6-1.1-41 not to exceed one dollar ($1) on each one hundred dollars ($100) of taxable property in the municipality.

As added by Acts 1981, P.L.309, SEC.100. Amended by P.L.17-1995, SEC.38.

IC 36-9-26-5

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-26-6
Repealed
(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-27
Chapter 27. Drainage Law

IC 36-9-27-1
Application of chapter

Sec. 1. This chapter applies to all counties. However, sections 6, 7, 9, 10, 30, 31, and 32 of this chapter do not apply to a county having a consolidated city.
As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-2
Definitions

Sec. 2. As used in this chapter:

"Affected land" means land within a watershed that is affected by the construction, reconstruction, or maintenance of a regulated drain.

"Board" refers to the drainage board of a county.

"Crossing" means a drainage structure that passes over, under, or through a location used for the passage of people, livestock, or vehicles.

"Dam" means a dam or other structure and its appurtenances that impounds a small lake at the lake's outlet.

"Maintenance" means work on a drain as described in section 34(c) of this chapter for any of the purposes stated in that section.

"Mutual drain" means a drain that:

(1) is located on two (2) or more tracts of land that are under different ownership;

(2) was established by the mutual consent of all the owners; and

(3) was not established under or made subject to any drainage statute.

"Open drain" means a natural or artificial open channel that:

(1) carries surplus water; and

(2) was established under or made subject to any drainage statute.

"Owner" refers to the owner of any interest in land.

"Private drain" means a drain that:

(1) is located on land owned by one (1) person or by two (2) or more persons jointly; and

(2) was not established under or made subject to any drainage statute.

"Reconstruction" means work on a drain as described in section 34(b) of this chapter to correct any of the problems with the drain that are enumerated in that section up to and including the discharge portion of the drain.

"Regulated drain" means an open drain, a tiled drain, or a combination of the two.

"Rural drain" means a regulated drain that provides adequate drainage or impounds water for rural land.

"Rural land" means affected land that:

(1) will not appreciably benefit from more drainage than is necessary to expediently remove water after frequent or

periodic flooding; and

(2) is generally used for crop production, pasture, forest, or similar purposes.

"Small lake" means a lake, pond, or similar body of water that:

(1) covers less than twenty (20) acres;

(2) is surrounded by two (2) or more tracts of affected land that are under different ownership or a tract of land that is owned by a not-for-profit corporation having more than one (1) member;

(3) is not constructed, reconstructed, or maintained under this chapter as part of an open drain;

(4) is not a private crossing, control dam, or other permanent structure referred to under section 72 of this chapter;

(5) is not owned by a state or any of its political subdivisions; and

(6) is not designed and constructed primarily for reduction or control of pollutants or cooling before discharge of a liquid.

"Tiled drain" means a tiled channel that:

(1) carries surplus water; and

(2) was established under or made subject to any drainage statute.

"Urban land" means affected land that:

(1) will appreciably benefit from drainage that will provide the maximum practicable protection against flooding or the impounding of water in a small lake; and

(2) is used or will in the reasonably foreseeable future be used generally for commercial, industrial, large estate, higher density residential, or similar purposes.

"Watershed" means an area of land from which all runoff water drains to a given point or that is affected by a small lake.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.166-1983, SEC.2; P.L.205-1984, SEC.1.

IC 36-9-27-2.5

"Dam" defined; certain sections not applicable; designation as regulated drain; jurisdiction

Sec. 2.5. (a) For the purposes of this chapter, a reference to "drain", "drainage", or "ditch" is deemed to include a "dam". However, sections 16(b), 17, 21, 22, 23, 24, 26, 27, 28, 54, and sections 56 through 66 of this chapter do not apply to a dam.

(b) Any owner may petition a board to designate a dam as a regulated drain, and any board may assume jurisdiction over a dam in the same manner that an owner may petition and the board may assume jurisdiction over a mutual drain. A board does not otherwise have jurisdiction over a dam.

(c) A board may reconstruct or maintain a dam over which the board has assumed jurisdiction, but an agency may not construct a new dam.

As added by P.L.166-1983, SEC.3.

IC 36-9-27-3

Authority to exercise rights and powers of political subdivisions and state

Sec. 3. (a) The rights and powers of a political subdivision under this chapter as an owner shall be exercised on behalf of the political subdivision by:

(1) the works board, for a municipality;

(2) the executive, for a county or a township; and

(3) the fiscal body, for any other political subdivision.

(b) The rights and powers of the state as an owner under this chapter shall be exercised on behalf of the state by the director of the department, office, or institution charged by law with the maintenance, supervision, or control of the affected land owned by the state.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-4

Establishment

Sec. 4. There is established in each county a drainage board, which shall act in the name of "The _____ County Drainage Board" (designating the name of the county).

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-5

Composition

Sec. 5. (a) Except in a county having a consolidated city, the drainage board consists of either:

(1) the county executive; or

(2) three (3) or five (5) persons, at least one (1) of whom must be a member of the executive, appointed by the executive;

at the option of the executive. Appointees under subdivision (2) must be resident freeholders of the county who are knowledgeable in drainage matters. Freeholders appointed to the board serve for terms of three (3) years, with their initial appointments made so as to provide for staggering of terms on an annual basis. In addition, the county surveyor serves on the board as an ex officio, nonvoting member.

(b) In a county having a consolidated city, the board of public works of the consolidated city comprises the drainage board, subject to IC 36-3-4-23.

(c) In a county having a consolidated city, the department of public works of the consolidated city has all the powers, duties, and responsibilities of the county surveyor under this chapter, subject to IC 36-3-4-23.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-6

Special members; appointment; powers and duties; compensation

Sec. 6. (a) When the membership of the board is reduced to less than three (3) because of disqualifications, the board shall immediately certify that fact to the circuit court of the county. The

court shall then restore the membership of the board to three (3) by appointing the appropriate number of resident freeholders of the county to serve as special members for the particular drainage proceedings.

(b) A special member of the board has the same duties and powers as a regular member of the board, and is entitled to a per diem, to be paid as an expense of the board, in an amount fixed by the county fiscal body for each day or major part of a day spent in actual attendance at any meeting of the board or in the performance of official business of the board.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.45-1990, SEC.9.

IC 36-9-27-7

Officers; meetings; quorum; approval of actions

Sec. 7. (a) The board shall organize at a meeting each January, by electing one (1) of its members as chairman and one (1) of its members as vice chairman. At the same time, the board shall elect a secretary, who need not be a member of the board.

(b) The county surveyor may not hold an office on the board.

(c) The board shall fix the time and dates for regular meetings, which shall be held in the office of the county surveyor. However, if the surveyor's office is not adequate, the county executive shall provide an adequate meeting place.

(d) Special meetings of the board may be called by the chairman, any two (2) members, or the county surveyor, by mailing a written notice setting forth the time, date, and place of the meeting to each member not less than five (5) days before the date of the meeting. A member may waive the mailing of notice of a special meeting by filing a written waiver with the secretary or by his presence at the meeting.

(e) Meetings of the board may be adjourned from day to day or to a day certain without written notice being given.

(f) All meetings of the board must be open to the public, and the minutes of the meetings are open to public inspection.

(g) A majority of the voting members of the board constitutes a quorum, and the concurrence of a majority of the voting members present at a meeting is necessary to authorize any action under this chapter.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-8

Power to sue

Sec. 8. The board may bring civil actions in its own name to enforce any of the provisions of this chapter.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-9

Employment of attorney

Sec. 9. The board may employ and fix the compensation of an

attorney to represent and advise the board.
As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.137-1989, SEC.17.

IC 36-9-27-10
Compensation of members and employees

Sec. 10. (a) Each member of the board and each person employed by the board under this chapter shall be paid at a rate equal to that provided by law for state employees for each mile necessarily traveled while performing the duties of his office.

(b) The county fiscal body may provide the members of the county executive who serve as members of the board with per diem for their services as members of the board, in an amount fixed by the county fiscal body for each day or major part of a day devoted to the work of the board.

(c) Each appointed freeholder member serving on the board is entitled to a per diem in an amount fixed by the county fiscal body for each day or major part of a day devoted to the work of the board.
As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.45-1990, SEC.10.

IC 36-9-27-11
Payment of expenses

Sec. 11. All expenses of the board shall be paid from money appropriated from the county general fund. Claims for expense reimbursements and per diem must be:

(1) accompanied by an itemized written statement;
(2) approved by a recorded motion of the board; and
(3) allowed as provided by statute.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-12
Conflicts of interest

Sec. 12. (a) This section does not apply to a joint board that includes three (3) or more counties in a drainage basin of more than one hundred thousand (100,000) acres.

(b) Whenever it appears, in any proceeding for the construction, reconstruction, or maintenance of a regulated drain, that a member of the board has an interest in the proceedings because of his ownership of real property affected by the drain, that member shall immediately disqualify himself from serving on the board in those proceedings. However, the fact that county highways will be affected by any proceedings does not disqualify a regular member of the board.
As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.350-1985, SEC.1.

IC 36-9-27-13
Certain counties; county drainage advisory committees established; powers and duties

Sec. 13. (a) This section applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) There is established a county drainage advisory committee. The executive of each township in the county shall appoint one (1) resident of his township to serve on the committee. Committee members serve for four (4) year terms. Members may not receive per diem or mileage for service on the committee.

(c) The county drainage advisory committee shall advise and assist the board in the performance of its powers, duties, and functions. The board or the county legislative body may assign responsibilities to the committee concerning drainage. The committee may select one (1) of its members as chairman and may meet at his call or at the call of any three (3) of its members.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.12-1992, SEC.186.

IC 36-9-27-14

Proceedings affecting more than one county; joint boards

Sec. 14. (a) Whenever it appears to the county surveyor that any proceedings instituted under this chapter may affect land in more than one (1) county, he shall immediately forward notification of that fact to the chairman of the board of each county in which the land is located, by certified mail with return receipt requested. The notice must state the number of counties involved and fix a date, hour, and place for a meeting of a joint board. The date for the meeting may not be less than twenty (20) nor more than thirty (30) days after the notice is mailed.

(b) After the notice is given, all proceedings in the matter shall be heard and determined by a board appointed from the membership of the board of each county in which lands that may be affected are located, as follows:

(1) If land in two (2) counties may be affected, the chairman of the board of each county shall appoint two (2) of the members of his board, other than the county surveyor, to serve on the joint board. In addition, a fifth member shall be appointed by the four (4) members of the joint board. The fifth member must reside in a county that is not affected by the drainage problem.

(2) If land in more than two (2) counties may be affected, the chairman of the board of each county shall appoint one (1) of the members of his board, other than the county surveyor, to serve on the joint board. If, as a result of the appointments, the board has an even number of members, the members of the joint board shall appoint an additional member to the joint board. The additional member must reside in a county that is not affected by the drainage problem.

(3) The surveyor of the county having the greatest length of drain or proposed drain serves as an ex officio member of the joint board, and has the same duties, powers, and responsibilities he would have if the proposed construction,

reconstruction, or maintenance affected lands lying solely within one (1) county.

(c) A joint board may authorize the employment of one (1) or more persons to assist the county surveyor who serves on the board in the performance of his duties in connection with the joint board. The joint board shall set the rate of compensation for the assistants and authorize an advance on the general drain improvement fund of each county in proportion to the apparent percentage of the total land area in each county to be affected by the drain. The cost of the assistants and the advance is a part of the operating expense of the joint board, which shall be finally adjusted and allocated as provided in subsection (e).

(d) Whenever the county surveyor finds that a joint board should be appointed and that:

(1) the area of affected land in his county exceeds eighty percent (80%) of the total area of land affected by the drain; or

(2) ninety percent (90%) or more of the length of the affected drain lies within his county;

he may request in writing that each board in the lesser affected county or counties waive the right to be represented on a joint board and that the board of his county be the board for the proceedings. The request and all subsequent communications in the proceedings, including notice of any benefits or damages to the lands within a lesser affected county, shall be forwarded by certified mail with return receipt requested to the chairman of the board of each lesser affected county. If the surveyor does not receive a negative response to his request from the board of a lesser affected county within thirty (30) days, the surveyor may request his board to resolve itself as the board for the proceedings. The board shall serve notice only on the board of a lesser affected county and shall certify to the auditor of that county a single claim for all benefits in that county, unless the surveyor or board of that county furnishes to the board full and acceptable information concerning all individual parcels of affected land in that county, including maps.

(e) If the joint board proceeds with the proposed improvement or maintenance, all operating expense of the joint board, including the compensation of the fifth member appointed under subsection (b)(1) and the additional member appointed under subsection (b)(2) shall be:

(1) divided among the counties represented on it in the same proportion that the total land assessment allocated to each county bears to the total cost of the improvement or maintenance; or

(2) paid from the joint drain's maintenance fund after the fund is established and maintenance funds are collected.

If the joint board does not proceed, all operating expense of the joint board shall be apportioned by the joint board to the counties represented on it as justice requires.

(f) To the extent applicable, a joint board is governed by the provisions of this chapter concerning:

(1) the powers, duties, and procedures of a board that serves one (1) county; and

(2) the rights and remedies of owners affected by the proceedings of a board that serves one (1) county.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.225-1986, SEC.9; P.L.276-2001, SEC.11.

IC 36-9-27-15

Jurisdiction over regulated drains

Sec. 15. Each regulated drain in a county is under the jurisdiction of the board and subject to this chapter, except as otherwise provided by this chapter.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-16

Private and mutual drains exempt from chapter

Sec. 16. (a) Private and mutual drains are not subject to this chapter.

(b) Land drained by a private or mutual drain is subject to assessment for the construction, or reconstruction, or maintenance of a regulated drain if the land is also drained by the regulated drain.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.166-1983, SEC.4.

IC 36-9-27-17

Private and mutual drains; connection with regulated drains; procedure

Sec. 17. (a) Whenever:

(1) an owner wants to construct or extend a private or mutual drain, and outlet that drain into a regulated drain that is subject to this chapter; and

(2) the construction or extension will not go through land owned by other persons;

the owner shall file with the county surveyor having jurisdiction of the regulated drain for permission to connect his drain with the regulated drain.

(b) The owner shall file with his request the plans and specifications of the private or mutual drain that will be constructed or extended. However, if the private or mutual drain will have a tiled outlet of twelve (12) inches or less, and he alleges this in his request, no specifications need be filed.

(c) If the county surveyor determines that the regulated drain is adequate to handle the additional flow of water, if any, that would result from the connection, and that no harmful pollution is likely to result from the connection, he shall grant the request.

(d) If the county surveyor determines that the regulated drain is not adequate to handle the additional flow of water resulting from the connection without being reconstructed, he shall deny the request, and the request may not be granted until the regulated drain is reconstructed under sections 49 through 52 of this chapter.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-18
Private and mutual drains; conversion to regulated drain; procedure upon request by all owners

Sec. 18. (a) Whenever all of the owners affected by a private or mutual drain request the board in writing to assume jurisdiction over the private or mutual drain, the board shall refer the request to the county surveyor, who shall determine whether the private or mutual drain meets the standards of design and construction established under section 29 of this chapter.

(b) If the surveyor determines that the private or mutual drain meets the standards of design and construction, he shall make a written report of that fact to the board, which shall issue an order granting the request. The drain becomes a regulated drain when the request is granted.

(c) If the surveyor determines that the private or mutual drain does not meet the standards of design and construction, he shall make a written report of that fact to the board, which shall deny the request.
As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.276-2001, SEC.12.

IC 36-9-27-19
Mutual drains; conversion to regulated drain; procedure upon request by single owner

Sec. 19. (a) Any owner affected by a mutual drain may file a written request with the board to make the mutual drain a regulated drain under this chapter. Upon receipt of such a request, the board shall fix the date, time, and place for a hearing, which may not be less than thirty (30) days after receipt of the request.

(b) At least twenty (20) days before the date of the hearing, the owner making the request shall give the owners of all land affected by the request notice of the date, time, place, and purpose of the hearing. Service of the notice shall be made in the manner set forth in section 58 of this chapter or in the manner summonses are served in civil actions.

(c) Any owner affected by the mutual drain may, on or before the date of the hearing, file with the board written evidence for or against the granting of the request. At the hearing the board shall consider all of the evidence filed, and if it finds that:

(1) the owners of more than fifty percent (50%) in acreage of the affected land will be benefited if the drain is made a regulated drain under this chapter; and

(2) the benefit to owners benefited is likely to be greater than the damages to owners damaged by reason of the mutual drain being made a regulated drain;

it shall make written findings to that effect and issue an order granting the request.

(d) Before adjourning the hearing, the board shall announce its findings and order. This announcement constitutes notice to all

affected persons, and, if judicial review is not requested under section 106 of this chapter within twenty (20) days after the date of notice, the findings and order are conclusive.
As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-20
Drains located in municipalities or sanitary districts; relinquishment of jurisdiction by board

Sec. 20. A board may, by resolution, relinquish its jurisdiction over ditches and drains located in a municipality or a sanitary district, if that jurisdiction is accepted by the municipality or sanitary district.
As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-20.5
Drain maintenance fund; transfer of jurisdiction over drain to municipality or sanitary district

Sec. 20.5. (a) A municipal or sanitary district drain maintenance fund is established for each drain:

(1) that is subject to assessments by the board for periodic maintenance and repair; and

(2) jurisdiction over which is transferred by the board to a municipality or sanitary district under section 20 of this chapter.

(b) Except as provided in subsections (c) and (d), on or after the date the board transfers jurisdiction over a drain to the municipality or sanitary district, the county treasurer shall transfer the following to the municipal or sanitary district drain maintenance fund established under this section:

(1) The balance of the maintenance fund established under section 44 of this chapter.

(2) Except as provided in subsection (e), any assessments for periodic maintenance of the drain that:

(A) were imposed before the date on which the board transfers jurisdiction of the drain; and

(B) are collected after the date on which the board transfers jurisdiction of the drain.

(c) Except as provided in subsection (d), if the board transfers jurisdiction over part of a drain to a municipality or sanitary district, the county treasurer shall transfer under subsection (b):

(1) the part of the balance in the maintenance fund established under section 44 of this chapter that bears the same proportion to the balance in the fund that the length of the part of the drain transferred to the municipality or sanitary district bears to the total length of the drain; and

(2) except as provided in subsection (e), the proportion determined under subdivision (1) of any assessments for periodic maintenance of the drain that:

(A) were imposed before the date on which the board transfers jurisdiction of part of the drain; and

(B) are collected after the date on which the board transfers

jurisdiction of part of the drain.

(d) The board and a municipality or sanitary district to which jurisdiction over part of a drain is transferred may agree in writing to an apportionment of the maintenance fund and outstanding assessments different from the apportionment under subsection (c) based on disproportionate maintenance requirements between the part of the drain transferred and the part remaining under the jurisdiction of the board. Subject to subsection (e), a county treasurer who receives a written agreement under this subsection shall transfer under subsection (b) the amounts specified in the agreement.

(e) If payment for maintenance work for a drain was made from the general drain improvement fund under section 45 of this chapter, the county treasurer shall transfer all or part of the assessment described in subsection (b)(2) to the general drain improvement fund to reimburse the fund for all or part of the cost of the maintenance work.

(f) The expenses of a municipal or sanitary district drain maintenance fund established by subsection (a) shall be paid from the fund. The municipality or sanitary district to which jurisdiction over a drain is transferred shall deposit money in the fund established for the drain under subsection (a) in accordance with IC 5-13-6. Any interest earned by the fund shall be credited to the fund. Any balance remaining in the fund at the end of a fiscal year shall be carried over in the fund for the following fiscal year.

(g) A municipal or sanitary district drain maintenance fund established under subsection (a) is subject to the use of the municipality or the sanitary district for the necessary or proper repair, maintenance, study, or evaluation of the particular drain or combination of drains for which the fund was established whenever the municipality or sanitary district finds that it is necessary. Except as provided in subsection (h), payment for all the maintenance work for a drain or combination of drains shall be made out of the municipal or sanitary district drain maintenance fund established for the drain or combination of drains under subsection (a).

(h) If the balance of a maintenance fund is not sufficient to pay for all of the maintenance work, the municipality or sanitary district shall pay for any deficiency from the funds used by the municipality or the sanitary district to pay for maintenance work on drains that are not subject to a municipal or sanitary district maintenance fund. A drain maintenance fund shall close upon payment of all money in the fund.

(i) If the amount of funds on deposit in a municipal or sanitary district drain maintenance fund is less than five hundred dollars ($500), the balance of the municipal or sanitary district drain maintenance fund may be transferred to the fund used by the municipality or the sanitary district to pay for maintenance work on drains that are not subject to a municipal or sanitary district maintenance fund, and the drain maintenance fund shall be closed.

As added by P.L.111-2003, SEC.1.

IC 36-9-27-20.6
Right of entry and right-of-way powers

Sec. 20.6. If jurisdiction over a drain is transferred by the board to a municipality or sanitary district under section 20 of this chapter, the municipality or sanitary district has, with respect to that drain, the same right of entry and right-of-way powers over and upon private land that are given to the county surveyor or drainage board under section 33 of this chapter.

As added by P.L.111-2003, SEC.2.

IC 36-9-27-21
Certain municipal drains exempt from chapter; assessment of lands benefited by regulated drains

Sec. 21. (a) A drain that is located partly or wholly within the corporate boundaries of a municipality is subject to this chapter only if it was constructed by the municipality under this chapter, IC 19-4 (repealed February 26, 1982), or a statute repealed by Acts 1965, c.305, s.1003.

(b) If a municipal drain not subject to this chapter flows directly or indirectly into a regulated drain that is subject to this chapter, the board shall assess the land benefited by the municipal drain to the extent that it is benefited by the construction, reconstruction, or maintenance of the regulated drain.

(c) This subsection applies to any parcel of land that is partly within the corporate boundaries of a municipality having a drain affected by subsection (b). Notwithstanding section 38 of this chapter, the drainage board may make only one (1) assessment for the same purpose on each individual drain on the parcel. For purposes of making this one (1) assessment, the total acreage of the parcel must be considered to be located where most of the land in the parcel is situated, either within the boundaries or outside the boundaries.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.200-1988, SEC.1; P.L.3-1990, SEC.137.

IC 36-9-27-22
Construction, reconstruction, or maintenance of municipal drains flowing into regulated drains; procedure

Sec. 22. (a) A municipality acting under a statute other than this chapter may not construct, reconstruct, or maintain a drain that:

(1) is located partly or wholly within the corporate boundaries of the municipality; and

(2) will flow directly or indirectly into a regulated drain that is subject to this chapter;

without the written approval of the board.

(b) The municipality shall file with the board a written request for consent to use the regulated drain as an outlet, subject to this chapter. The request must be accompanied by:

(1) the plans and specifications for the proposed construction, and reconstruction, or maintenance; and

(2) an estimate by the municipal civil engineer, or another qualified person, of the amount of water that will be discharged into the regulated drain as a result of the proposed construction, reconstruction, or maintenance.

(c) The board shall refer the request for consent to the county surveyor, who shall determine whether the regulated drain is adequate to handle the additional flow of water, if any, that would result from the construction, reconstruction, or maintenance proposed by the municipality. If the surveyor finds that the regulated drain is adequate to handle the additional flow of water, the surveyor shall make a written report of that fact to the board, which shall issue its order consenting to the construction, reconstruction, or maintenance by the municipality. If the surveyor finds that the regulated drain is not adequate, the surveyor shall:

(1) prepare a preliminary plan for the reconstruction of the regulated drain so that it will be adequate to handle the additional flow of water;

(2) estimate the total cost of the reconstruction;

(3) file the plan and estimate with the board; and

(4) serve a copy of the plan and estimate on the municipality.

(d) If the municipality binds itself by resolution to pay the cost of the reconstruction of the regulated drain, the county surveyor shall prepare final plans and specifications for the work, reestimate the cost of the work except for damages to affected land, and file the plans and estimate with the board. The board shall determine the amount of damages sustained by any owner as a result of the reconstruction of the regulated drain and shall serve upon each owner a notice:

(1) describing the owner's lands;

(2) stating the amount of each owner's damages;

(3) explaining the injury upon which the determination was based; and

(4) stating the date, time, and place of a hearing by the board on objections to the amount of damages.

The notice shall be served and the hearing held in accordance with sections 49 through 52 of this chapter.

(e) The board shall add the damages to affected land to the county surveyor's reestimation of the costs of the reconstruction and shall certify that amount to the municipality. When the municipality pays the amount certified by the board into the office of the county treasurer for the use of the board in the reconstruction of the regulated drain, the board shall issue an order consenting to the use of the regulated drain by the municipality and shall proceed with the reconstruction of the regulated drain in accordance with the plans and specifications of the surveyor.

(f) After the contracts for the reconstruction are let in accordance with sections 77 through 79.1 of this chapter, the board shall compute the actual cost of the reconstruction. If the actual cost is less than the estimated cost, the excess shall be returned to the municipality on certification by the board to the county auditor of the

amount to be returned. If the actual cost of the reconstruction is more than the estimated cost, the board shall certify that fact to the municipality, which shall immediately pay the difference into the office of the country treasurer.

(g) When the board consents to a request made by a municipality under subsection (b), the board shall fix the annual assessment against the municipality for the periodic maintenance of the regulated drain in accordance with sections 38 through 43 of this chapter.

(h) This section does not prohibit a municipality from petitioning the board for the construction of a new regulated drain under sections 54 through 65 of this chapter.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.42-2011, SEC.86.

IC 36-9-27-23

Requests to connect private drains with regulated drains; water pollution control; procedure

Sec. 23. (a) Whenever:

(1) a person wants to connect a drain with a regulated drain that is subject to this chapter; and

(2) the connection would result in the discharge into the regulated drain of liquid wastes that would cause or contribute to pollution of the receiving waters;

the person seeking the connection must obtain written approval from the department of environmental management for the discharge, and shall file that written approval with the board having jurisdiction of the regulated drain when filing his request to connect.

(b) The board may deny a connection request, even though approval of the department of environmental management is given or is not required.

(c) The board shall deny a connection request whenever the approval of the department of environmental management is required and is not obtained.

(d) The provisions of this section requiring department of environmental management approval do not apply to the discharge of sewage from a single or two (2) family residence.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.143-1985, SEC.202.

IC 36-9-27-24

Drains located in conservancy districts; jurisdiction

Sec. 24. (a) A regulated drain that is located within a conservancy district is not subject to this chapter if:

(1) the drain has been designated for construction, reconstruction, or maintenance in the district plan of the conservancy district; and

(2) the district plan was approved before January 1, 1966.

However, if the drain has a direct or indirect outlet into any other drain that is subject to this chapter, the board shall assess the district for any benefits it receives from the construction, reconstruction, or

maintenance of the other drain.

(b) A court may not approve the district plan or an amendment to the district plan of a conservancy district if it includes the construction, reconstruction, or maintenance of a regulated drain in the district, unless written approval for the district to perform the work is filed with the court by the board or by the department of natural resources.

(c) When a drain located in a conservancy district is not subject to this chapter, the district, with the approval of the court having jurisdiction over the district, may file a written request with the board for the board to assume jurisdiction over the drain. The drain becomes subject to this chapter when the request is filed.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-25

Drains included in flood control projects; exemption from chapter

Sec. 25. Whenever a regulated drain that is subject to this chapter is included in a flood control project approved by the department of natural resources, the drain ceases to be subject to this chapter. The construction, reconstruction, and maintenance of such a drain is the responsibility of the local agency that constructs and maintains the project.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-26

Drains under jurisdiction of certain drainage maintenance and repair districts and associations; exemption from chapter

Sec. 26. A drain that is under the jurisdiction of:

(1) a drainage maintenance and repair district established under IC 13-2-21 (before its repeal) or under IC 14-27-8; or

(2) an association established under Acts 1913, c. 165;

is not subject to annual assessments for periodic maintenance under this chapter, and the district or association is solely responsible for the maintenance of the drain. However, if the drain flows directly or indirectly into a regulated drain that is subject to this chapter, the board shall assess the land within the district or association for any benefits it receives from the construction, reconstruction, or maintenance of the regulated drain.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.1-1995, SEC.88.

IC 36-9-27-26.5

Change of drain and drainage maintenance jurisdiction; transfer of funds and administration

Sec. 26.5. (a) A county executive may change a regulated drain that is subject to this chapter into a drain that is subject to the jurisdiction of a drainage maintenance and repair district under IC 14-27-8.

(b) When a drain that is subject to assessments for periodic maintenance and repair under this chapter becomes subject to the

jurisdiction of a drainage maintenance and repair district under IC 14-27-8, the county treasurer shall transfer all money in the drain's maintenance fund established under section 44 of this chapter to the drain's drainage maintenance fund established under IC 14-27-8-19.

(c) The county executive shall establish procedures for the transition of a drain from administration under this chapter to administration under IC 14-27-8.

As added by P.L.154-1993, SEC.5. Amended by P.L.1-1995, SEC.89; P.L.97-2004, SEC.132.

IC 36-9-27-27

Dissolution of certain drainage maintenance and repair districts; procedure

Sec. 27. (a) A written statement alleging that a drainage maintenance and repair district established under IC 13-2-21 (before its repeal) or under IC 14-27-8 is not active and is not properly maintaining the drains under its control may be filed with the board by:

(1) the owners of fifty-one percent (51%) in area of the land located in the district; or

(2) fifty-one percent (51%) of the owners of land located in the district.

When the statement is filed, the board may file with the court that established the district a complaint that sets forth the allegations in the statement and requests the court to dissolve the district.

(b) The drainage maintenance and repair district shall be named defendant in the action, and a summons shall be served:

(1) on any commissioner of the district; or

(2) on the district by publication if a commissioner cannot be found.

The issues shall be considered closed by a general denial, without the filing on any specific pleadings.

(c) The court shall hear the action without a jury. A change of venue from the county may not be granted.

(d) If the court finds that the allegations in the complaint are true, it shall dissolve the district. All the drains formerly under the jurisdiction of the district become regulated drains subject to this chapter when the district is dissolved.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.1-1995, SEC.90.

IC 36-9-27-28

Drains maintained by certain associations; assumption of jurisdiction by board; procedure

Sec. 28. (a) A written statement alleging that an association established under Acts 1913, c. 165 for the purpose of maintaining and repairing a drain is not active and is not properly maintaining the drain may be filed with the board by:

(1) members of the association who own fifty-one percent (51%) in area of the land within the jurisdiction of the

association; or

(2) fifty-one percent (51%) of the members of the association.

When the statement is filed, the board may notify the association of its intention to declare the drain to be subject to this chapter.

(b) The notice must fix a date, time, and place for a hearing on the matter, and shall be:

(1) served personally or by registered mail upon any director or officer of the association who did not sign the statement filed with the board; or

(2) published in accordance with IC 5-3-1, if such a director or officer cannot be found.

(c) On or before the date of the hearing, any member of the association may file written evidence with the board.

(d) If the board finds that the allegations in the statement are true, it shall issue an order declaring the drain to be a regulated drain that is subject to this chapter. The finding and order shall be marked filed and shall be announced publicly at the hearing. The board shall then publish a notice setting forth its order in accordance with IC 5-3-1. Judicial review of the order under section 106 of this chapter may be requested by any member of the association within twenty (20) days after publication of the notice. The drain becomes subject to this chapter when the order becomes final and conclusive.

(e) If the board finds that the allegations in the statement are not true, it shall dismiss the proceedings.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.74.

IC 36-9-27-29

County surveyors; powers and duties

Sec. 29. The county surveyor is the technical authority on the construction, reconstruction, and maintenance of all regulated drains or proposed regulated drains in the county, and he shall:

(1) investigate, evaluate, and survey all regulated drains or proposed regulated drains, and prepare all reports, plans, profiles, and specifications necessary or incident to any proposed construction, reconstruction, or maintenance of regulated drains;

(2) prepare and make public standards of design, construction, and maintenance that will apply to all regulated drains and their appurtenances, taking into consideration in preparing these standards the published recommendations made by Purdue University, the American Society of Agricultural Engineers, the American Society of Civil Engineers, the United States Department of Agriculture, the department of natural resources, the United States Army Corps of Engineers, and other reliable sources of information;

(3) supervise all construction, reconstruction, and maintenance work performed under this chapter;

(4) catalog and maintain a record of all surveying notes, plans, profiles, and specifications of all regulated drains in the county,

and of all mutual and private drains when available; and

(5) perform the functions set forth in sections 67 through 69 of this chapter concerning all urban drains under his jurisdiction.

In preparing plans under subdivision (1), the surveyor shall, when feasible, include the seeding of the banks of all open drains. The surveyor shall, when feasible, use United States Geological Survey data on plans and profiles prepared under subdivision (1).

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.166-1983, SEC.5.

IC 36-9-27-30

Qualified deputies; appointment; duties; compensation

Sec. 30. (a) Whenever the county surveyor is not registered under IC 25-21.5 or IC 25-31 and that statute prohibits an unregistered person from performing any function that the county surveyor is directed to do under this chapter, the surveyor shall employ and fix the compensation of a person who is so registered to work with the surveyor in performing those functions. However, if the county surveyor does not employ a registered person within one (1) year of the acceptance of a petition for construction or reconstruction of a drain, the board may make the appointment of a registered person that this section requires.

(b) The person employed by the surveyor, who shall be known as a qualified deputy, shall file with the county surveyor the original of all plans, specifications, and other documents made by the person in performing the work for which the person was employed. Those plans, specifications, and other documents become a part of the permanent file of the surveyor's office, which the surveyor shall maintain for the use of the board as provided in section 109 of this chapter.

(c) The rate of compensation paid to a qualified deputy shall be assessed against the drainage project for which the deputy was employed.

(d) This subsection applies whenever the county surveyor is not registered under IC 25-21.5 or IC 25-31, and the county surveyor has not employed a registered person as provided in subsection (a). If the county has a full-time employee who is registered as a land surveyor under IC 25-21.5 or as a professional engineer under IC 25-31, the board may, subject to the approval of the county executive and the county surveyor, designate that person to perform the functions of the county surveyor under this chapter that are allowed under the employee's license as a land surveyor or professional engineer. If a designation is made and approved under this subsection, the county surveyor may not employ a registered person under subsection (a) to perform that same function.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.206-1984, SEC.1; P.L.76-1989, SEC.5; P.L.2-1997, SEC.84; P.L.2-1998, SEC.88; P.L.241-1999, SEC.4.

IC 36-9-27-31

Counties without elected surveyors; employment of engineers or surveyors by board

Sec. 31. If for any reason there is no elected county surveyor in any county, the board shall employ and fix the compensation of a part-time or full-time engineer or surveyor. The engineer or surveyor, who must be registered under IC 25-21.5 or IC 25-31 and must be or become a resident of Indiana, shall perform the functions required of the county surveyor in this chapter.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.2-1997, SEC.85.

IC 36-9-27-32

Contract deputies; appointment; powers and duties; compensation

Sec. 32. (a) Whenever the board finds that it is necessary to advance the work of construction or of reconstruction, as determined from the long-range plan established under section 36 of this chapter, to a degree inconsistent with the work load of the county surveyor, the board shall publicly declare an emergency and shall authorize the employment of an engineer, firm of engineers, or land surveyor as a contract deputy to perform the necessary work, including:

(1) the preparation of the surveyor's report or specified parts of it; and

(2) the supervision of the construction or reconstruction.

(b) A contract deputy shall be employed by contract. Each contract must be for work on a specific drainage project, and may be on a per project fee basis or on a per diem basis of compensation.

(c) A contract deputy must have the same qualifications as an engineer or surveyor employed or appointed by the board under section 30 or 31 of this chapter.

(d) The original of all plans, specifications, and other documents made by a contract deputy in performing the work for which he was employed, or facsimiles of them in reproducible form, shall be transmitted to the board and shall be permanently retained by the board or by the surveyor in the manner in which similar documents prepared by the surveyor or the board are retained.

(e) The compensation of a contract deputy shall be assessed against the drainage project for which the deputy was employed, and may be paid from the general drain improvement fund before the order for the construction or reconstruction.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.206-1984, SEC.2.

IC 36-9-27-33

Right of entry over private land; extension of spoil banks beyond right-of-way

Sec. 33. (a) The county surveyor, the board, or an authorized representative of the surveyor or the board acting under this chapter has the right of entry over and upon land lying within seventy-five (75) feet of any regulated drain. The seventy-five (75) foot limit shall be measured at right angles to:

(1) the center line of any tiled drain; and

(2) the top edge of each bank of an open drain;

as determined by the surveyor.

(b) Spoil bank spreading resulting from the construction, reconstruction, or maintenance of an open drain may extend beyond the seventy-five (75) foot right-of-way if:

(1) the county surveyor finds that the extension is necessary; and

(2) the extension has been provided for in the engineer's report on the construction, reconstruction, or maintenance.

(c) All persons exercising the right given by this section shall, to the extent possible, use due care to avoid damage to crops, fences, buildings, and other structures outside of the right-of-way, and to crops and approved structures inside the right-of-way. The county surveyor shall give oral or written notice of the entry on the land to the property owner of record, and in the case of a municipality, to the executive of that municipality. The notice must state the purpose for the entry.

(d) The owners of land over which the right-of-way runs may use the land in any manner consistent with this chapter and the proper operation of the drain. Permanent structures may not be placed on any right-of-way without the written consent of the board. Temporary structures may be placed upon or over the right-of-way without the written consent of the board, but shall be removed immediately by the owner when so ordered by the board or by the county surveyor. Crops grown on a right-of-way are at the risk of the owner, and, if necessary in the reconstruction or maintenance of the drain, may be damaged without liability on the part of the surveyor, the board, or their representatives. Trees, shrubs, and woody vegetation may not be planted in the right-of-way without the written consent of the board, and trees and shrubs may be removed by the surveyor if necessary to the proper operation or maintenance of the drain.

(e) This subsection applies to new regulated drains established after September 1, 1984, and to urban drains. The board may reduce the seventy-five (75) foot requirement of subsections (a) and (b) to any distance of not less than twenty-five (25) feet from the top of each bank of an open ditch and fifteen (15) feet from the center line of any tiled drain as measured at right angles.

(f) The surveyor, the board, or an authorized representative of the surveyor or the board acting under this chapter does not commit criminal trespass under IC 35-43-2-2.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.206-1984, SEC.3; P.L.76-1989, SEC.6.

IC 36-9-27-34

Classification of drains by county surveyor

Sec. 34. (a) The county surveyor shall classify all regulated drains in the county as:

(1) drains in need of reconstruction;

(2) drains in need of periodic maintenance; or
(3) drains that should be vacated.

The surveyor shall also consider the designation of urban drains under section 67 of this chapter.

(b) A regulated drain is in need of reconstruction when:

(1) it will not perform the function for which it was designed and constructed;

(2) it no longer conforms to the maps, profiles, and plans prepared at the time when the legal drain was established; or

(3) topographical or other changes have made the drain inadequate to properly drain the lands affected without extensive repairs or changes, including:

(A) converting all or part of an open drain to a tiled drain or a tiled drain to an open drain;

(B) adding an open drain to a tiled drain or a tiled drain to an open drain;

(C) increasing the size of the tile;

(D) deepening or widening an open drain;

(E) extending the length of a drain;

(F) changing the course of a drain;

(G) constructing drainage detention basins and drainage control dams;

(H) providing for erosion control and for grade stabilization structures; or

(I) making any major change to a drainage system that would be of public utility.

(c) A regulated drain is in need of periodic maintenance when, with or without the use of mechanical equipment, it can be made to perform the function for which it was designed and constructed, and to properly drain all affected land under current conditions, by periodically:

(1) cleaning it;
(2) spraying it;
(3) removing obstructions from it; and
(4) making minor repairs to it.

(d) A regulated drain should be vacated when:

(1) the drain does not perform the function for which it was designed and constructed, or it has become inadequate to properly drain all affected land under current conditions;

(2) the expense of reconstruction outweighs the benefits of reconstruction; and

(3) the vacation will not be detrimental to the public welfare.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.166-1983, SEC.6.

IC 36-9-27-35

Submission of classifications and order of work priority of drains to board; notice and hearing on classification and reclassification requests

Sec. 35. (a) The county surveyor shall submit to the board a

written report setting forth his classification of regulated drains in order of priority for action by the board. This report may be made from time to time during the surveyor's process of classification.

(b) The board may adopt the classifications and order of work priority as made by the county surveyor, or may modify them.

(c) If ten percent (10%) of the owners' request the board to classify or reclassify a drain affecting their land, the board shall, after giving notice to all affected owners, conduct a hearing on the request and adopt a proper classification. The notice shall be given by publication in accordance with IC 5-3-1. Notice shall be given to an attorney of record in the manner provided in section 110 of this chapter.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.75.

IC 36-9-27-36

Long range plan for reconstruction, maintenance, and vacation of drains; requests for advancement

Sec. 36. (a) When the classification of drains, or a partial classification of drains, has been adopted by the board, the county surveyor shall prepare a long-range plan for:

(1) the reconstruction of regulated drains classified as in need of reconstruction;

(2) the establishment of an annual maintenance assessment for regulated drains classified as in need of periodic maintenance; and

(3) the vacating of regulated drains classified as drains that should be vacated.

The plan must set forth the approximate date each drain will be referred to the surveyor for report, taking into consideration the work load of the surveyor and the estimation by the surveyor of the time it will take to prepare each report.

(b) The long-range plan is subject to approval by the board, may be amended by the board at any time, and shall be reconsidered and brought up to date before June 1 of each year.

(c) The board shall refer each regulated drain to the county surveyor for a report in accordance with the long-range plan. If no long-range plan has been adopted by the board, and if the surveyor has classified only part of the regulated drains, the board may refer the regulated drains that have been classified to the surveyor for a report in the order of priority set forth in the partial classification.

(d) Ten percent (10%) of the owners of land affected by a regulated drain that has been classified as a drain that:

(1) is in need of reconstruction;

(2) is in need of periodic maintenance; or

(3) should be vacated;

may file with the board a written request that the board advance the proposed date when the drain will be referred to the county surveyor for report. Upon receipt of such a request, the board shall set the request for hearing at its next regular meeting and shall promptly

mail notice of the time, date, and place of the hearing to the owners making the request. At the meeting any affected owner or the surveyor may present evidence for or against the request. After the hearing, the board may advance the date the drain will be referred to the surveyor if it is practicable to do so.
As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-37
Vacation of drains; procedure; appeals

Sec. 37. (a) When instituting proceedings to vacate a regulated drain, the board shall:

(1) serve a notice of intention to vacate on all owners of affected land;
(2) fix a date for a hearing;
(3) receive all objections filed;
(4) hold the hearing; and
(5) issue an order vacating or reclassifying the drain.

(b) A board acting under this section shall:

(1) comply with the applicable provisions of sections 49 through 52 of this chapter; and
(2) consider section 34(d) of this chapter in determining whether a drain should be vacated.

(c) An owner aggrieved by the final order of the board may obtain judicial review of the order under section 106 of this chapter.

(d) When a drain is vacated, the county treasurer shall transfer all money in that drain's maintenance fund to the general drain improvement fund.
As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.206-1984, SEC.4.

IC 36-9-27-38
Periodic maintenance of drains; surveyor's report

Sec. 38. When the board refers a regulated drain classified in need of periodic maintenance to the county surveyor, he shall prepare a maintenance report that includes the following items:

(1) The estimated annual cost of periodically maintaining the drain.
(2) The name and address of each owner of land that will be affected by the proposed maintenance, and the legal description of the land of each owner, as shown by the tax duplicate or record of transfers of the county in which the land is located. However, a public way owned by a county or by the state shall be described by its name or number, and the right-of-way of a railroad may be described as the right-of-way of the owner through section, township, and range. If the name of an owner is not known, and cannot be discovered through diligent inquiry, the report may describe the land as belonging to the person who appears to be the owner according to the last tax duplicate or record of transfers of the county where the land is located.

(3) The nature of the maintenance work required and how frequently the work should be performed.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-39

Periodic maintenance of drains; schedule of assessments

Sec. 39. When the board receives a maintenance report under section 38 of this chapter, it shall prepare a schedule of assessments that includes the following items:

(1) A description of each tract of land determined to be benefited, and the name and address of the owner, as listed on the county surveyor's report.

(2) The percentage of the estimated cost of periodically maintaining the drain to be assessed against each tract of land. The percentage shall be based upon the benefit accruing to each tract of land from the maintenance, and must be at least one hundred percent (100%) and as near to one hundred percent (100%) as is practicable.

(3) The amount annually assessed against each tract of land for maintenance.

The board may consider the factors listed in section 112 of this chapter in preparing the schedule.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-40

Periodic maintenance of drains; notice and hearing on surveyor's report and schedule of assessments; objections; publication of notice of final order

Sec. 40. (a) The board shall fix a date, time, and place for a hearing on the maintenance report of the surveyor and on the schedule of assessments, and shall prepare a written notice for each owner of land proposed to be assessed. The notice, which must describe the land to be assessed, must state:

(1) the name and identifying number by which the drainage proceedings are known;

(2) that the maintenance report of the county surveyor and the schedule of assessments made by the board have been filed and are available for public inspection in the office of the surveyor;

(3) that the surveyor has estimated that the annual cost of periodically maintaining the drain is in the sum of _____ dollars;

(4) that the land of the owner is shown by the schedule of assessments to be annually assessed _____ percent of the total cost of periodically maintaining the drain;

(5) that the land of the owner is shown by the schedule of assessments to be annually assessed in the sum of _____ dollars for periodically maintaining the drain; and

(6) the date, hour, and place of the hearing before the board on the surveyor's maintenance report and on the schedule of assessments.

(b) Not less than thirty (30) nor more than forty (40) days before the date of the hearing, the board shall mail a copy of the notice in a five (5) day return envelope to each owner named in the schedule of assessments.

(c) The board shall publish a notice in accordance with IC 5-3-1. The notice must:

(1) identify the drainage proceedings;

(2) be addressed to whom it may concern and to the addressee on each letter that was mailed under subsection (b) and was returned undelivered; and

(3) state that:

(A) the maintenance report of the surveyor and the schedule of assessments made by the board have been filed and are available for public inspection in the office of the county surveyor; and

(B) a hearing will be held before the board on the schedule of assessments, specifying the time and place of the hearing.

(d) Not less than five (5) days before the hearing, any owner of land named in the schedule of assessments may file with the board a written objection alleging that he is the owner of land assessed as benefited and the benefits assessed against his land are excessive. Each objector may file written evidence in support of his objection. The failure of an owner to file an objection constitutes a waiver of his right to subsequently object, on the ground stated in this subsection, to any final action of the board.

(e) On or before the day of the hearing, the surveyor shall, and any owner of land named in the schedule of assessments may, cause written evidence to be filed in support of or in rebuttal to any objection filed under subsection (d).

(f) The board shall consider the objections and evidence filed, may adjourn the hearing from day to day or to a day certain, and may issue an order permitting additional written evidence to be filed in support of or in rebuttal to the objections and evidence previously filed.

(g) After considering all objections and evidence, the board may amend the schedule of assessments as justice may require. Before final adjournment of the hearing, the board shall issue an order adopting the schedule of assessments as originally filed or as amended, mark the order filed, and publicly announce the order at the hearing. Immediately after that, the board shall publish a notice in accordance with IC 5-3-1. The notice must identify the drainage proceedings and state that the findings and order of the board have been filed and are available for inspection in the office of the county surveyor.

(h) If judicial review of the findings and order of the board is not requested under section 106 of this chapter within twenty (20) days after the date of publication of the notice, the order becomes conclusive.

(i) The notice required by subsections (a) and (b) for each owner of land proposed to be assessed is not required for a joint board that

includes three (3) or more counties in a drainage basin that exceeds eighty thousand (80,000) acres, except that when the proposed assessment affects land owned by a public utility or railroad the requirements of subsections (a) and (b) shall be met as to the public utility or railroad.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.76; P.L.370-1983, SEC.1; P.L.239-1996, SEC.1.

IC 36-9-27-41

Periodic maintenance of drains; combination of drains for assessment purposes; procedure

Sec. 41. (a) If recommended by the county surveyor, the board may, after notice and hearing to affected owners, combine regulated drains located in the same watershed for the purpose of annually assessing the owners benefited for periodic maintenance.

(b) The notice shall be published in accordance with IC 5-3-1. Notice shall also be given to an attorney of record in the manner provided in section 110 of this chapter.

(c) In combining drains, the board shall consider:

(1) whether the drains are tiled or open; and

(2) the uniformity of topography and soil types;

so that the drains that are combined represent substantially the same maintenance problem and can be kept in proper repair at a cost sufficiently uniform as to constitute no substantial inequity for any owner included in the combination of drains.

(d) The board may, from time to time, add regulated drains to a combination of drains established under this section.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.77.

IC 36-9-27-42

Increases and decreases in assessments for periodic maintenance of drains; procedure

Sec. 42. (a) The board may at any time increase or decrease the amount annually assessed for periodic maintenance of a regulated drain if the board finds that the county surveyor's estimate of the cost of maintaining the drain was insufficient or excessive.

(b) The board may decrease the amount annually assessed without notice to the affected owners if the percentage of benefit assigned to all tracts of land affected is not changed from that originally determined by the board.

(c) The board may increase the amount annually assessed once without notice to the affected owners if:

(1) the percentage of benefit assigned to all tracts of land affected is not changed from that originally determined by the board; and

(2) the increase does not exceed twenty-five percent (25%) of the amount initially established.

(d) If the board:

(1) finds that the percentage of benefit assigned to any

particular tract or tracts of land should be increased due to a change in land use or for any other reason; or

(2) proposes an increase or decrease that would affect all of the lands assessed for the maintenance of the drain and that is not exempted from the giving of notice under subsection (b) or (c);

the board shall mail a notice to the owner or owners of the land. The notice must state the proposed change in the assessment, and specify a date, time, and place, not less than ten (10) days after the notice is mailed, when the board will hear objections to the change. An owner may file written objections to the proposed change on or before the date of the hearing. At the hearing, the board shall consider all objections and evidence filed and shall enter an order as justice may require. The board shall mail a copy of its order to the owner or owners affected. If an owner does not request judicial review of the order under section 106 of this chapter within twenty (20) days after his receipt of the copy of the order, the order becomes conclusive.

(e) A joint board that includes three (3) or more counties in a drainage basin that exceeds one hundred thousand (100,000) acres shall publish notice in accordance with IC 5-3-1 instead of mailing notice to the owner or owners of land as required by subsection (d).

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.317, SEC.25; P.L.370-1983, SEC.2.

IC 36-9-27-43

Omission of annual assessment

Sec. 43. (a) If in any year a maintenance fund established under section 44 of this chapter has an unencumbered balance equal to or greater than four (4) times the estimated annual cost of periodically maintaining the drain for which the fund was established, the annual assessment for the maintenance of that drain may be omitted for that year.

(b) The county drainage board may collect the drain assessment even though the unencumbered balance of the maintenance fund is equal to or greater than four (4) times the estimated annual cost of periodic maintenance of the drain for which the fund was established if the drainage board does the following:

(1) Conducts a public hearing in accordance with section 40 of this chapter.

(2) At the public hearing estimates what the unencumbered balance of the maintenance fund would be, as a multiple of the estimated annual cost of periodic maintenance of the drain, after the collection of the total amount that the board intends to collect in assessments.

However, the annual assessment for the maintenance of the drain shall be omitted if, according to the estimate of the board, the collection of the intended total amount of assessments would increase the unencumbered balance of the maintenance fund to equal or exceed eight (8) times the estimated annual cost of periodic maintenance of the drain for which the fund was established.

As added by Acts 1981, P.L.309, SEC.101. Amended by

P.L.276-2001, SEC.13.

IC 36-9-27-44
Establishment of maintenance funds for drains

Sec. 44. (a) A maintenance fund is established for each regulated drain and for each combination of drains established under section 41 of this chapter. A maintenance fund consists of:

(1) money received from annual assessments upon land benefited by the periodic maintenance of a drain;

(2) penalties received on collection of delinquent annual assessments made for the periodic maintenance of a drain; and

(3) money received from any person as compensation for damages suffered to a drain.

(b) The county auditor shall:

(1) set up a separate ledger account for each regulated drain or combination of drains whenever the board fixes an annual assessment for the periodic maintenance of the drain or combination; and

(2) extend the assessments upon the ditch duplicate in each year that the assessments are to be made.

(c) Whenever the county surveyor's estimate for annual maintenance of any drain is not more than one thousand five hundred dollars ($1,500), the board may exempt that drain from the requirement that a maintenance fund be established. Expenses up to one thousand five hundred dollars ($1,500) in each year for the drain shall be paid from the general drain improvement fund established under section 73 of this chapter. The surveyor may make these minor repairs without advertising or letting a contract or contracts, but the total of these expenditures in any one (1) county in each year may not exceed ten dollars ($10) per mile of regulated drains in the county. Expenditures under this subsection may not be assessed to the affected owners.

(d) The board may deposit money that is in a maintenance fund in the manner and to the extent provided by IC 5-13-6.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.351-1985, SEC.1; P.L.19-1987, SEC.55.

IC 36-9-27-45
Maintenance funds for drains; use of funds

Sec. 45. A maintenance fund established under section 44 of this chapter is subject to the use of the board for the necessary or proper repair, maintenance, study, or evaluation of the particular drain or combination of drains, which may be done whenever the board, upon the recommendation of the county surveyor, finds that it is necessary. The payment for all such maintenance work shall be made out of the appropriate maintenance fund. However, if:

(1) a maintenance fund has not been established for the drain or combination of drains; or

(2) a maintenance fund has been established but it is not sufficient to pay for the work;

the general drain improvement fund shall be used to pay the cost of the work or to pay for the deficiency, and the general drain improvement fund shall be reimbursed from the appropriate maintenance fund when it is established or becomes sufficient.
As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.276-2001, SEC.14.

IC 36-9-27-45.5
Excess drainage maintenance fund balance; transfer of funds

Sec. 45.5. (a) This section applies when a county surveyor advises the drainage board that in the county surveyor's opinion a maintenance fund has a balance in excess of the amount reasonably needed in that fund for maintenance work in the foreseeable future.

(b) The board may transfer an amount up to a maximum of seventy-five percent (75%) of the money in the maintenance fund to a reconstruction fund that covers the same watershed as the maintenance fund from which the money is transferred.
As added by P.L.154-1993, SEC.6.

IC 36-9-27-46
Obstruction of drains; repair procedure

Sec. 46. (a) When a regulated drain is obstructed or damaged by logs, trees, brush, unauthorized structures, trash, debris, excavating, filling, or pasturing livestock, or in any other way, the county surveyor shall immediately remove the obstruction and repair any damage.

(b) Notwithstanding subsection (a), if the obstruction or damage is caused by an owner of land affected by the drain, the county surveyor shall first mail a notice to the owner, with return receipt requested, requiring the owner to remove the obstruction and repair the damage. If the owner fails to comply within ten (10) days after receipt of the notice, the surveyor shall perform the work, and the cost of the work shall be paid out of the annual maintenance fund of the drain if one has been established, or, if no such fund has been established, out of the general drain improvement fund.

(c) If the obstruction or damage has been caused by the acts or omissions of an owner of land affected by the drain, the board may, after a hearing with written notice served on the owner, add an amount sufficient to pay for the damage to the next annual assessment made against the land of the owner. The board shall certify the assessment to the county auditor in the same manner as any other assessment.

(d) If the obstruction or damage is caused by the acts or omissions of a person other than the owner of land affected by the drain, the board may bring an action against that person in court. The board is entitled to recover the reasonable value of removing the obstruction and repairing the damage, plus a reasonable attorney's fee.
As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-47

Persons entering land under contract, easement, or statute; damage to drains; repair procedure

Sec. 47. (a) Whenever any person:

(1) goes upon any land under any contract, easement, or statute; and

(2) damages a regulated drain or impedes the flow of such a drain by placing pipe, cable, or other material over, under, or through the drain;

the board shall serve upon the person an order requiring him to immediately repair the damages and remove the obstruction.

(b) If the person fails to comply with the order, the county surveyor shall repair the damage and remove the obstruction. The board may then bring an action against the person to recover damages, including the reasonable cost of repairing the damage and removing the obstruction, along with reasonable attorney's fees.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-48

Construction or reconstruction of drains; relocation of public utility equipment; procedure

Sec. 48. (a) Whenever, in the construction or reconstruction of a regulated drain, the county surveyor determines that:

(1) the proposed drain will cross a pipeline, cable, or similar equipment of a public utility; and

(2) the equipment will interfere with the proper operation of the drain;

he shall include in his plans the relocation requirements of the equipment. The surveyor shall, by registered mail, send a copy of the requirements to the public utility owning the equipment.

(b) If requested by the public utility, the county surveyor shall meet with the public utility at a time and place to be fixed by the surveyor and hear objections to the requirements. After the hearing, the surveyor may change the requirements as justice may require.

(c) If the board finds that the relocation of a pipeline, cable, or similar equipment owned by a public utility is necessary in the construction or reconstruction of a regulated drain, the cost of relocation shall be paid by the public utility.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-49

Reconstruction of drains; surveyor's report

Sec. 49. (a) When the board refers a regulated drain to the county surveyor for a reconstruction report, the surveyor shall determine and set forth in his report the best and cheapest method of reconstructing the drain so that it will adequately drain all affected land.

(b) The county surveyor shall make the necessary surveys, maps, profiles, plans, and specifications, and he may include in them:

(1) all of the repairs or changes specifically set forth in section 34(b) of this chapter; and

(2) any other repairs or changes that good engineering practice

requires, including arms where none existed before.

(c) The county surveyor shall estimate the costs of the proposed reconstruction, including costs of notices and advertising, and he shall also estimate the annual cost of periodically maintaining the proposed reconstruction.

(d) The county surveyor shall include in his report the name and address of each owner of land that will be affected by the proposed reconstruction, and the legal description of the land of each owner as shown by the tax duplicate or record of transfers of the county in which the land is located. However, a public way owned by a county or by the state shall be described by its name or number, and the right-of-way of a railroad may be described as the right-of-way of the owner through section, township, and range. If the name of an owner is not known, and cannot be discovered through diligent inquiry, the report may describe the land as belonging to the person who appears to be the owner according to the last tax duplicate or record of transfers of the county where the land is located.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-50

Reconstruction of drains; preparation of schedule of assessments and damages

Sec. 50. When the county surveyor files a reconstruction report, he shall consult with the board, and the board shall take the following actions:

(1) Prepare a schedule of assessments containing a description of each tract of land determined to be benefited by the reconstruction, and the name and address of the owner of the land. The name, address, and description shall be taken from the surveyor's report. The board shall enter in the assessment schedule the percentage of the total cost of the reconstruction to be assessed against each tract of land, with the percentage to be based upon the benefit accruing to the land from the reconstruction. The percentage allocated to all lands benefited must be at least one hundred percent (100%) and as near to one hundred percent (100%) as is practicable.

(2) Determine the amount of damages sustained by any owner as a result of the reconstruction, and prepare a schedule of damages containing:

(A) the name and address of each owner determined to be damaged and a description of the owner's land, as shown by the surveyor's report;

(B) the amount of each owner's damages; and

(C) an explanation of the injury upon which the determination was based.

The surveyor shall add the damages to all lands as determined by the board to the estimated costs and expenses contained in his report, and the result constitutes the total estimated cost of the reconstruction.

(3) Set forth the amount of each owner's assessment based on the total estimated cost of the reconstruction.

(4) Set forth the amount of each owner's annual assessment based on the estimated periodic maintenance cost of the reconstruction. The percentage used in computing the annual assessment may, but need not be, the same for each tract of land as the percentage used in computing the general assessment.

The board may consider the factors listed in section 112 of this chapter in preparing the schedules.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-51

Reconstruction of drains necessitated by changes in land use; assessments

Sec. 51. Whenever it becomes necessary to reconstruct a regulated drain that has become inadequate due to an increased flow of drainage resulting, in whole or in part, from a change in land use by one (1) or more owners of land affected by the drain, the board shall consider that fact in assessing benefits to pay the cost of the reconstruction, and the owner or owners necessitating the reconstruction shall be assessed accordingly.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-52

Reconstruction of drains; notice and hearing on surveyor's report and schedules; objections; final order

Sec. 52. (a) When the schedules of damages and assessments are completed and marked filed, the board shall fix a date, time, and place for a hearing on the reconstruction report of the county surveyor and on the schedules of damages and assessments, and shall prepare a notice for each owner of land affected by the reconstruction. The notice must state:

(1) the name and identifying number by which the proposed reconstruction is known;

(2) that the reconstruction report of the surveyor and the schedules of damages and benefits as determined by the board have been filed and are available for inspection in the office of the surveyor;

(3) that the land of the owner is shown by the schedule of damages to be damaged in the sum of _____ dollars;

(4) that the land of the owner is shown by the schedule of assessments to be assessed _____ percent of the total cost of reconstruction, and that _____ percent of the estimated total cost of the reconstruction is in the sum of _____ dollars;

(5) that the land of the owner is shown by the schedule of assessments to be annually assessed in the sum of _____ dollars for estimated periodic maintenance of the reconstruction; and

(6) the date, hour, and place of the hearing on the surveyor's reconstruction report and on the schedules of damages and assessments.

(b) Not less than thirty (30) nor more than forty (40) days before

the date of the hearing, the board shall mail a copy of the notice in a five (5) day return envelope to each owner named in the schedules of damages and assessments.

(c) The board shall publish a notice in accordance with IC 5-3-1. The notice must:

(1) identify the proposed reconstruction;

(2) be addressed to whom it may concern and to the addressee on each letter that was mailed under subsection (b) and was returned undelivered; and

(3) state that:

(A) the reconstruction report of the county surveyor and the schedules of damages and assessments made by the board have been filed and are available for public inspection in the office of the county surveyor; and

(B) a hearing will be held before the board on the report and schedules, specifying the time and place of hearing.

(d) Not less than five (5) days before the board's hearing on a reconstruction report, an owner of lands affected by the report or by the schedules of damages and assessments may file with the board written objections to the report, schedules, or both. The objections may be for one (1) or more of the following causes:

(1) The costs, damages, and expenses of the proposed reconstruction will exceed the benefits that will result to the owners of all land benefited.

(2) The objector is the owner of land assessed as benefited, and the benefits assessed against his land are excessive.

(3) The objector is the owner of land damaged by the reconstruction, and:

(A) the board failed to find that his land is damaged; or

(B) the damages assessed to his land are inadequate.

Each objector may file written evidence in support of his objections. The failure of an owner to file objections constitutes a waiver of his right to subsequently object, on the grounds stated in this subsection, to any final action of the board.

(e) On or before the day of the hearing, the county surveyor shall, and any owner of land affected by the proposed reconstruction may, cause written evidence to be filed in support of or in rebuttal to any objection filed under subsection (d).

(f) The board shall consider the objections and evidence filed, may adjourn the hearing from day to day or to a day certain, and may issue an order permitting additional written evidence to be filed in support of or in rebuttal to the objections and evidence previously filed.

(g) After considering all of the objections and evidence, the board may amend the schedules of damages and assessments, and the county surveyor may modify his report, as justice may require.

(h) Before final adjournment of the hearing, the board shall determine in writing whether the costs, damages, and expenses of the proposed reconstruction will be less than the benefits accruing to the owners of land benefited by the construction. If the board answers

this question in the negative, it shall dismiss the proceedings. If the board answers the question in the affirmative, it shall adopt the reconstruction report of the county surveyor and the schedule of damages and assessments, including annual assessments for periodic maintenance, as originally filed or as amended, into its findings, and issue an order declaring the proposed reconstruction established. The board shall mark the findings and order filed and publicly announce the findings and order at the hearing. Immediately after that, the board shall publish a notice in accordance with IC 5-3-1. The notice must identify the drainage proceedings and state that the findings and order of the board have been filed and are available for inspection in the office of the surveyor.

(i) If judicial review of the findings and order of the board is not requested under section 106 of this chapter within twenty (20) days after the date of publication of the notice, the findings and order become conclusive.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.78; P.L.180-1995, SEC.6.

IC 36-9-27-52.5
Authorization for reconstruction of regulated drain

Sec. 52.5. (a) If:

(1) a proposed project for the reconstruction of a regulated drain is presented to the board for approval;

(2) the proposed project consists exclusively of the relocation of a regulated drain from one (1) site on property owned by a person to another site on property owned by the same person;

(3) the specifications for the project have been approved by the county surveyor;

(4) the project will be completed under the supervision of the county surveyor;

(5) the person who owns the property on which the regulated drain will be relocated will pay the entire cost of the project;

(6) the county surveyor has investigated whether any other owner of land in the watershed in which the regulated drain is located will be adversely affected by the proposed project, and has communicated the results of the investigation to the board;

(7) the board finds that no owner of land in the watershed in which the regulated drain is located will be adversely affected by the proposed project; and

(8) the board, at a public meeting, votes to approve the proposed project;

the board may issue an order authorizing the reconstruction of a regulated drain.

(b) The board may issue an order authorizing the reconstruction of a regulated drain under subsection (a) without:

(1) the preparation and filing of a reconstruction report under sections 49 and 50 of this chapter;

(2) the preparation by the county surveyor of a schedule of damages and assessments under section 50 of this chapter; and

(3) a hearing on the reconstruction report and the schedules of damages and assessments under section 52 of this chapter.

As added by P.L.273-1995, SEC.3.

IC 36-9-27-53

Reconstruction proceedings; combination of drains; procedure

Sec. 53. (a) Whenever:

(1) the board has initiated, or is considering initiating, a proceeding to reconstruct a regulated drain under this chapter;

(2) one (1) or more other regulated drains in the same watershed are in need of reconstruction;

(3) the board finds that no substantial injustice would result from treating the drains as a single drain; and

(4) the board has given notice and a hearing to the owners of affected land;

the board may issue an order combining the drains.

(b) The notice shall be published:

(1) at least once; and

(2) not less than ten (10) nor more than thirty (30) days before the date of the hearing;

in a newspaper of general circulation in the area affected. Notice shall also be given to an attorney of record in the manner provided in section 110 of this chapter.

(c) After an order is issued under this section, this chapter applies to the combined drains as if they were a single drain.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-53.5

Onsite field review; procedures

Sec. 53.5. (a) A county surveyor or board planning to perform a project for the reconstruction or maintenance of a regulated drain under IC 36-9-27 that:

(1) is subject to regulation under:

(A) IC 14-26-5; or

(B) IC 14-28-1; or

(2) requires an individual permit under Section 404 of the federal Clean Water Act (33 U.S.C. 1344);

shall request an onsite field review of the project through a written notification of the division of water of the department of natural resources (referred to as "the division" in this section).

(b) Not more than fourteen (14) days after it receives a notification under subsection (a), the division shall contact the county surveyor or the designee of the county surveyor and the department of environmental management to establish a date, time, and location for the onsite field review.

(c) The onsite field review shall be conducted by a team consisting of:

(1) one (1) or more representatives of the county;

(2) one (1) or more representatives of the department of natural resources, including an engineer from the division of water;

(3) one (1) or more representatives of the department of environmental management; and

(4) if applicable, representatives of the local soil and water conservation district.

(d) Not more than thirty (30) calendar days after the completion of an onsite field review under this section, the division shall provide the county surveyor with a written summary of the review. The summary must contain the following:

(1) A narrative and map defining the project location.

(2) A description of the proposed work.

(3) A list of conditions that:

(A) the department of natural resources would place on a permit to mitigate any unreasonable or detrimental effects that may occur as a result of the proposed work;

(B) the department of environmental management would place on a certification to comply with Section 401 of the federal Clean Water Act (33 U.S.C. 1341), if it is possible to ensure compliance with Section 401 by placing conditions on the certification; or

(C) both departments referred to in this subdivision would place on a permit or certification.

(e) The department of natural resources may not require or recommend the following as conditions for a permit for a project for the reconstruction or maintenance of a regulated drain:

(1) Deed restrictions in connection with the proposed work.

(2) Conservation easements in connection with the proposed work.

(3) Tree planting or tree retention within the easement of the regulated drain, if:

(A) the project involves construction on only one (1) side of the drain;

(B) vegetation on the opposite overbank will not be disturbed; and

(C) the board agrees to establish a suitably sized vegetated filter strip consisting of grasses and legumes along the side of the drain on which the construction will occur.

(f) For the purposes of subsection (e)(3), a project involves construction on only one (1) side of a regulated drain if the work is limited to the entire area:

(1) below the top of the banks; and

(2) within the drainage easement on one (1) side;

of the stream or open drain.

(g) A county surveyor or board that is aggrieved by the permit conditions disclosed under subsection (d)(3) has the right to enter into further negotiations with the department of natural resources and the department of environmental management in order to obtain a mutually agreeable set of permit conditions.

(h) If the permit conditions disclosed under subsection (d)(3) concerning a project for the reconstruction or maintenance of a regulated drain are acceptable to the county surveyor and board, the

conditions:

(1) are binding upon the department of natural resources; and

(2) may not be changed by the department of natural resources.

However, subdivisions (1) and (2) cease to apply to the permit conditions disclosed under subsection (d)(3) concerning a project if an application for a permit for the project is not submitted within two (2) years after the onsite field review.

As added by P.L.180-1995, SEC.7. Amended by P.L.2-1996, SEC.295.

IC 36-9-27-54

Construction of drains; petitions

Sec. 54. (a) When one (1) or more persons want to establish a new regulated drain, and that drain cannot be established in the best and cheapest manner without affecting land owned by other persons, the person or persons seeking to establish the drain must file a petition with the board. If the proposed drain will affect land in two (2) or more counties, the petition shall be filed in each of the affected counties. The petition shall be entitled "In the Matter of the _____ Drain Petition".

(b) The petition may be filed by:

(1) the owners of:

(A) ten percent (10%) or more in acreage; or

(B) twenty-five percent (25%) or more of the assessed valuation;

of the land that is outside the corporate boundaries of a municipality and is alleged by the petition to be affected by the proposed drain;

(2) a county executive that wants to provide for the drainage of a public highway;

(3) a township executive or the governing body of a school corporation that wants to drain the grounds of a public school; or

(4) a municipal legislative body that wants to provide for the drainage of the land of the municipality.

(c) The petition must include the following items:

(1) A statement showing that each petitioner is qualified to file the petition.

(2) The legal description of each tract of land that a petitioner believes will be affected by the proposed drain, and the name and address of each owner, as shown by the tax duplicate or record of transfers of the county. However, a public way owned by a county or by the state shall be described by its name or number, and the right-of-way of a railroad may be described as the right-of-way of the owner through section, township, and range. The petition must describe an area of land equal to three-fourths (3/4) or more in area of all the affected land.

(3) The general route of the proposed drain.

(4) A statement that in the opinion of the petitioner the costs, damages, and expenses of the proposed drain will be less than the benefits accruing to the owners of land likely to be benefited

by the drain.

(5) A statement that in the opinion of the petitioner the proposed drain will:

(A) improve the public health;

(B) benefit a public highway in a county or a public street in a municipality;

(C) drain the grounds of a public school; or

(D) be of public utility.

(6) The name of the attorney representing the petitioner in the drainage petition.

(7) A statement that the petitioner shall pay the cost of notice and all legal costs, if the petition is dismissed.

The petitioner shall post a bond sufficient to pay the cost of notice and all legal costs if the petition is dismissed.

(d) The petition must be signed by each petitioner and filed in duplicate with the county surveyor, who shall receive it on behalf of the board. The surveyor shall examine the petition and if it is in proper form he shall mark it filed, showing the date of filing, and give it a distinguishing name by insertion in its caption. If the petition is not in proper form, the surveyor shall return it to the attorney for the petitioner, pointing out in what respects the petition fails to comply with this chapter. The attorney may then amend the petition and refile it with the surveyor.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-55

Construction of drains; inspection and preliminary report by county surveyor

Sec. 55. When the county surveyor has accepted a petition and marked it filed under section 54 of this chapter, he shall make a personal inspection of the land described in the petition and file with the board a written preliminary report stating:

(1) whether the proposed drain is practicable;

(2) whether the proposed drain will improve the public health, benefit a public highway in a county or a public street in a municipality, drain the grounds of a public school, or be of public utility; and

(3) whether the costs, damages, and expenses of the proposed drain will probably be less than the benefits accruing to the owners of land likely to be benefited.

In determining whether the proposed drain is practicable, the surveyor may consider changing the route of the proposed drain from that set forth in the petition to conform with sound engineering principles.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-56

Construction of drains; negative findings by surveyor; procedure

Sec. 56. (a) If the county surveyor's report concerning any of the three (3) subdivisions of section 55 of this chapter is wholly in the

negative, the board shall have a copy of the surveyor's preliminary report served upon the attorney for the petitioner.

(b) Within twenty (20) days after service is made under subsection (a), the petitioner may file with the board written objections to the report, along with written evidence in support of the objections.

(c) The board shall consider any objections and written evidence filed by petitioner, and may then adopt the surveyor's preliminary report as filed or amend it as justice may require. However, if the board finds that the report concerning any of the three (3) subdivisions of section 55 of this chapter should be wholly in the negative, it shall dismiss the petition, whether or not the petitioner has filed objections and evidence.

(d) The board shall serve a copy of its findings and the notice of dismissal, if any, on the attorney for the petitioner. The petitioner may file an appeal from the order of the board under section 106 of this chapter within twenty (20) days after service of the order on his attorney.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-57

Construction of drains; affirmative findings by surveyor; procedure

Sec. 57. (a) If the county surveyor, in his preliminary report, or the board, after a hearing under section 56 of this chapter, finds that the report concerning each of the three (3) subdivisions of section 55 of this chapter should be in the affirmative, the surveyor shall determine if any land other than that described in the petition will be affected by the proposed drain. If the surveyor finds that additional land will be affected, he shall make a written report to the board, setting forth the boundary of the additional area of affected land.

(b) After receiving the county surveyor's report under subsection (a), the board shall determine if the petition describes an area of land equal to three-fourths (3/4) or more of all the affected land.

(c) If the board's determination under subsection (b) is in the negative, the board shall enter an order dismissing the petition, unless within a time specified by the board a supplementary petition describing a sufficient area contiguous to the area described in the original petition, with the signatures required to qualify the supplementing petition, is filed with the board. The board shall serve a copy of the report of the county surveyor and order of dismissal upon the attorney for petitioner. The dismissal does not prohibit the subsequent filing of a proper petition.

(d) If the county surveyor determines that additional land will be affected by the proposed drain, and that the petition described a sufficient area of land, he shall prepare a written report describing the boundary of the additional area and have a copy of the report served on the attorney for the petitioner. The petitioner, within thirty (30) days after service of the report upon his attorney, shall file with the surveyor an amendment to the petition, including:

(1) the names and addresses of the owners of all land within the additional area described in the surveyor's report; and

(2) a legal description of each owner's land.

The names, addresses, and legal descriptions shall be described in the manner prescribed by section 54(c)(2) of this chapter. If the petitioner fails to file the amendment to the petition within the thirty (30) day period, or within any additional time granted to the petitioner by the surveyor or the board, the surveyor shall report that fact to the board at its next meeting. The board shall then enter an order dismissing the petition and serve a copy of the order on the attorney for petitioner.

(e) If the county surveyor determines that the petition described all of the land that may be affected by the proposed drain, or if the surveyor determines otherwise and a proper amendment to the petition is filed under subsection (d), the surveyor shall immediately fix a date, hour, and place for a hearing before the board on the petition and shall have written notice of the hearing served on the attorney for the petitioner. The date of the hearing may not be less than thirty (30) nor more than forty (40) days after the date of service of notice upon the petitioner's attorney. The surveyor shall call a special meeting of the board for the date, time, and place fixed in the notice unless a meeting of the board is already scheduled for the date, time, and place.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-58

Construction of drains; notice of hearing on petition

Sec. 58. (a) Within seven (7) days after the attorney for the petitioner is served with notice of a hearing under section 57(e) of this chapter, he shall prepare a written notice setting forth:

(1) the fact of the filing and pendency of the petition;

(2) the name and identifying number by which the petition is known;

(3) the general route of the proposed drain; and

(4) the date, hour, and place of the hearing before the board.

(b) The attorney for the petitioner shall, within the seven (7) day period, mail a copy of the notice in a five (5) day return envelope to each owner named in the petition.

(c) The attorney for the petitioner shall have a copy of the notice published in accordance with IC 5-3-1. The published notice shall be directed to whom it may concern and to the addressee on each letter that was mailed under subsection (b) and was returned undelivered.

(d) On or before the day of the hearing, the attorney for the petitioner shall file with the board affidavits showing the mailing of the notices under subsection (b) and the publication of notice under subsection (c). The mailing and publication of the notice under this section constitute public notice to all owners of the pendency of the petition, whether or not they were individually named and notified, and are sufficient to give the board jurisdiction over those owners.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981,

P.L.45, SEC.79.

IC 36-9-27-59
Construction of drains; remonstrances and objections to petition

Sec. 59. (a) At least five (5) days before the board's hearing on a petition to establish a new regulated drain, one (1) or more persons who own two-thirds (2/3) in the area of the acreage and fifty-one percent (51%) of the assessed valuation of the land named in the petition, or that may be affected by an assessment of benefits or damages, may file with the board a written remonstrance, signed by each remonstrator, against the construction of the proposed drain.

(b) At least five (5) days before the board's hearing on a petition to establish a new regulated drain, any person named in the petition as the owner of land likely to be affected by the proposed drain may object to any member of the board acting in the proceedings to establish the drain, if that member has an interest in any of the land described in the petition. The objection must be in writing, filed with the board, and verified by the signer.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-60
Construction of drains; hearing on petition; consideration of remonstrances and objections

Sec. 60. (a) At its hearing on a petition to establish a new regulated drain, the board shall consider:

(1) any remonstrance filed under section 59(a) of this chapter; and

(2) any objection filed under section 59(b) of this chapter.

(b) If the board finds that a proper remonstrance has been filed, it may dismiss the petition. If the board does not dismiss the petition, it shall forward the petition to the county surveyor for a final report.

(c) If the board finds that a proper objection has been filed, the person against whom the objection is made shall disqualify himself from any further action in the proceedings to establish the drain.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.317, SEC.26.

IC 36-9-27-61
Construction of drains; final report by county surveyor

Sec. 61. When the board refers a petition to the county surveyor for a final report under section 60(b) of this chapter, the surveyor shall do the following:

(1) Make the necessary survey for the proposed drain.

(2) Prepare plans for structures other than bridges or culverts crossing a railroad right-of-way or a highway owned by the state. In preparing the plans, the surveyor shall include all appurtenances needed to complete the proposed drain.

(3) Prepare maps showing the location of the land proposed to be assessed.

(4) Prepare profiles showing the cuts and gradient of the

proposed work.

(5) Determine the best and cheapest method of drainage, which may be by:

(A) removing obstructions from a natural or artificial watercourse;

(B) diverting a natural or artificial watercourse from its channel;

(C) deepening, widening, or changing the channel of a natural or artificial watercourse;

(D) constructing an artificial channel, with or without arms or branches;

(E) tiling all or part of an open drain;

(F) converting all or part of a tiled drain to an open drain;

(G) constructing a new drain as a part or the whole of the work; or

(H) any combination of these methods.

(6) Determine and describe the termini, route, location, and character of the proposed work, including grades, bench marks, and all necessary arms. The surveyor may vary the line of the work from the line described in the petition, and he may fix the beginning and outlet so as to secure the best results.

(7) Divide the proposed drain into sections of not more than one hundred (100) feet in length, and compute and set out the number of cubic yards of excavation in each section.

(8) Estimate the cost of the proposed drain, including construction, seeding or sodding of disturbed areas and the banks of open drains, notices, advertising, and the attorney's fee for the petitioner's attorney. The amount of the attorney's fee is computed as follows:

(A) If the estimated cost of constructing the drain is less than one thousand five hundred dollars ($1,500), the fee is fifteen percent (15%) of that cost.

(B) If the estimated construction cost is one thousand five hundred dollars ($1,500) or more, but less than twenty-five thousand dollars ($25,000), the fee is two hundred twenty-five dollars ($225) plus five percent (5%) of the amount by which that cost exceeds one thousand five hundred dollars ($1,500).

(C) If the estimated construction cost is twenty-five thousand dollars ($25,000) or more, the fee is one thousand four hundred dollars ($1,400) plus one percent (1%) of the amount by which that cost exceeds twenty-five thousand dollars ($25,000).

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-62

Construction of drains; preparation of schedule of assessments; determination of damages

Sec. 62. (a) When the county surveyor has completed the maps, profiles, and plans required by section 61 of this chapter, he shall meet with the board, and the board shall take the following actions:

(1) Prepare a schedule of assessments containing a description

of each tract of land determined to be benefited by the proposed drain and the name and address of the owner of the land. The name, address, and description shall be taken from the petition. The board shall enter in the assessment schedule the percentage of the total cost of the drain to be assessed against each tract of land. The percentage allocated to all lands benefited must be at least one hundred percent (100%) and as near to one hundred percent (100%) as is practicable.

(2) Determine the amount of damages sustained by all owners as a result of the proposed drain, and prepare a schedule of damages containing:

(A) the name and address of each owner determined to be damaged and a description of the owner's land, as shown by the petition;

(B) the amount of each owner's damages; and

(C) an explanation of the injury upon which the determination was based.

The surveyor shall add the damages to all lands as determined by the board to the estimated costs and expenses contained in his report, and the result constitutes the total estimated cost of the proposed drain.

(3) Set forth the amount of each owner's assessment based on the total estimated cost of the proposed drain.

(4) Set forth the amount of each owner's annual assessment based on the estimated periodic maintenance cost of the proposed drain. The percentage used in computing the annual assessment may, but need not, be the same for each tract of land as the percentage used in computing the general assessment.

The board may consider the factors listed in section 112 of this chapter in preparing the schedules.

(b) If land that was not included in the petition is determined to be benefited or damaged, the names of the owners and a description of the land shall be taken from the tax duplicates or record of transfers of the county.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-63

Construction of drains; notice and hearing on surveyor's report and schedules of assessments and damages

Sec. 63. (a) When the schedules of assessments and damages prepared under section 62 of this chapter are completed and marked filed, the board shall fix the date, time, and place for a hearing on the county surveyor's report and on the schedules of assessments and damages. The board shall serve notice of the hearing, along with a copy of the schedules, upon the attorney for the petitioner. The date fixed by the board for the hearing may not be less than thirty (30) nor more than forty (40) days after service of notice upon the petitioner's attorney.

(b) Within five (5) days after service upon him of the notice of hearing, the attorney for the petitioner shall mail a notice in a five (5)

day return envelope addressed to each owner named in the schedule of benefits and damages. The notice must state:

(1) the name and identifying number by which the proposed drain is known;

(2) that the report of the surveyor and the schedules of damages and benefits as determined by the board have been filed and are available for inspection in the office of the county surveyor;

(3) that the land of the owner is shown by the schedule of damages to be damaged in the sum of _____ dollars;

(4) that the land of the owner is shown by the schedule of assessments to be assessed _____ percent of the total cost of the drain, and that _____ percent of the estimated total cost of the drain is in the sum of _____ dollars;

(5) that the land of the owner is shown by the schedule of assessments to be annually assessed in the sum of _____ dollars for the estimated periodic maintenance of the drain; and

(6) the date, hour, and place of hearing on the surveyor's report and on the schedules of damages and assessments.

(c) The attorney for the petitioner shall publish a notice in accordance with IC 5-3-1. The notice:

(1) shall be entitled "In the matter of the _____ drain petition";

(2) shall be addressed to whom it may concern and to the addressee on each letter that was mailed under subsection (b) and was returned undelivered; and

(3) must state that:

(A) the report of the county surveyor and the schedules of damages and assessments made by the board have been filed and are available for public inspection in the office of the surveyor; and

(B) a hearing will be held before the board on the report and schedules, specifying the time and place of the hearing.

(d) When the plans and specifications of the county surveyor disclose that part or all of the proposed drain will involve the construction of an open drain, the attorney for the petitioner shall mail a notice to the Indiana department of natural resources. The notice must give the time, date, and place of the hearing and state that the proposed drain will involve the construction of an open drain.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.80.

IC 36-9-27-64

Construction of drains depriving property owners of ingress and egress; damage awards

Sec. 64. (a) Whenever:

(1) a new open drain is to be constructed under this chapter; and

(2) the drain will cross a tract of land in such a manner that the

owner of the tract will be deprived of ingress and egress to part of the tract unless a private crossing is constructed across the drain;

the board shall award damages to the owner in an amount equal to the cost of constructing a proper crossing. In determining the type and quality of the crossing, the board shall consider the use of the inaccessible land, the frequency of the crossing's use, the purpose of the crossing's use, and any other appropriate factors.

(b) When an owner is entitled to damages under subsection (a), he may, in lieu of accepting damages awarded by the board, file with the board his written consent to the construction of the crossing as part of the construction of the drain. The county surveyor shall then include the construction of the crossing in his plans and specifications for the drain, but the future maintenance of the crossing will then be the responsibility of the owner.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-65

Construction of drains; written objections to surveyor's report and schedules; findings and final order by board

Sec. 65. (a) Not less than five (5) days before the board's hearing on a petition for a new regulated drain, any owner of land affected by the report of the county surveyor or by the schedules of damages and assessments may file with the board written objections to the report, schedules, or both. The objections may be for one (1) or more of the following causes:

(1) The proposed drain, as reported by the surveyor, is not practicable and will not adequately drain the affected land. An objection on this ground must point out the impracticable aspects of the proposed drain and describe the specific lands that will not be adequately drained.

(2) The costs, damages, and expenses of the drain will exceed the benefits that will result to the owners of all land benefited.

(3) The proposed drain will not:

(A) improve the public health;

(B) benefit a public highway in a county or a public street in a municipality;

(C) drain the grounds of a public school; or

(D) be of public utility.

(4) The objector is the owner of land damaged by the drain, and:

(A) the board failed to find that his land is damaged; or

(B) the damages assessed to his land are inadequate.

(5) The objector is the owner of lands assessed as benefited, and the benefits assessed against his lands are excessive.

Each objector may file written evidence in support of his objections. The failure of an owner to file objections constitutes a waiver of his right to subsequently object, on the gounds stated in this subsection, to any final action of the board.

(b) On or before the day of the hearing, the county surveyor shall,

and any owner of affected land may, cause written evidence to be filed in support of or in rebuttal to any objection filed under subsection (a).

(c) The board shall consider the objections and evidence filed, may adjourn the hearing from day to day or to a day certain, and may issue an order permitting additional written evidence to be filed in support of or in rebuttal to the objections and evidence previously filed.

(d) After considering all of the objections and evidence, the board may amend the schedules of damages and assessments, and the county surveyor may modify his report, as justice may require.

(e) Before final adjournment of the hearing, the board shall determine in writing:

(1) whether the proposed drain, as reported by the county surveyor, is practicable and will adequately drain the affected land;

(2) whether the costs, damages, and expenses of the proposed drain will be less than the benefits accruing to the owners of land benefited by the drain; and

(3) whether the proposed drain will improve the public health, benefit a public highway in a county or a public street in a municipality, drain the grounds of a public school, or be of public utility.

If the board finds the issues set forth in subdivision (1), (2), or (3) in the negative, it shall dismiss the petition. If the board finds the issues set forth in subdivisions (1), (2), and (3) in the affirmative, it shall adopt the schedules of damages and assessments, including annual assessments for periodic maintenance, as originally filed or as amended, into its findings, and issue an order declaring the proposed drain established. The board shall mark the findings and order filed and publicly announce them at the hearing. Immediately after that, the board shall publish a notice in accordance with IC 5-3-1. The notice must identify the proceedings and state that the findings and order of the board have been filed and are available for inspection in the office of the surveyor.

(f) If judicial review of the findings and order of the board is not requested under section 106 of this chapter within twenty (20) days after the date of publication of the notice, the findings and order become conclusive.

(g) When the proposed drain is finally and conclusively established, the board shall allow the attorney for the petitioner the fee computed under section 61(8) of this chapter.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.81.

IC 36-9-27-66

Construction of connecting drain through lands owned by others; procedure

Sec. 66. (a) Whenever:

(1) land has been assessed as benefited by the construction,

reconstruction, or maintenance of a regulated drain;

(2) there is no open or tiled drain connecting the land with the regulated drain; and

(3) the waters from the land flow over or through land owned by others to reach the regulated drain;

the owner of the land assessed may petition the board to construct through the land of the other owners a new drain that will connect the petitioner's lands with the regulated drain. The petition must describe the land through which the new regulated drain will run, state the name and address of each owner of that land, describe the general route of the proposed new regulated drain, and state the proposed method of construction.

(b) The board shall refer the petition to the county surveyor for a report.

(c) If the county surveyor determines that the proposed drain is not practicable, he shall report that fact to the board and the board shall deny the petition.

(d) If the county surveyor determines that the proposed drain is practicable, he shall, in the manner presecribed by sections 49 through 52 of this chapter, prepare plans and specifications and all things necessary for the construction of the drain. The board shall, in the manner prescribed by sections 49 through 52 of this chapter, prepare a schedule of benefits and damages, serve the schedule upon the owners of land benefited or damaged, and hold a hearing on the schedule. Objections to the proceedings may be filed only on the grounds that:

(1) the objector is the owner of land damaged by the proposed drain and the board failed to so find or, if it did so, find, the damages awarded were insufficient; and

(2) the objector is the owner of land found by the board to be benefited, and the benefits assessed are excessive.

After the hearing, the board shall enter its order and findings in the manner prescribed by section 52 of this chapter.

(e) Any owner aggrieved by the final award of damages under subsection (d) may obtain judicial review under section 106 of this chapter. When the order of the board becomes conclusive, the board shall proceed to construct the drain in the manner prescribed by this chapter.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-67

Urban drains; designation

Sec. 67. (a) In his written report setting forth his order of priority for regulated drains under section 35 of this chapter, the county surveyor may designate any drain that is classified as in need of reconstruction as an urban drain. In adopting the classification and in making public the long-range plan, the board shall consider each designation of an urban drain and shall indicate the order of priority of action on urban drains.

(b) A drain shall be designated as an urban drain when:

(1) the drain will not, without construction or reconstruction, provide proper drainage for urban land or will not properly impound water in a small lake;

(2) it appears that after a practicable construction or reconstruction proper drainage for urban land can be provided; and

(3) either or both of the following factors is present:

(A) A reasonable part of the land within the watershed has been or is being converted from rural land to urban land.

(B) It appears to the board that one (1) or more tracts within the watershed is or will be changing from rural land to urban land, and that change requires the drainage provided by an urban drain.

(c) A petition for a new regulated drain under section 54 of this chapter may state, or may be amended to state, that in the opinion of the petitioners the new regulated drain should be designated as an urban drain. The board shall consider that statement in referring the petition to the county surveyor for a final report.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.166-1983, SEC.7.

IC 36-9-27-68

Urban drains; duties of county surveyor

Sec. 68. The county surveyor shall perform the following duties with respect to all urban drains within his jurisdiction:

(1) Prepare and make available to the public design standards of rainfall intensity and frequency for urban land, design standards of storm water runoff for urban land, or both. In preparing these standards, the surveyor shall consider official weather bureau information, design criteria of the Indiana department of natural resources, the published recommendations of the United States bureau of public roads, and all available local, topographical, geological, and statistical information that may affect the design standard of runoff from urban land. The surveyor may give special consideration to those weather events in which rainfall occurs under conditions when soil tends to be impervious due to frost or other natural causes.

(2) Prepare hydraulic calculations for the channel design of the urban drain, taking into consideration hydraulic gradients, friction factors, dimensions, and other engineering variables.

(3) Design the channel or dam required for the urban drain, including any necessary rerouting and taking into consideration the structures and structural characteristics of the soil.

(4) Furnish design information for all new drainage structures (including local flood control dikes) that may be needed to properly drain urban land or impound water in a small lake in the most efficient and economical manner.

(5) Keep available maps, listings, or other information showing current land use and projections of future land use in the area

affected by the urban drain. In preparing this information, the surveyor shall consider recommendations of state and local planning agencies, plan commissions, zoning boards, and similar bodies.

(6) Include in his report to the board on the construction or reconstruction of an urban drain his recommended designation of each parcel of affected land in the watershed of the urban drain as either urban land or rural land.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.166-1983, SEC.8.

IC 36-9-27-69

Urban drains; preparation of schedule of assessments and determination of damages; notice and hearing

Sec. 69. (a) After the county surveyor has filed his report on the construction or reconstruction of an urban drain, he shall consult with the board, and the board may adopt or modify the designations recommended by the surveyor. The board shall then prepare a schedule of benefits, assessments, and damages.

(b) The board shall determine and compute benefits, assessments, damages, total estimated cost, and percentage allocations in the manner provided by section 50 or section 62 of this chapter. However, in determining benefits and assessments for an urban drain, the board shall consider the following factors:

(1) The watershed, or entire land area drained or affected by the urban drain, shall be considered to be benefited and shall be assessed.

(2) If specific parts of urban land are to be served by new drainage arms, routings, special structures, or other similar new features that are part of the total cost of the urban drain, those specific parts of urban land may be considered to have extra benefits greater than the benefits to the other affected urban land.

(3) Except for urban land that has extra benefits, all urban land within the watershed shall be considered to be equally benefited, and the benefits shall be computed in proportion to the number of acres in each tract.

(4) If a tract of urban land has been platted or subdivided into lots, and the subdivision contains streets, parkways, parks, or similar common use areas, the board may determine the per lot benefits by:

(A) ascertaining the total approximate benefits in proportion to the area of the tract before the subdividing; and

(B) apportioning the total benefits in substantially equal amounts to each lot.

Additional assessments may not be imposed on a right-of-way apportioned to the lots under this subdivision.

(5) Rights-of-way of a public highway, railroad company, pipeline company, or public utility that lie within or adjoin urban land shall be considered to be benefited and shall be

assessed in the same manner as urban land.

(6) Rural land affected by an urban drain is benefited only as rural land and shall be assessed on that basis. Whenever the board finds that a drain would have drained rural land without reconstruction, the board may reduce the assessment apportioned to rural land, subject to section 84(c) of this chapter.

(c) The notice to landowners in the case of an urban drain must:

(1) state that the drain has been designated as an urban drain;

(2) describe the land of the owner to whom the notice is addressed; and

(3) state that the land described is shown by the schedule of assessments to be assessed as either rural land or urban land.

(d) Before final adjournment of the hearing, the board shall find in writing that the drain is an urban drain or that it is a rural drain and is not an urban drain. If the board finds that the drain is not an urban drain, the board shall then request the county surveyor to deny all future connections to the drain, as provided in section 17 of this chapter, and the board shall make this request and finding public.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-69.5

Drainage plans and specifications

Sec. 69.5. (a) As used in this section, "development" does not include utility infrastructure owned, controlled, installed, or constructed by a public or municipally owned utility.

(b) Unless otherwise required by an ordinance of the county, a person who lays out a:

(1) subdivision of lots or lands; or

(2) commercial, industrial, or other land development;

outside the corporate boundaries of any municipality must submit plans and specifications for the drainage of the subdivision or other development in accordance with this section. The county drainage board must approve the drainage plan before the person may proceed with the subdivision or other development.

(c) A drainage plan and specifications submitted under subsection (b) to the county drainage board must comply with this chapter. Except as provided in subsection (d), the plan must comply with the following standards:

(1) The plan must maintain the amount of drainage through the tract that existed when the tract was created. If any tiles are cut, broken down, or rendered useless during the construction activity on the tract, the landowner is responsible for the repair, replacement, or relocation of the tile.

(2) The plan may not change the locations where surface water enters the tract and exits the tract from the locations that existed when the tract was created.

(3) Water that sheds off of a new structure, especially when the new structure is elevated or near a property line, or both, must exit the tract in the same location where it did when the tract

was created.

(d) The county drainage board may approve an alternate plan that does not comply with the standard set forth in subsection (c)(2).

As added by P.L.97-2001, SEC.1. Amended by P.L.125-2011, SEC.2.

IC 36-9-27-70

Drains within 300 feet of levees; approval of plans by department of natural resources

Sec. 70. (a) This section applies whenever the plans and specifications for the construction or reconstruction of any regulated drain disclose that the center line of the drain at any point will come within three hundred (300) feet of any levee that is subject to or was constructed under any statute.

(b) The county surveyor in charge of the work on the drain shall mail the plans and specifications for the drain by certified mail with return receipt requested to the Indiana department of natural resources. The department shall approve or disapprove the plans and specifications within forty-five (45) days after receiving them. If the department fails to act within the time limit, the plans and specifications are considered approved. If the department disapproves the plans and specifications, it shall issue an order stating the reasons for the disapproval, shall recommend specific changes in the plans and specifications that would make them acceptable to the department, and shall serve a copy of the order on the surveyor.

(c) Work on the drain may not be commenced until the plans and specifications have been approved by the department, or until the board is satisfied that the county surveyor has changed the plans and specifications to conform with the department's recommendations.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-71

Drains crossing public highways and railroad rights-of-way

Sec. 71. (a) When, in the construction or reconstruction of a regulated drain, the county surveyor determines that the proposed drain will cross a public highway or the right-of-way of a railroad company at a point where:

(1) there is no crossing; or

(2) the crossing will not adequately handle or will be endangered by the flow of water from the drain when completed;

the county surveyor shall include in the plans the grade and cross section requirements for a new crossing, or the requirements for altering, enlarging, repairing, or replacing the crossing. The surveyor shall mail a copy of the requirements addressed to the owner of the highway or right-of-way.

(b) When requested by the owner of the highway or right-of-way, the county surveyor shall meet with the owner at a time and place to be fixed by the surveyor. The surveyor shall hear objections to the requirements, and may then change the requirements as justice may

require.

(c) When the board finds that in the construction, reconstruction, or maintenance of a regulated drain it is necessary to:

(1) alter, enlarge, repair, or replace a crossing; or

(2) construct a new crossing where none existed before;

the cost of the work on the crossing shall be paid by the owner of the public highway. This cost may not be considered by the county surveyor or by the board in determining the cost of the work on the drain or in assessing benefits and damages. However, if it is necessary for the owner of a public highway to construct a new crossing because of a cut-off for the purpose of shortening or straightening a regulated drain, the owner of the public highway shall pay one-half (1/2) of the cost of the new crossing, and the remainder shall be included in the cost of the work on the drain.

(d) A railroad company with a right-of-way that is:

(1) crossed by the construction of a regulated drain; or

(2) affected by the altering or enlarging of a crossing;

shall pay one-half (1/2) of the cost of the work on the crossing and the remainder shall be included in the cost of the work on the drain.

(e) If the county surveyor is registered under IC 25-31, the county surveyor must review and approve or disapprove the plans and hydraulic data for an existing crossing that is to be altered, enlarged, repaired, or replaced, or the construction of a new crossing for a public highway or the right-of-way of a railroad company. The county surveyor shall disapprove the plans and hydraulic data if they do not show that the structure will meet hydraulic requirements that will permit the drain to function properly.

(f) If the county surveyor is registered under IC 25-21.5, the county surveyor must review and approve or disapprove the plans and hydraulic data for an existing crossing that is to be altered, enlarged, repaired, or replaced or the construction of a new crossing for a public highway or the right-of-way of a railroad company. The county surveyor shall disapprove the plans and hydraulic data if they do not show that the structure will meet hydraulic requirements that will permit the drain to function properly.

(g) Approval of the plans and hydraulic data by a person who is registered under IC 25-21.5 or IC 25-31 is required before the work can take place. However, if the county surveyor is not registered under IC 25-21.5 or IC 25-31, a registered person who is selected under section 30 of this chapter shall:

(1) review and approve or disapprove the plans and specifications described in this subsection;

(2) inform the county surveyor in writing of the approval or disapproval; and

(3) submit all plans, specifications, and hydraulic data along with the approval or disapproval.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.206-1984, SEC.5; P.L.76-1989, SEC.7; P.L.154-1993, SEC.7; P.L.2-1997, SEC.86; P.L.2-1998, SEC.89; P.L.241-1999, SEC.5; P.L.276-2001, SEC.15.

IC 36-9-27-72

Private crossings, control dams, or other permanent structures; removal, replacement, and maintenance

Sec. 72. (a) When, in the reconstruction or periodic maintenance of a regulated drain, the county surveyor determines that a private crossing will not adequately handle the flow of water from the drain or will be endangered by such flow, he shall in his plans call for the removal of the crossing.

(b) The replacement of a private crossing, when necessary, may be accomplished as a part of the work of the reconstruction or maintenance. The estimate by the county surveyor of the cost for the replacement shall be assessed against the land that would otherwise be deprived of ingress and egress. However, when a private crossing has been lawfully established and maintained, the board may assess any part of the cost of its replacement against all affected lands.

(c) A private crossing, control dam, or other permanent structure may not be placed over or through an open drain unless the plans and specifications for the structure are first approved by the county surveyor. The surveyor shall disapprove the plans and specifications if they do not show that the structure will meet hydraulic requirements that will permit the drain to function properly.

(d) All maintenance of a private crossing or of a private structure within the drain, whether privately constructed or constructed as a part of work on a drain under this chapter, is the responsibility of the owners of land served by the private crossing or structure. The owners are directly responsible for any obstruction or damage to the drain that results from the existence of the private crossing or structure, notwithstanding any other provisions of this chapter.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.276-2001, SEC.16.

IC 36-9-27-73

General drain improvement fund; establishment; composition; appropriations; disposition of surplus money

Sec. 73. (a) There is established in each county a general drain improvement fund, which shall be used to pay the cost of:

(1) constructing or reconstructing a regulated drain under this chapter; and

(2) removing obstructions from drains under IC 36-9-27.4.

In addition, if a maintenance fund has not been established for a drain, or if a maintenance fund has been established and it is insufficient, the general drain improvement fund shall be used to pay the deficiency.

(b) The general drain improvement fund consists of:

(1) all money in any ditch or drainage fund that was not otherwise allocated by January 1, 1966, which money the county treasurer shall transfer to the general drain improvement fund by January 1, 1985;

(2) proceeds from the sale of bonds issued to pay the costs of constructing or reconstructing a drain;

(3) costs collected from petitioners in a drainage proceeding;
(4) appropriations made from the general fund of the county, or taxes levied by the county fiscal body for drainage purposes;
(5) money received from assessments upon land benefited for construction or reconstruction of a regulated drain;
(6) interest and penalties received on collection of delinquent drain assessments and interest received for deferred payment of drain assessments;
(7) money repaid to the general drain improvement fund out of a maintenance fund; and
(8) money received from loans under section 97.5 of this chapter.

(c) The county fiscal body, at the request of the board and on estimates prepared by the board, shall from time to time appropriate enough money for transfer to the general drain improvement fund to maintain the fund at a level sufficient to meet the costs and expenditures to be charged against it, after allowing credit to the fund for assessments paid into it.

(d) There is no limit to the amount that the county fiscal body may appropriate and levy for the use of the general drain improvement fund in any one (1) year. However, the aggregate amount appropriated and levied for the use of the fund may not exceed the equivalent of fifty cents ($.50) on each one hundred dollars ($100) of net taxable valuation on the real and personal property in the county.

(e) Whenever:
(1) the board finds that the amount of money in the general drain improvement fund exceeds the amount necessary to meet the expenses likely to be paid from the fund; and
(2) the money was raised by taxation under this section;

the board shall issue an order specifying the excess amount and directing that it shall be transferred to the general fund of the county. The board shall serve the order on the county auditor, who shall transfer the excess amount to the general fund of the county.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.371-1983, SEC.1; P.L.206-1984, SEC.6; P.L.239-1996, SEC.2; P.L.240-1996, SEC.1; P.L.2-1997, SEC.87.

IC 36-9-27-74
Certain counties; tax levy; appropriations

Sec. 74. (a) This section applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Each year, the county shall levy the tax authorized by section 73 of this chapter at a rate on each one hundred dollars ($100) of assessed valuation that will yield three hundred thousand dollars ($300,000) per year.

(c) The county auditor shall determine a particular watershed's part of the receipts from the tax authorized by this section by multiplying the total tax receipts by a fraction determined by the

county surveyor. The numerator of the fraction is the number of acres in the particular watershed, and the denominator is the total number of acres in all of the watersheds in the county. The auditor shall annually distribute these amounts to the watersheds in the county.

(d) The county legislative body shall annually appropriate, for use in the county in each of these watersheds, at least eighty percent (80%) of the watershed's part of the tax receipts.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.12-1992, SEC.187.

IC 36-9-27-75

Acceptance of grants or gifts

Sec. 75. The board may accept gifts or grants from any source for the purpose of paying all or part of the costs of constructing, reconstructing, or maintaining a drain under this chapter. The gifts or grants shall be used to reduce the costs assessed to affected owners.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-76

Cooperation with state or federal agencies

Sec. 76. The board may cooperate in joint effort with any state or federal agency in a proceeding to construct, reconstruct, or maintain a drain under this chapter. If the board is cooperating with a federal agency, and the rules or procedures of the agency are in conflict with this chapter in respect to issuing bids, awarding contracts, and administering contracts, the board may adopt the federal rules or procedures in those areas where conflict exists, and may proceed in accordance with the requirements of the federal rules or procedures.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-77

Contracts; restrictions

Sec. 77. (a) Whenever:

(1) the board orders the construction or reconstruction of a drain, and the order is not stayed under section 108 of this chapter; or

(2) the board determines that maintenance work shall be let by contract;

the board may contract for the work to be done as a whole or in sections.

(b) Except as provided in subsection (c), the board may not let a contract for the construction or reconstruction of a drain if the amount of the contract is more than ten percent (10%) above:

(1) the construction costs estimated by the county surveyor under section 61(8) of this chapter; or

(2) the reconstruction costs estimated by the surveyor under section 49(c) of this chapter.

(c) If the board does not receive a bid that complies with

subsection (b), it shall readvertise for bids. If on readvertisement the board does not receive a bid that complies with subsection (b), the board shall dismiss the proceedings unless it receives a bid that does not exceed the benefits assessed against the affected land.

(d) Whenever the benefits and construction costs estimated by the county surveyor have been filed for more than five (5) years, and the board is unable to award a contract within the limitations of subsections (b) and (c), the board shall refer the surveyor's report back to the surveyor for a supplemental report.

(e) Subject to IC 36-1-12-5, the board may perform maintenance, construction, or reconstruction by its own work force without awarding a contract.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.206-1984, SEC.7.

IC 36-9-27-78

Contracts; bidding; required provisions; surety bonds

Sec. 78. (a) Whenever the board is ready to let contracts, it shall publish notice in accordance with IC 5-3-1. The notice must:

(1) state that at a date, time, and place the board will receive bids on the work;

(2) generally and concisely describe the nature of the work to be done and materials to be furnished;

(3) invite sealed bids; and

(4) state that prospective bidders may obtain plans, specifications, and forms from the county surveyor in charge of the work.

A defect in the form of the notice does not invalidate proceedings under the notice.

(b) Each bidder shall deposit with his bid, at his option, either a certified check made payable to the board in the sum of five percent (5%) of the bid or a bid bond in the sum of five percent (5%) of the bid. If a bidder elects to deposit a bid bond, the bond must be payable to the board with sufficient sureties, and the bond must be conditioned upon the bidder's execution of a contract in accordance with his bid if accepted by the board and must provide for the forfeiture of five percent (5%) of the amount of the bid upon his failure to do so. The board shall return all checks and bonds submitted by unsuccessful bidders, and shall return a successful bidder's check or bond when he enters into a contract with the board.

(c) At the hour specified in the notice for receiving the bids, the board shall open and examine all bids. The board shall then promptly award the contract or contracts to the lowest bidder or bidders it finds to be qualified. In determining whether a bidder is qualified, the board shall consider the complexity and magnitude of the work to be performed, and the skill and experience of the bidder. Within five (5) days after the acceptance of a bid, the successful bidder shall enter into a contract with the board that complies with subsection (d). If a successful bidder fails to enter into such a contract, he forfeits to the board, as liquidated damages, the check or bond deposited under

subsection (b).

(d) The contract between the board and a successful bidder must provide:

(1) that the contractor will perform the work under the supervision of the county surveyor and in accordance with the plans, specifications, and profiles adopted by the board;

(2) that a claim for payment under the contract will not be approved by the board until the work for which the claim is presented has been approved by the surveyor;

(3) the time within which the work must be completed;

(4) that fifteen percent (15%) of the contract price shall be withheld by the board for a period of sixty (60) days after the completion of the work, for the purpose of securing payment of suppliers, laborers, and subcontractors; and

(5) for other terms that the board considers appropriate.

(e) Upon execution of the contract, the successful bidder shall give to the board a bond payable to the board, in an amount fixed by the board but not less than the amount of the bid, and with a corporate surety licensed to do business in Indiana. The bond must be conditioned on the faithful performance of the contract and the payment of all expenses and damages incurred under the contract, including payment of all suppliers, laborers, and subcontractors. However, in lieu of a corporate surety bond, the board may accept:

(1) a cash bond;

(2) a property bond; or

(3) a bond from a sufficiently financed private bonding company.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.82; Acts 1981, P.L.317, SEC.27; P.L.350-1983, SEC.3.

IC 36-9-27-79
Repealed

(*Repealed by Acts 1981, P.L.57, SEC.45.)*

IC 36-9-27-79.1
Contracts estimated to be not more than $75,000; procedure

Sec. 79.1. Notwithstanding sections 77 and 78 of this chapter, the following provisions apply whenever the board estimates that the amount of the contracts to be let is not more than seventy-five thousand dollars ($75,000):

(1) The board need not advertise in the manner provided by section 78 of this chapter. If the board does not advertise, it shall mail written invitations for bids to at least three (3) persons believed to be interested in bidding on the work. The invitations shall be mailed at least seven (7) days before the date the board will receive bids, and must state the nature of the contracts to be let and the date, time, and place bids will be received.

(2) The board may authorize the county surveyor to contract for the work in the name of the board.

(3) The contracts may be for a stated sum or may be for a variable sum based on per unit prices or on the hiring of labor and the purchase of material.

(4) The contracts shall be let in accordance with the statutes governing public purchase, including IC 5-22.

(5) The board may for good cause waive any requirement for the furnishing by the bidder of a bid bond or surety and the furnishing by a successful bidder of a performance bond.

As added by Acts 1981, P.L.57, SEC.42. Amended by P.L.355-1987, SEC.1; P.L.49-1997, SEC.84; P.L.241-1999, SEC.6.

IC 36-9-27-80
Subcontracts

Sec. 80. A person who enters into a contract with the board under section 78 or 79 of this chapter may not subcontract any part of the contract without the written consent of the board. The board may withhold its consent only for good cause.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-80.5
Construction contract changes in specification; change orders

Sec. 80.5. (a) If a change in the original specifications of a contract for the construction or reconstruction of a drain becomes necessary during the construction or reconstruction, the county surveyor may issue a change order to add, delete, or change an item in the contract. A change order issued under this subsection becomes an addendum to the contract.

(b) The county surveyor may issue a change order under subsection (a) without obtaining prior approval from the board. The county surveyor shall report a change order issued under subsection (a) to the board at the next meeting of the board following the issuance of the change order.

(c) A change order issued under subsection (a) must be directly related to the drain project that is the subject of the original contract.

(d) The amount of a contract plus the amount of all change orders to the contract issued under this section may not exceed the following by more than twenty percent (20%):

(1) The construction costs estimated by the county surveyor under section 61(8) of this chapter.

(2) The reconstruction costs estimated by the county surveyor under section 49(c) of this chapter.

As added by P.L.154-1993, SEC.8.

IC 36-9-27-81
Partial or progress payments to contractors

Sec. 81. The county surveyor may, without first obtaining the approval of the board, authorize partial or progress payments to a contractor for work performed in amounts not in excess of eighty-five percent (85%) of the contract price of the work then completed. The surveyor shall report such an approval to the board

at its next meeting. The surveyor may not give an approval under this section unless he has first inspected the work done.
As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-82
Final payment upon completion of contract; approval of work by county surveyor

Sec. 82. (a) Whenever a contract under this chapter calls for a payment to be made to the contractor on the completion of work, the county surveyor shall inspect the work done and file with the board a written report approving or disapproving the work. The board may not allow a claim for the payment until the surveyor's report shows the work to be approved.

(b) After the acceptance of the work by the county surveyor, the contractor shall file with the board a verified statement that all expenses incurred for labor and material, except for any expenditures specified in the statement, have been paid in full.
As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-83
Subcontractors, laborers, or other persons; claims

Sec. 83. (a) A subcontractor, laborer, or other person may file a claim with the board if:

(1) at the request of a contractor, he has performed any work or other service or has furnished any material used under the contract; and

(2) he has not been paid.

The claim must be filed within sixty (60) days after the performance of the work or service or the furnishing of the material, and must state the amount due and describe the work done or materials furnished. The board shall withhold the amount of the claim from the final payment due the contractor unless the claimant files a written withdrawal of the claim with the board.

(b) If, sixty (60) days after acceptance of the work by the surveyor, the contractor files with the board a written acknowledgement of the correctness of all claims, and if the amount withheld by the board is sufficient to pay all claims, the board shall have the claims paid out of the amount withheld from the contractor and shall pay the balance remaining to the contractor.

(c) If the contractor does not file an acknowledgement under subsection (b), or if there is not a sufficient amount withheld to pay all claims, the board shall interplead all claimants and the contractor in the circuit or superior court of the county in which the board is located and have the amount of the claims, or the amount withheld by the board, whichever is smaller, paid into court. The board is then discharged from liability.

(d) This section does not relieve the surety on the contractor's bond from liability under its obligation as set forth in the bond.
As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-84
Contracts; apportionment of costs to lands benefited

Sec. 84. (a) After letting a contract for the construction, reconstruction, or maintenance of a drain, the board shall determine the full cost of the construction, reconstruction, or maintenance, including the contract price, incidental expenses, damages, interest on any bonds issued under section 94 of this chapter, and attorney's fees, if any. The board shall then apportion this cost to the tracts of land assessed in proportion to the benefit percentage previously assigned to each tract. If the contract is for work on an urban drain, the board shall also designate each tract that is assessed as rural land or urban land.

(b) When determining and apportioning the full cost of construction or reconstruction under this section, the board may include for contingencies a reasonable sum not in excess of ten percent (10%) of the full cost.

(c) An improved or unimproved lot or tract of land that is benefited by the construction, reconstruction, or maintenance of a regulated drain shall be assessed each year for that construction, reconstruction, or maintenance in an amount fixed by the board.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.317, SEC.29; P.L.206-1984, SEC.8.

IC 36-9-27-85
Certification of assessments to county auditor; disposition of unexpended funds

Sec. 85. (a) The board shall certify the list of assessments apportioned under section 84 of this chapter to the auditor of each county in which there are lands to be assessed.

(b) Whenever the order of the board establishing an annual assessment for periodic maintenance becomes final, the board shall certify that annual assessment to the auditor of each county in which there are lands to be assessed. The annual assessment shall be collected each year until changed or terminated by the board.

(c) The county auditor shall extend assessments for construction and reconstruction upon a book to be known as the ditch duplicate, for the full period of payment allowed for all assessments for construction and reconstruction, with interest at ten percent (10%) per year upon all payments deferred beyond one (1) year from the date that the certification is made. However, the county auditor may not charge interest on assessments for construction or reconstruction financed through a bond issue under section 94 of this chapter.

(d) Whenever any sum is certified under this section and is not expended within two (2) years after payment of the most recently allowed claim for work on a drain, the county auditor, with the approval of the board, shall promptly transfer the unexpended sum to the periodic maintenance fund for that drain. If there is no periodic maintenance fund for the drain, the unexpended sum may be transferred to the general drain improvement fund or funds of the county or counties affected by the drain, in proportion to the original

apportionment and certification of costs for the drain.
As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.317, SEC.30.

IC 36-9-27-86
Collection of assessments; public entities not exempt from assessments; county treasurer notice to state

Sec. 86. (a) Not later than thirty (30) days after the county auditor receives the certification of final costs for the construction or reconstruction of a drain, the auditor shall deliver a copy of the ditch duplicate to the county treasurer. The treasurer shall either:

(1) not later than fifteen (15) days after receipt of the copy of the ditch duplicate, mail to each person owning lands assessed for the construction or reconstruction a statement showing:
(A) the total amount of the assessment; and
(B) the installment currently due; or

(2) add a statement showing:
(A) the total amount of the assessment; and
(B) the installment currently due;

to the first property tax statement mailed by the county treasurer after receipt of the copy of the ditch duplicate to each person owning lands assessed for the construction or reconstruction.

The county treasurer shall designate a statement described in subdivision (2) in a manner distinct from general taxes. A statement described in subdivision (1) or (2) must state that the owner may pay the assessment in full within one (1) year or may pay only the installment due within the current year, with deferred payments in annual installments with interest at ten percent (10%) per year (except as otherwise provided in section 85(c) of this chapter).

(b) Each year, the county treasurer shall add to the tax statements of a person owning the land affected by an assessment, designating it in a manner distinct from general taxes, the full annual assessment for periodic maintenance and all construction and reconstruction assessments due in the year the statement is sent.

(c) For purposes of the collection of any assessment, the assessments are considered taxes within the meaning of IC 6-1.1, and they shall be collected in accordance with the property tax collection provisions of IC 6-1.1, except for the following:

(1) An assessment is not the personal obligation of the owner of the land affected by the assessment, and only the land actually affected by an assessment shall be sold for delinquency.

(2) An annual assessment for periodic maintenance that is not more than twenty-five dollars ($25) shall be paid at the first time after the assessment when general property taxes are payable.

(3) An assessment of less than five dollars ($5) is increased to five dollars ($5). The difference between the actual assessment and the five dollar ($5) amount that appears on the statement is a low assessment processing charge. The low assessment processing charge is considered a part of the assessment.

(4) The exemptions under IC 6-1.1-10-2, IC 6-1.1-10-4, and IC 6-1.1-10-5 do not apply to assessments imposed under this chapter.

(d) Not later than June 1 of each year, the county treasurer shall, in the manner specified by the state land office, send to the state land office a list of all properties:

(1) for which one (1) or more assessment payments under this section are delinquent; and

(2) that are owned by:

(A) the state; or

(B) a state agency.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.317, SEC.31; P.L.352-1985, SEC.1; P.L.230-1991, SEC.1; P.L.37-1992, SEC.9; P.L.52-2006, SEC.2 and P.L.175-2006, SEC.26.

IC 36-9-27-87

Persons or associations owning multiple properties; single assessment bill

Sec. 87. If one (1) person or association owns two (2) or more separate pieces of property subject to assessment under this chapter, the board may issue one (1) itemized bill. The assessment must clearly show the pieces of property being assessed, the assessment for each piece of property, and the total assessment.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-88

Assessments; due date; installment payments

Sec. 88. All final assessments, other than annual assessments for periodic maintenance, are due and may be paid upon the date of certification of the final assessment to the county auditor, except that:

(1) the owners liable for the payment of the assessments may elect to pay them in equal installments of at least fifty dollars ($50) per year, plus interest on the deferred payments, over a period of not more than five (5) years, with the yearly payments to be made semiannually at the time general taxes are payable; and

(2) when the board designates land as urban land in its certification of the list of assessments, the owners liable for the payment of assessments on the urban land may elect to pay them in equal installments of at least one hundred dollars ($100) per year, plus interest on the deferred payments, over a period of not more than twenty (20) years, with the yearly payments to be made semiannually at the time general taxes are payable.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-89

Ditch assessment liens; attachment; termination

Sec. 89. (a) The lien of a ditch assessment attaches to the land

assessed on the date of certification of the final assessment to the county auditor, and is inferior only to tax liens.

(b) The lien of a ditch assessment terminates on the date it is paid in full or on the last day of the fifth year after the last payment became due.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-90

Delinquent assessments on lands owned by municipal corporations

Sec. 90. When any ditch assessment against land owned by a municipal corporation becomes delinquent, the county auditor shall:

(1) certify the amount of the delinquency to the state board of accounts and to the person who receives semiannual distribution of taxes on behalf of the municipal corporation; and

(2) withhold the amount from the municipal corporation at the next semiannual distribution of taxes collected.

The amount withheld by the auditor shall be credited to the appropriate drainage fund.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-91

Assessments; deficiencies resulting from increases in damages or decreases in assessments

Sec. 91. (a) This section applies whenever:

(1) a court or jury acting under section 107 of this chapter:

(A) increases an award of damages; or

(B) decreases an assessment of benefits;

that was made by the board for the construction or reconstruction of a drain; and

(2) as a result of the increase or decrease, the assessments collected are not sufficient to fully repay the general drain improvement fund for money advanced to pay for the construction or reconstruction.

(b) The deficiency shall be transferred to the general drain improvement fund from the maintenance fund established for the drain by the board. However, the board may not order the transfer in amounts or at times that will result in the annual maintenance fund's being insufficient to pay the costs of periodically maintaining the drain.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-92

Transfers of property; requests for reassessment; notice and hearing; findings and final order

Sec. 92. (a) Whenever the owner of a tract of land assessed under this chapter subdivides or otherwise transfers part of the tract to another owner, he may file with the board a written request for reassessment in recognition of the transfer. The request must include the name and address of each owner of a part of the tract, together with the description of that part.

(b) The board shall promptly determine and file a proposed reassessment or amendment to the schedule of assessments to recognize the transfer, set a date for hearing the request, and mail notice to each affected owner in a five-day return envelope. The service of further notice to the addressee of any letter that is returned undelivered is the responsibility of the owner making the request. The notice, which must describe the land to be reassessed, must state:

(1) the date, hour, and place of a hearing before the board on the proposed reassessment;

(2) that the land of the owner is shown by the proposed reassessment to be assessed in the sum of _____ dollars; and

(3) that failure to file objections or evidence at or before the hearing constitutes a waiver of the right of the owner to object, on the grounds stated in subsection (c), to any final action of the board.

The notice shall be mailed at least twenty (20) days before the hearing. However, written consent of all the affected owners, or the presence of all those owners at the hearing, constitutes a waiver of any defect in notice.

(c) In determining any reassessment, the board may consider only whether the reassessment is made in the manner required for justice to all affected land, taking into consideration section 84(c) of this chapter.

(d) At the hearing, the board shall consider all evidence and objections and may modify the proposed reassessment as justice to all affected land requires. Before final adjournment of the hearing, the board shall adopt the reassessment or amendment to the schedule of assessments into its findings and shall order the schedule amended. The board shall then announce its findings and order by certified mail to each affected owner, or shall have one (1) notice of its findings and order published in a newspaper of general circulation throughout the county. The notice must identify the proceedings and state that the findings and order of the board have been filed and are available for inspection in the office of the county surveyor.

(e) If judicial review of the findings and order of the board is not requested under section 106 of this chapter within twenty (20) days after the date of receipt of the announcement or after the date of publication of the notice, the findings and order become conclusive.

(f) When the findings and order become conclusive, the board shall certify the schedule of reassessments to the auditor of each county in which there is land assessed by the reassessment, and the auditor and the county treasurer shall promptly proceed upon any reassessment in the manner prescribed for proceeding upon an originally certified assessment.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-93

Periodic maintenance assessments; property transfers; reassessments; procedure

Sec. 93. (a) Whenever:

(1) the board adopts a schedule of annual assessments for the periodic maintenance of a drain or a combination of drains established under section 41 of this chapter; and

(2) a transfer of a part of any tract that is assessed by the schedule is subsequently recorded with the county recorder;

the board shall reassess that part of the tract. The reassessment may be made at one (1) or more times each year and shall be made at not less than biennial intervals. However, the reassessment is not required in any year in which the annual assessment is omitted under section 43 of this chapter.

(b) The county auditor shall provide a listing of all tracts subject to reassessment and shall, from time to time or when requested by the board, file the listing with the board. The board shall determine and file a schedule of reassessments, set a date for hearing on the schedule, and prepare a written notice. The notice, which must describe the land to be reassessed, must state:

(1) the date, hour, and place of a hearing before the board on the schedule of reassessments;

(2) that the schedule of reassessments made by the board has been filed and is available for public inspection in the office of the county surveyor;

(3) that the land of the owner is shown by the schedule of reassessments to be annually assessed in the sum of _____ dollars for periodically maintaining the drain from which the land derives benefits; and

(4) that failure to file objections or evidence at or before the hearing constitutes a waiver of the right of the owner to object, on the grounds stated in subsection (d), to any final action of the board.

Not less than thirty (30) nor more than forty (40) days before the date of the hearing, the board shall mail a copy of the notice in a five-day return envelope to each owner named in the schedule of reassessments.

(c) The board shall have notice published in accordance with IC 5-3-1. The notice must:

(1) identify the drainage proceedings;

(2) be addressed to whom it may concern and to the addressee on each letter that was mailed under subsection (b) and was returned undelivered;

(3) state that the schedule of reassessments made by the board has been filed and is available for public inspection in the office of the county surveyor; and

(4) state that a hearing will be held before the board on the schedule of reassessments, giving the date, hour, and place of the hearing.

(d) In determining any reassessment, the board may consider only whether the reassessment is made in the manner required for justice to all affected land, taking into consideration section 84(c) of this chapter.

(e) At the hearing, the board shall consider all evidence and objections and may modify the proposed reassessment as justice to all affected land requires. Before final adjournment of the hearing, the board shall issue an order adopting the schedule of reassessments as originally filed or as modified, mark the order filed, and make public announcement of the order at the hearing. The board shall then have notice published in accordance with IC 5-3-1. The notice must identify the drainage proceedings and state that the findings and order of the board have been filed and are available for inspection in the office of the county surveyor.

(f) If judicial review of the findings and order of the board is not requested under section 106 of this chapter within twenty (20) days after the date of publication of the notice, the order becomes conclusive.

(g) When the findings and order become conclusive, the board shall certify the schedule of reassessments to the auditor of each county in which there is land assessed by the reassessment, and the auditor and the county treasurer shall promptly proceed upon any reassessment in the manner prescribed for proceeding upon an originally certified assessment.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.83.

IC 36-9-27-94

Bonds; authorization; procedure; terms

Sec. 94. (a) Whenever the board determines by resolution spread upon its minutes that the cost of constructing or reconstructing a particular drain is in excess of that amount that the owners of land to be assessed may conveniently pay in installments over a five (5) year period, it shall authorize the sale of bonds to finance the construction or reconstruction.

(b) Whenever the board resolves to sell bonds, it shall determine:

(1) the amount of money that must be raised;

(2) the period over which the money shall be repaid; and

(3) the date the first series of bonds will mature as to principal and the date the first payment of interest will be made, which shall be fixed so that money will be available to meet the interest payments and to retire the first series of bonds as they become due.

(c) The bonds may be issued in denominations of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and shall be numbered in consecutive order beginning with those first maturing. Interest on the bonds is payable semiannually.

(d) The bonds shall be sold at public offering in the manner provided by statute. However, if the total issue of bonds does not exceed ten thousand dollars ($10,000) the board may sell the bonds at private sale to any individual, corporation, financial institution, or bank in Indiana at the best rate of interest for which the board may bargain. If the bonds are sold to one (1) purchaser, the form of the bonds may be in a single installment note. Acceleration of the

balance of such a note in the event of partial default is not permitted, but all remedies of a bond creditor remain as to the partial default.

(e) All bonds or installment notes must provide that they may be called by the board for refunding or for prepayment without penalty. If the bonds are called for prepayment, interest ceases to run on them upon the date stated for presentment in the call as to those persons actually receiving notice of the call by registered mail as shown by the return receipt, whether their bonds are presented for payment or not. If the bonds are called for refunding, interest continues to run from the date stated for presentment in the call whether actually presented or not, at the rate provided for with respect to the refunding issue.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-94.1
Repealed

(*Repealed by Acts 1981, P.L.317, SEC.39.)*

IC 36-9-27-95
Fees for the sale of bonds

Sec. 95. Neither a member of the board, the county surveyor, nor any other officer may receive any fees for the sale of bonds to finance the construction or reconstruction of a drain. However, the attorney for the board is not required to perform services under a general retainer in preparation for the sale of the bonds, and may contract separately for those services with the board.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-96
Bonds; limited obligation; collection of delinquencies

Sec. 96. (a) Bonds issued to finance the construction or reconstruction of a drain are not the general obligation of the county, the board, or any person. The bonds are a lien only upon the land assessed for benefits for the construction or reconstruction in the ratio of the assessment.

(b) If bonds issued under this chapter become in default, the officers responsible for the collection of delinquent taxes shall take the steps provided by law to collect all delinquencies, and for that purpose the officers shall cooperate with any bond holder or committee of bond holders and shall pursue any remedies available for the collection of the delinquent assessments.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-97
Bond redemption fund; establishment; composition

Sec. 97. (a) A bond redemption fund is established for each construction or reconstruction project for which the board authorizes the sale of bonds. The fund consists of all assessments paid by the owners assessed as benefited by the construction or reconstruction, and may be used only to redeem:

(1) the bonds issued to finance the construction or reconstruction; or

(2) any installment note given in lieu of bonds.

(b) The county auditor shall maintain a separate ledger sheet for all assessments to be received into each bond redemption fund.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-97.5

Construction loans; terms; deposit of proceeds; interest on loan

Sec. 97.5. (a) Whenever the board determines by resolution spread upon its minutes that the cost of constructing or reconstructing a particular drain is an amount that the owners of land to be assessed may conveniently pay in installments over a five (5) year period, it may ask the county fiscal body to:

(1) obtain a loan from a bank, trust company, savings association, or savings bank authorized to engage in business in the county; or

(2) obtain funds in the manner prescribed by IC 36-2-6-18, IC 36-2-6-19, and IC 36-2-6-20;

to finance that construction or reconstruction.

(b) A loan obtained under this section:

(1) must have a fixed or variable interest rate;

(2) must mature within six (6) years after the day it is obtained;

(3) shall be repaid from installments collected from assessments of landowners over a five (5) year period; and

(4) is not subject to the provisions of section 94 of this chapter that concern interest.

(c) The proceeds of loans obtained under this section shall be deposited in the general drain improvement fund.

(d) The board shall determine whether interest on the loan is to be a part of the final assessment under section 84(a) of this chapter.

(e) Notwithstanding section 85(c) of this chapter, interest on the loan may be charged back to the benefited landowner at a rate that is set in accordance with subsection (b).

As added by P.L.371-1983, SEC.2. Amended by P.L.76-1989, SEC.8; P.L.79-1998, SEC.110.

IC 36-9-27-98

Payment of assessments by municipality or county

Sec. 98. (a) Whenever a regulated drain is:

(1) located wholly or partly within a municipality; and

(2) constructed, reconstructed, or maintained under this chapter;

the municipal fiscal body may, on behalf of the owners assessed or to be assessed within the municipality, pay the total assessment for the construction, reconstruction, or maintenance within the municipality. The payment may be made from any appropriation provided by law, including a cumulative drainage fund established under section 99 of this chapter.

(b) Whenever a regulated drain is:

(1) located outside the corporate boundaries of any municipality

within a county; and

(2) constructed, reconstructed, or maintained under this chapter; the county fiscal body may, on behalf of the owners assessed or to be assessed outside any municipality and within the county, pay all or part of the assessment for the construction, reconstruction, or maintenance outside any municipality and within the county. The payment of all or part of the assessment by the county fiscal body may be made only from a cumulative drainage fund established under section 99 of this chapter.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.206-1984, SEC.9.

IC 36-9-27-99

Cumulative drainage fund; establishment

Sec. 99. A municipal or county fiscal body may, by resolution, establish a cumulative drainage fund under IC 6-1.1-41 for the construction, reconstruction, or maintenance of drains under this chapter. In the case of a county, however, the fund may be established only upon the recommendation of the county executive.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.317, SEC.32; P.L.17-1995, SEC.39.

IC 36-9-27-100

Cumulative drainage fund; tax levy

Sec. 100. To provide money for a cumulative drainage fund established under section 99 of this chapter, the fiscal body may levy a tax in compliance with IC 6-1.1-41 not to exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation of all taxable personal and real property:

(1) within the corporate boundaries, in the case of a municipality; or

(2) within the county but outside the corporate boundaries of all municipalities, in the case of a county.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.206-1984, SEC.10; P.L.17-1995, SEC.40; P.L.6-1997, SEC.225.

IC 36-9-27-101

Repealed

(*Repealed by P.L.17-1995, SEC.45.)*

IC 36-9-27-102

Name of fund

Sec. 102. The taxes collected under section 100 of this chapter shall be held in a special fund to be known as the "(city, town, or county) cumulative drainage fund".

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.17-1995, SEC.41.

IC 36-9-27-103

Construction, reconstruction, or maintenance projects for

regulated drains; hearings required

Sec. 103. Notwithstanding any other provision of this chapter, after the establishment of a cumulative drainage fund, a hearing shall be held before the board undertakes any project to construct or reconstruct a regulated drain or to maintain a regulated drain when the total cost of the maintenance project is more than twenty-five thousand dollars ($25,000). The board shall:

(1) publish a notice of the hearing in accordance with IC 5-3-1; and

(2) mail a notice of the hearing, at least fifteen (15) days before the hearing, to the owner of each piece of property adjoining the proposed or established regulated drain.

As added by Acts 1981, P.L.309, SEC.101. Amended by Acts 1981, P.L.45, SEC.84; P.L.206-1984, SEC.11; P.L.154-1993, SEC.9.

IC 36-9-27-104

Interstate drains; authorization; joint meetings of state officials

Sec. 104. (a) Whenever:

(1) a petition to construct a new drain is filed under sections 54 through 65 of this chapter, a board initiates proceedings to reconstruct a drain under sections 49 through 52 of this chapter, or proceedings are initiated in Illinois, Kentucky, Michigan, or Ohio to construct or reconstruct a drain; and

(2) the proposed construction or reconstruction will affect land in both Indiana and the other state;

the board may join with the proper officials of the other state in a joint effort to construct or reconstruct the drain.

(b) Whenever proceedings are instituted in Indiana under subsection (a), the board shall fix a date, time, and place for a joint meeting with the proper officials of the other state for the purpose of forming an interstate board, and shall have a notice of the meeting served on those officials.

(c) Upon receipt by the board of an acceptance of the offer to meet, or, when the offer to meet has come from the other state, upon acceptance by the board, the board and the officials of the other state shall proceed at the specified date, time, and place to form an interstate board by electing one (1) of their number chairman and one (1) of their number clerk. The chairman and the clerk may not be residents of the same state.

(d) Without regard to the number of members of the interstate board who are present, the members from Indiana are entitled to cast one-half (1/2) of all votes on all questions, and that vote shall be represented equally by the different members from Indiana who are present.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-105

Interstate drains; cooperation of surveyors and engineers

Sec. 105. (a) The county surveyor representing a board from Indiana that is part of an interstate board shall work with the

surveyor or engineer representing the officials of the other state in the performance of the duties required of him by this chapter. The interstate board may employ an engineer to work with and assist the surveyor or surveyors, but an engineer may not be permanently employed unless the interstate board has determined that the proposed construction or reconstruction is necessary for the public health, welfare, or convenience, and that the cost of the construction or reconstruction will probably be less than the benefits to the affected land.

(b) The surveyors and engineer, if one is employed, shall:

(1) prepare all surveys, plans, specifications, and other things required by this chapter for construction or reconstruction solely within Indiana;

(2) estimate the total cost of the construction or reconstruction for the part of the drain located in each state, together with an estimate of the total cost of location; and

(3) in their report, make a fair and just apportionment between the two (2) states of the cost of location and construction or reconstruction.

The report shall be filed with the interstate board and, when that board adopts the report by proper resolution, a certified copy of the report shall be filed with the board in Indiana.

(c) Upon receiving the report, the board in Indiana shall assess the benefits and damages to each tract of land affected in Indiana, in accordance with this chapter as applied to a drain located solely within Indiana.

(d) All provisions of this chapter, including the giving of notices, the right to object and remonstrate, and the right to judicial review, apply to the board, the surveyor, and all affected persons.

(e) When the construction or reconstruction is finally and conclusively established in both states, and when money is available in both states to pay for the proposed work, the interstate board shall meet and let the work contracts. Payment from funds in Indiana shall be made by voucher approved by the interstate board, countersigned by the chairman of the board in Indiana, and filed with the county auditor. The payments shall be limited to the amount apportioned to Indiana under subsection (b).

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-106

Judicial review; petition

Sec. 106. (a) Any owner of land affected by a final order or determination of a board is entitled to judicial review of that order or determination in the circuit or superior court of the county in which the board is located. The owner must file in the court a petition:

(1) setting out the order or determination complained of; and

(2) alleging specifically that the order or determination is arbitrary, capricious, unlawful, or not supported by substantial evidence;

and pay the fee required under IC 33-37-4-4. If the order or

determination to be appealed was made by a joint board, the petition must be filed in the circuit or superior court of the county that elected the surveyor who serves as an ex officio member of the joint board.

(b) A petition for judicial review under subsection (a) must be filed within twenty (20) days after:

(1) the date of publication of notice by the board that the order or determination has been made; or

(2) the order or determination was served on the person seeking the judicial review, if the order was served on that person.

(c) A copy of the petition shall be served on the board within five (5) days after the petition is filed. If the order or determination arose in a proceeding initiated by petition for the construction of a new drain under section 54 of this chapter, a copy shall also be served on the attorney for the petitioner, unless the petitioner is the person seeking the judicial review. Service under this subsection:

(1) is sufficient to bring the board and any petitioner for a new drain into court;

(2) may be made on the board by serving a copy of the petition on the county surveyor personally or by leaving it at the surveyor's official office; and

(3) may be made on the attorney for the petitioner by serving a copy of the petition on the attorney personally or by leaving a copy of it at the attorney's address as set forth in the petition.

(d) Within twenty (20) days after receipt of notice that any person has filed a petition for review, the board shall prepare a certified copy of the transcript of the proceedings before the board and file it with the clerk of the court. The petitioner shall pay the cost of preparing this transcript. An extension of time in which to file the transcript shall be granted by the court upon a showing of good cause.

(e) On the filing of a petition for review, the clerk of the court shall docket the cause in the name of petitioner and against the board. The issues shall be considered closed by denial of all matters at issue without the necessity of filing any further pleadings.

(f) When the owners of less than ten percent (10%) of the affected lands petition for judicial review, issues not triable de novo do not operate to stay work unless an appeal bond is posted.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.351-1985, SEC.2; P.L.192-1986, SEC.40; P.L.305-1987, SEC.37; P.L.98-2004, SEC.163.

IC 36-9-27-107

Judicial review; procedure

Sec. 107. (a) Whenever a petition for judicial review is filed on the ground that:

(1) the board found that the petitioner's land would be benefited by the construction, reconstruction, or maintenance of a drain, and the benefits assessed were excessive; or

(2) the petitioner's lands would be damaged by the construction, reconstruction, or maintenance of a drain, and:

(A) the board failed to so find; or

(B) the amount of damages awarded was inadequate;

the court shall proceed to hear the issue of benefits or damages de novo. A change of venue may be taken from the judge and from the county, and a jury trial may be obtained, in accordance with the rules governing the trial of civil actions. An appeal may be taken in accordance with the rules governing appellate procedure.

(b) Whenever a petition for judicial review is filed on any ground other than those set forth in subsection (a), the review shall be heard by the court without the intervention of a jury. The court may not try or determine the cause de novo, but shall consider and determine the cause exclusively upon the record made before the board and filed with the court. A change of venue may be taken from the judge under the rules governing a change of venue in civil actions, but a change of venue may not be taken from the county. The proceedings shall be advanced upon the docket of the court. If the court finds from the record before it that:

(1) the person filing the petition for review has complied with all procedures required under this chapter to properly present the matters set forth in the petition for review, and has exhausted his administrative remedies; and

(2) the decision or determination of the board is arbitrary, capricious, unlawful, or not supported by substantial evidence;

the court shall order the decision or determination of the board set aside and shall remand the matter to the board for further proceedings consistent with the findings and order of the court. If the court finds otherwise, the decision of the board shall be affirmed.

(c) In affirming or setting aside a decision or determination of the board, the court shall enter its findings and order or judgment on the record.

(d) When a petition for judicial review presents issues that shall be heard de novo and issues that may not be heard de novo, the court shall separate the issues and shall proceed to determine the issues that may not be heard de novo. When the court's judgment on the issues that may not be heard de novo becomes final, or when the appeal is decided if an appeal is taken, the board shall proceed in accordance with the final judgment or appellate decision despite the fact that the issues to be heard de novo may be undecided and pending before the court or on appeal.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-108

Judicial review; stay of proceedings ordered by board

Sec. 108. (a) Whenever:

(1) a petition for judicial review of a board's final order for construction, reconstruction, or maintenance of a drain is filed in the circuit or superior court; and

(2) the petition presents an issue or issues that may not be heard de novo by the court;

all work under the order shall be stayed pending final disposition of

the issue or issues by the court, or, if an appeal is taken, then until the issue or issues are finally decided by the supreme court or the court of appeals.

(b) Whenever issues that shall be heard de novo are pending in the circuit or superior court, or on appeal, work under the order may not be stayed by the court. However, the board may, by resolution, stay all or any part of the work until the issues presented by the judicial review are finally decided or until the board revokes its resolution.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.3-1989, SEC.232.

IC 36-9-27-109

Judicial review; evidence; filing requirements

Sec. 109. (a) All petitions, evidence, requests, and other documents required to be filed with the board under this chapter, including all material and documents of every kind prepared by the county surveyor or on the surveyor's behalf, shall be filed in the office of the surveyor, who shall receive them for the board. The surveyor shall:

(1) mark each document filed, showing the date it was received; and

(2) record the fact of filing, designating the nature of the document and by whom it was filed, in a journal maintained for that purpose.

(b) The county surveyor shall maintain the documents described in subsection (a) in permanent files under the name of each regulated drain in the county. These copies shall be made available to the trial court, the supreme court, or the court of appeals in any proceedings pending under sections 106, 107, and 108 of this chapter.

(c) The county surveyor shall maintain a copy of each document described in subsection (a) for the use of the board.

(d) Whenever this chapter permits the filing of written evidence with the board, that evidence shall be subscribed to under oath by the person or persons having knowledge of the facts contained in the evidence.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.206-1984, SEC.12; P.L.3-1989, SEC.233.

IC 36-9-27-110

Notice and service; requirements

Sec. 110. (a) Whenever this chapter provides for the mailing of a notice to owners of affected land, the notice shall be addressed to the owner at the owner's home address as last entered by the county auditor for property tax purposes. If the owner is a railroad company or utility and is not assessed for taxes locally, the notice shall be addressed to the department of local government finance for forwarding to the railroad company or utility. If the owner is a unit or a school corporation, the notice shall be addressed to the persons authorized by law to accept service of process in civil actions on behalf of that owner. If the owner is the state, copies of the notice

shall be addressed to the department or agency, if any, charged by law with the maintenance, supervision, or control over the state owned land that is affected.

(b) Whenever sections 54 through 65 of this chapter provide for the service of any document upon the attorney for a petitioner, the service shall be made by personally handing the document to the attorney, by leaving the document at the attorney's address, or by mailing the document to the address of the attorney as set forth in the petition.

As added by Acts 1981, P.L.309, SEC.101. Amended by P.L.180-1995, SEC.8; P.L.90-2002, SEC.514.

IC 36-9-27-111

Time for filing documents; extensions

Sec. 111. Whenever the last day for filing any document under this chapter falls on a legal holiday, the time for the filing shall be extended to the next day that is not a legal holiday.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-112

Determination of benefits and damages by board; factors considered

Sec. 112. (a) In determining benefits to land under sections 39, 50, and 62 of this chapter, the board may consider:

(1) the watershed affected by the drain to be constructed, reconstructed, or maintained;

(2) the number of acres in each tract;

(3) the total volume of water draining into or through the drain to be constructed, reconstructed, or maintained, and the amount of water contributed by each land owner;

(4) the land use;

(5) the increased value accruing to each tract of land from the construction, reconstruction, or maintenance;

(6) whether the various tracts are adjacent, upland, upstream, or downstream in relation to the main trunk of the drain;

(7) elimination or reduction of damage from floods;

(8) the soil type; and

(9) any other factors affecting the construction, reconstruction, or maintenance.

(b) In determining benefits or damages to land under sections 39, 50, and 62 of this chapter, the board may examine aerial photographs and topographical or other maps, and may adjourn the hearing to the site of the construction, reconstruction, or maintenance in order to personally view the affected land.

(c) In determining percentages of benefit under sections 39, 50, and 62 of this chapter, the board may consider the percentage of the total cost that was assessed to each tract in the initial construction or in any reconstruction of the drain. However, that percentage is not binding on the board in its current determination, and the board may vary from it as justice requires.

As added by Acts 1981, P.L.309, SEC.101.

IC 36-9-27-113
Investment of funds; consolidation; credit of interest earned

Sec. 113. (a) For the purpose of investment, the county treasurer may consolidate part or all of the money in any fund established under this chapter with the money in any other fund established under this chapter or other money held by the county treasurer.

(b) Unless the invested money is from a maintenance fund established under section 44 of this chapter, the county treasurer shall credit interest from an investment of a fund created under this chapter to that fund.

(c) The county treasurer may credit interest earned from an investment of a maintenance fund established under section 44 of this chapter into the general drainage improvement fund established under section 73 of this chapter.

(d) Within an account, the county treasurer may credit interest to particular drainage accounts in any fair and rational manner.

As added by P.L.206-1984, SEC.13.

IC 36-9-27-114
Drainage board fees in certain counties for certain storm water activities

Sec. 114. (a) This section applies to a county that:

(1) receives notification from the department of environmental management that the county will be subject to regulation under 327 IAC 15-13; and

(2) has not adopted an ordinance to adopt the provisions of IC 8-1.5-5.

(b) As used in this section, "storm water improvements" means storm sewers, drains, storm water retention or detention structures, dams, or any other improvements used for the collection, treatment, and disposal of storm water.

(c) The drainage board of a county may establish fees for services provided by the board to address issues of storm water quality and quantity, including the costs of constructing, maintaining, operating, and equipping storm water improvements.

(d) Fees established under this chapter after a public hearing with notice given under IC 5-3-1 are presumed to be just and equitable.

(e) The fees are payable by the owner of each lot, parcel of real property, or building that uses or is served by storm water improvements that address storm water quality and quantity. Unless the board finds otherwise, the storm water improvements are considered to benefit every lot, parcel of real property, or building that uses or is served by the storm water improvements, and the fees shall be billed and collected accordingly.

(f) The board shall use one (1) or more of the following factors to establish the fees:

(1) A flat charge for each lot, parcel of property, or building.

(2) The amount of impervious surface on the property.

(3) The number and size of storm water outlets on the property.

(4) The amount, strength, or character of storm water discharged.

(5) The existence of improvements on the property that address storm water quality and quantity issues.

(6) The degree to which storm water discharged from the property affects water quality in the district.

(7) Any other factors the board considers necessary.

(g) The board may exercise reasonable discretion in adopting different schedules of fees, or making classifications in schedules of fees, based on:

(1) variations in the costs, including capital expenditures, of addressing storm water quality and quantity for various classes of users or for various locations;

(2) variations in the number of users in various locations; and

(3) whether the property is used primarily for residential, commercial, or agricultural purposes.

As added by P.L.282-2003, SEC.40.

IC 36-9-27.4

Chapter 27.4. Removal of Obstructions in Mutual Drains and Natural Surface Watercourses

IC 36-9-27.4-1

"Drain" defined

Sec. 1. As used in this chapter, "drain" refers to a mutual drain (as defined in IC 36-9-27-2).

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-2

"Drainage board" defined

Sec. 2. As used in this chapter, "drainage board" means the following:

(1) Except as provided in subdivision (2):

(A) the county board of commissioners, as provided in IC 36-9-27-5(a)(1); or

(B) the drainage board appointed by the board of commissioners under IC 36-9-27-5(a)(2).

(2) In a county having a consolidated city, the board of public works of the consolidated city, as provided in IC 36-9-27-5(b).

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-3

"Natural surface watercourse" defined

Sec. 3. As used in this chapter, "natural surface watercourse" means an area of the surface of the ground over which water from falling rain or melting snow occasionally and temporarily flows in a definable direction and channel.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2. Amended by P.L.276-2001, SEC.17.

IC 36-9-27.4-4

"Obstruction" defined

Sec. 4. (a) As used in this chapter, "obstruction" means a condition that:

(1) exists within or near a drain; and

(2) prevents or significantly impedes the flow of water through the drain.

(b) The term includes the following:

(1) The presence of:

(A) one (1) or more objects inside or near a drain;

(B) a quantity of materials inside or near a drain; or

(C) damage to a drain;

that prevents or significantly impedes the flow of water through the drain.

(2) Obstructions that:

(A) are created intentionally; and

(B) occur naturally or are created unintentionally.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-5
"Owner" defined

Sec. 5. As used in this chapter, "owner" means a person who holds a possessory legal interest in land.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-6
"Person" defined

Sec. 6. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or any other legal entity.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-7
"Respondent" defined

Sec. 7. As used in this chapter, "respondent" means an owner of the tract of land that is the subject of a petition seeking the removal of an obstruction under this chapter.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-8
"Tract" defined

Sec. 8. As used in this chapter, "tract" means an area of land that is:

(1) under common fee simple ownership;
(2) contained within a continuous border; and
(3) a separately identified parcel for property tax purposes.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-9
Petition for removal of obstruction

Sec. 9. If:

(1) a person who owns a tract of land seeks the removal of an obstruction from a drain or natural surface watercourse located outside the person's tract in order to promote better drainage of the person's tract; and
(2) the owner of the land on which the obstruction is located, upon request, does not remove the obstruction;

the person seeking the removal of the obstruction may file a petition under this chapter asking the drainage board in the county in which the obstruction is located to remove, or authorize or order the removal of, the obstruction under this chapter.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-10
Required contents of petition

Sec. 10. A petition filed by a person described in section 9(1) of this chapter must include the following:

(1) A general description of the tract of land owned by the petitioner.

(2) A general explanation of the need for the removal of the obstruction.

(3) A general description of the site of the obstruction.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-11

Filing fee

Sec. 11. The drainage board may require, as a condition of filing a petition under this chapter, the payment of a filing fee. The drainage board may not set the filing fee at an amount greater than is reasonably necessary to defray the expenses incurred by the board in processing a petition.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-12

Investigation by county surveyor; duties of drainage board after receiving report of obstruction

Sec. 12. (a) If a petition filed under this chapter alleges the obstruction of:

(1) a drain; or

(2) a natural surface watercourse;

the county surveyor of the county in which the obstruction is alleged to exist shall promptly investigate whether the obstruction exists.

(b) If the county surveyor, upon investigation, finds an existing obstruction in a drain or natural surface watercourse in the location alleged in the petition, the county surveyor shall report the existence of the obstruction to the drainage board.

(c) Upon receiving a report from the county surveyor under subsection (b), the drainage board shall:

(1) set a date for a hearing on the petition; and

(2) serve notice of the hearing on each owner of the land on which the obstruction exists who can be identified in the records of the county recorder.

(d) The hearing must be held at least thirty (30) days but less than ninety (90) days after the date of the filing of the petition.

(e) Notice of a hearing must be mailed to each respondent with return receipt requested.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2. Amended by P.L.276-2001, SEC.18.

IC 36-9-27.4-13

Postponement and rescheduling of hearing

Sec. 13. Before or on the date of a hearing held under this chapter, the drainage board may postpone and reschedule the hearing if:

(1) it appears that a respondent has not been served with notice; or

(2) the interests of fairness otherwise compel a postponement.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-14

Findings of board

Sec. 14. (a) If, after a hearing held under this chapter, the drainage board finds that:

(1) the obstruction of a drain or a natural surface watercourse that is alleged in the petition exists; and

(2) the removal of the obstruction will:

(A) promote better drainage of the petitioner's land; and

(B) not cause unreasonable damage to the land of the respondents;

the drainage board shall find for the petitioner.

(b) If, after a hearing held under this chapter, the drainage board is unable to make the findings described in subsection (a), the drainage board shall deny the petition.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-15

Drainage board determining whether obstruction created intentionally

Sec. 15. If the drainage board finds for the petitioner under section 14(a) of this chapter, the board shall determine, based upon a preponderance of the evidence, whether the obstruction of the drain or natural surface watercourse was created intentionally by any of the respondents.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-16

Duty of board upon finding of intentional obstruction

Sec. 16. (a) If the drainage board finds:

(1) for the petitioner under section 14(a) of this chapter; and

(2) under section 15 of this chapter that the obstruction of the drain or natural surface watercourse was created intentionally by at least one (1) of the respondents;

the drainage board shall enter an order directing the respondents to remove the obstruction at their own expense, or directing the county surveyor to remove the obstruction at the expense of the respondents.

(b) A respondent against whom an order is entered under subsection (a) is subject to an action under section 22 of this chapter if the respondent fails to pay the amount for which the respondent is responsible under the order.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-17

Duty of board upon finding of unintentional obstruction

Sec. 17. If the drainage board:

(1) finds for the petitioner under section 14(a) of this chapter; and

(2) does not find under section 15 of this chapter that the obstruction of the drain or a natural surface watercourse was created intentionally by any of the respondents;

the drainage board shall enter an order under section 18 or 19 of this

chapter concerning the removal of the obstruction.
As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-18
Additional duties of board; natural surface watercourses

Sec. 18. (a) If:
(1) a petition filed under this chapter concerns a natural surface watercourse; and
(2) the drainage board:
(A) finds for the petitioner under section 14(a) of this chapter; and
(B) does not find under section 15 of this chapter that the obstruction of the natural surface watercourse was created intentionally by any of the respondents;
the drainage board shall enter an order under subsection (b).

(b) Upon a determination made under subsection (a), the drainage board shall enter an order:
(1) authorizing the petitioner to remove the obstruction; or
(2) directing the county surveyor to remove the obstruction at the expense of the petitioner.

(c) The drainage board shall consult with the:
(1) petitioner;
(2) respondents; and
(3) county surveyor;
before deciding whether to enter an order under subsection (b)(1) or (b)(2).

(d) If the drainage board enters an order under subsection (b), the order may require the petitioner to bear the expenses of removing the obstruction, including the monetary value of the harm and inconvenience that the respondents will incur as a result of the removal of the obstruction.
As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-19
Additional duties of board; drains

Sec. 19. (a) If:
(1) a petition filed under this chapter concerns a drain; and
(2) the drainage board:
(A) finds for the petitioner under section 14(a) of this chapter; but
(B) does not find under section 15 of this chapter that the obstruction of the drain was created intentionally by any of the respondents;
the drainage board shall enter an order under subsection (b).

(b) Upon a determination made under subsection (a), the drainage board shall enter an order:
(1) authorizing the petitioner to remove the obstruction;
(2) authorizing the respondents to remove the obstruction;
(3) directing the county surveyor to remove the obstruction; or
(4) directing that the obstruction be removed through the joint

efforts of at least two (2) of the persons referred to in this subsection.

(c) If an order is issued under subsection (b), the costs of removing the obstruction must be borne by the owners of all the tracts of land that are benefited by the drain. The order of the board must do the following:

(1) Identify all tracts of land that are benefited by the drain.

(2) Identify the owners of the tracts of land referred to in subdivision (1):

(A) who are known to the drainage board; or

(B) whose identity can be determined through the records of the county auditor.

(3) Apportion the costs of removing the obstruction among the tracts of land that are benefited by the drain, assigning to each tract a certain percentage of the total costs.

(4) Order the owners of each tract of land referred to in subdivision (1) to pay an amount equal to the product of the total costs of removing the obstruction multiplied by the percentage assigned to the tract under subdivision (3).

(d) The percentage of the total costs assigned to a tract under subsection (c)(3) must correspond to the ratio of the total length of the drain to the length of the particular segment of the drain that benefits the tract.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2. Amended by P.L.276-2001, SEC.19.

IC 36-9-27.4-20

Landowners jointly and severally responsible for costs of obstruction removal

Sec. 20. (a) All the owners of a tract that is the subject of an order issued under section 19 of this chapter are jointly and severally responsible for the payment of the amount determined under section 19(c)(4) of this chapter.

(b) An owner of a tract who pays all of or a portion of the amount may bring an action to obtain contribution from an owner of the tract who did not pay an equal or a greater portion of the amount.

(c) An owner of a tract that is the subject of an order issued under section 19 of this chapter is subject to an action under section 22 of this chapter if the owner fails to pay the amount for which the owner is responsible under the order.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-21

Order authorizing advance on general drain improvement fund for payment of obstruction removal expenses

Sec. 21. In entering an order concerning the removal of an obstruction under this chapter, a drainage board may:

(1) provide for the costs of the removal work to be paid directly by one (1) or more of the persons subject to the order; or

(2) authorize an advance on the general drain improvement fund

established in the county under IC 36-9-27-73 for the payment of the costs of the removal work and provide for the amount advanced to be reimbursed by one (1) or more of the persons subject to the order.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-22
Recovery of unpaid amounts or expenses

Sec. 22. (a) If a person who is required by an order of a drainage board under this chapter to pay an amount or bear an expense does not comply with the requirement, the amount for which the person is responsible may be recovered by:

(1) the drainage board, as custodian of the general drain improvement fund, if the amount was advanced from the general drain improvement fund; or

(2) another person subject to the order who has paid the amount and is entitled to reimbursement.

(b) An amount may be recovered from a person under subsection (a) through an action in a court having jurisdiction in the same manner that a creditor may recover an amount owed under a contract. In an action brought under this subsection, the plaintiff may also be awarded costs and reasonable attorney's fees.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-23
Judicial review

Sec. 23. (a) If the drainage board finds for a petitioner after a hearing held under this chapter, a respondent may file an action in the circuit or superior court of the county in which the alleged obstruction exists seeking to have the order entered by the drainage board vacated.

(b) An action filed under subsection (a) must be based on at least one (1) of the following assertions by the respondent:

(1) The drainage board lacked authority to act under this chapter.

(2) The drainage board erred in making the findings described in section 14(a) of this chapter.

(3) The respondent should have been awarded compensation for harm and inconvenience, or the amount awarded to the respondent for harm and inconvenience is insufficient.

(4) The drainage board did not follow the procedure required by this chapter.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-24
Remedies

Sec. 24. (a) In an action filed under section 23 of this chapter, the court:

(1) shall enter an order vacating the order of the drainage board directing the county surveyor to remove the obstruction; and

(2) may issue an injunction against the removal of the obstruction;

if the court makes a finding under subsection (b).

(b) The court is required or authorized to act under subsection (a) if the court finds that the drainage board:

(1) was clearly in error in making its findings under section 14(a) of this chapter with respect to the alleged obstruction; or

(2) exceeded its authority or discretion under the law in authorizing the removal of the obstruction.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-27.4-25

Right of entry onto land

Sec. 25. (a) For the purposes of this chapter:

(1) a county surveyor;

(2) a member of a drainage board; or

(3) an authorized representative of a county surveyor or drainage board;

has a right of entry over and upon a tract of land containing a drain or natural surface watercourse that is the subject of a petition filed under this chapter.

(b) The right of entry granted by this section is limited to the land lying within seventy-five (75) feet of the drain or natural surface watercourse. The seventy-five (75) feet must be measured at right angles to:

(1) the center line of any tiled drain; and

(2) the top edge of each bank of an open drain; and

(3) the edge of any natural surface watercourse;

as determined by the county surveyor.

(c) A person exercising a right of entry under this section shall, to the extent possible, use due care to avoid damage to:

(1) crops, fences, buildings, and other structures located outside the right-of-way; and

(2) crops and approved structures located inside the right-of-way.

(d) Before exercising a right of entry under this section, an individual must give oral or written notice of the entry on the land to the property owner of record. The notice must state the purpose for the entry.

(e) A right of entry under this section is not criminal trespass under IC 35-43-2-2, and an individual exercising a right of entry under this section may not be arrested or prosecuted for criminal trespass under IC 35-43-2-2.

As added by P.L.239-1996, SEC.3 and P.L.240-1996, SEC.2.

IC 36-9-28

Chapter 28. Certain Watercourse, Levee, Sewer, and Drain Improvements

IC 36-9-28-1

Application of chapter

Sec. 1. This chapter applies to all municipalities other than a consolidated city.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-2

Order to construct or improve; issuance; drawings and specifications for project

Sec. 2. A municipal works board acting under this chapter may issue an order to construct or improve a levee, change or improve a natural or artificial watercourse, drain a section of land, or construct a sewer or drain, if:

(1) the proposed project is designed to benefit land inside and outside the corporate boundaries of the municipality; and

(2) the works board finds that the proposed project is necessary for the welfare of all or part of the municipality.

If the works board issues such an order, it shall have the necessary drawings and specifications for the project prepared and filed in its office.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-3

Order to construct or improve; considerations; filing of record of proceedings

Sec. 3. (a) In making an order for a project under this chapter, the municipal works board shall consider whether the project will beneficially or injuriously affect any property outside the corporate boundaries of the municipality.

(b) If the works board finds that the proposed project will injuriously or beneficially affect property outside the corporate boundaries of the municipality, it shall file with the circuit court for the county a record of all the proceedings concerning the project, including:

(1) a list of all persons whose property will be affected, as determined from the records of the county at the time the works board passes the order for the project; and

(2) a description of the boundaries of the affected area.

The proceedings shall be docketed in the circuit court in the same manner as other civil actions, and the court shall fix a time when the proceedings shall be heard.

(c) If the works board finds that the proposed project will not affect property outside the corporate boundaries of the municipality, it may not proceed with the project under this chapter.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-4
Notice of hearing; answer; judgment

Sec. 4. (a) After the record is filed under section 3 of this chapter, the clerk of the circuit court shall give notice to all persons who are mentioned in the record or who will be affected by the proposed project. The notice must:

(1) be published in accordance with IC 5-3-1;

(2) name a date on which the court will hold a hearing on the proposed project; and

(3) describe the boundaries of the area affected by the proposed project.

(b) At the hearing, which may be adjourned from time to time, persons who own property in the area affected by the proposed project may file an answer showing why the works board should not proceed with the project. The court shall hear the evidence and determine whether the works board should proceed.

(c) If the court finds that the works board should proceed with the project substantially as described in the record, it shall enter judgment accordingly. Otherwise, the court shall dismiss the proceedings.

(d) The court's judgment under this section may not be appealed.
As added by Acts 1981, P.L.309, SEC.104. Amended by Acts 1981, P.L.45, SEC.85.

IC 36-9-28-5
Control and supervision of work; letting of contract; reporting; filing

Sec. 5. If, under section 4 of this chapter, the court finds that the municipal works board should proceed with a proposed project, the works board shall control and supervise work for the project. The works board shall:

(1) advertise for bids for the work; and

(2) let a contract or contracts for the work, subject to financing.

The works board shall report the letting of the contract or contracts to the court, together with an estimate of other project costs, to be filed with the proceedings concerning the project.
As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-6
Board of assessors; duties; appeals from assessments; hearings; roll of property owners; corrections; actions to contest; costs

Sec. 6. (a) After the letting of a contract or contracts under section 5 of this chapter, the circuit court shall appoint three (3) competent, disinterested residents of the county to serve as the board of assessors for the project. The assessors shall take an oath to honestly and faithfully perform their duties as assessors.

(b) The board of assessors shall:

(1) inspect the line of the proposed project and the property within the area affected by the project;

(2) estimate and assess the benefits against each piece of

property to be benefited by the project;

(3) award damages to each piece of property to be injuriously affected by the project; and

(4) prepare and file with the clerk of the circuit court an assessment roll of the assessment against each property owner.

The clerk shall then give written notice of the assessment and the right to appeal by certified mail or personal service upon each of the property owners being assessed as his name and address appears on the tax records of the county. The clerk shall make and file in his records an affidavit of the giving of the notice.

(c) Appeals from the assessments may be made to the circuit court within fifteen (15) days after the time of the filing of the clerk's affidavit of service. The appeals shall be conducted in the manner directed by the circuit court.

(d) In hearing appeals of assessments, the board of assessors shall:

(1) sit at the times and places directed by the court;

(2) administer oaths;

(3) send for persons and papers; and

(4) hear testimony concerning the question of benefits and damages to be assessed.

The hearing may be continued from day to day.

(e) After hearing any appeals, the board of assessors shall finalize the roll of property owners whose property will be benefited or injured by the project, including:

(1) a description of the property affected; and

(2) the amount of the benefits or damages to the property, listed opposite each description;

and shall file it with the circuit court.

(f) The board of assessors may correct a mistake or supply an omission in the roll at any time. Proceedings under this chapter are not defective or void because of an omission or defect in the roll, and a property owner may not object to the proceedings on the ground of any mistake in or omission of:

(1) the name of any person; or

(2) the description of any property.

The circuit court may call the board together to make any necessary additions or corrections to the roll.

(g) An action to contest the assessments and the acts of the board of assessors must be commenced within:

(1) thirty (30) days after the affidavit of service by the clerk of the circuit court; or

(2) if an appeal is taken, within thirty (30) days after the filing of the final report with the court.

(h) The circuit court shall make reasonable allowances to the board of assessors and for attorney's fees, and shall tax these allowances with the other costs of the proceedings. The allowances are payable out of money available from bond proceeds, assessments, or the municipal treasury.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-7
Application of other assessment statutes

Sec. 7. Except as otherwise provided by this chapter, the statutes concerning street and sewer improvement assessments apply to assessments made under this chapter.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-8
Acquisition of real or personal property required for project; condemnation; purchase

Sec. 8. If any real or personal property inside or outside the municipality is required for a project under this chapter:

(1) it may be condemned and paid for in the manner provided by law; or

(2) the municipal works board may purchase and take a conveyance for it for the use and benefit of the municipality, in the manner prescribed for other purchases by the municipality.

All further proceedings concerning a project under this chapter must be performed in accordance with the statutes governing public improvements in municipalities.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-9
Bonds; issuance; payments; financing agreement; public sale

Sec. 9. (a) If the financing for a project under this chapter is to be provided by the federal government, one (1) or more bonds may be issued at any time after the filing of the assessment roll with the circuit court under section 6 of this chapter.

(b) Bonds issued under this section are payable solely from:

(1) the assessments made or to be made against the property benefited; or

(2) the money appropriated for that purpose by the municipality;

and are not a general obligation of the municipality.

(c) Notwithstanding any other law, a financing agreement with the federal government may provide that a municipal ordinance may determine:

(1) the interest rate or rates on the bonds and the assessments;

(2) the time or times of maturities or of principal and assessment payments;

(3) the terms, if any, for redemption of the bonds;

(4) the medium and the place or places for payment of the bonds, including payment by mail to an owner of any fully registered bond; and

(5) any other necessary terms and conditions.

(d) Bonds issued under this section need not be advertised for public sale.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-10

Completion and acceptance of project; certification; benefits assessed

Sec. 10. (a) When the municipal works board finally accepts a project under this chapter, it shall certify the completion and acceptance of the project to the circuit court. The court shall then direct the clerk of the court to make out two (2) copies of a list showing:

(1) the owners of the property affected by the project;

(2) a description of each parcel of property affected by the project; and

(3) the benefits and damages assessed upon or in favor of each parcel.

The clerk shall certify the copies under the seal of the court, and shall deliver one (1) copy to the municipal fiscal officer and one (1) copy to the county treasurer.

(b) If the works board finds that the project is necessary for the public welfare of the municipality and that the benefits assessed will fall below the amount required to pay the damages awarded and to pay for the project, the board shall order that any balance required for this purpose shall be paid by the municipality out of the general fund or out of any other available money. If the works board finds that the benefits assessed exceed the amount of financing needed, each assessment shall be reduced on a pro rata basis.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-11

Board of directors; duties; petition for appointment; notice of hearing; appearance; judgment

Sec. 11. (a) After a project is completed and approved under this chapter, the care, management, control, repair, and maintenance of the project may be placed under the jurisdiction of a board of directors appointed under this section.

(b) A petition requesting the appointment of a board of directors for the project may be filed with the clerk of the circuit court. The petition may be signed by:

(1) the municipal works board, if all or part of the municipality is located in the area affected by the project;

(2) the executive and legislative body of a township, if all or part of the township is located in the area affected by the project;

(3) any twenty-five (25) landowners who reside in a municipality and whose lands are located in the area affected by the improvement; or

(4) any twenty-five (25) landowners who do not reside in a municipality and whose lands are located in the area affected by the project.

The petition shall be docketed as a pending action, and the court shall fix a time when the petition shall be heard.

(c) After the petition is filed and docketed, the clerk of the circuit court shall give notice of the hearing by publication in accordance

with IC 5-3-1. The notice shall be addressed to all persons who were originally assessed for the construction of the project.

(d) Any person owning land located in the area affected by the project may appear at the hearing and be heard, either in person or by his attorney.

(e) If the circuit court determines that a board of directors should be appointed and assessments should be imposed for the care, management, control, repair, and maintenance of the project, the court shall enter a judgment accordingly. If the court enters such a judgment, two (2) members of the board of directors shall be appointed by the county executive and one (1) member of the board of directors shall be appointed by the municipal executive. The three (3) appointed persons must be qualified under section 12 of this chapter.

(f) If the court determines that a board of directors should not be appointed, it shall dismiss the petition.

As added by Acts 1981, P.L.309, SEC.104. Amended by Acts 1981, P.L.45, SEC.86; P.L.7-1983, SEC.40.

IC 36-9-28-12

Board of directors; qualifications; terms; vacancy

Sec. 12. (a) A board of directors appointed under this chapter consists of three (3) directors, who must own land assessed for the construction of the project. One (1) of the directors must be a resident of the municipality affected by the improvement, and two (2) of the directors must be residents of an unincorporated area.

(b) One (1) of the original directors shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, and one (1) for a term of three (3) years. After the expiration of the original terms, all directors shall be appointed for terms of three (3) years.

(c) The appointing authority shall fill any vacancy on the board of directors by appointment for the remainder of the unexpired term.

As added by Acts 1981, P.L.309, SEC.104. Amended by P.L.7-1983, SEC.41.

IC 36-9-28-13

Board of directors; compensation

Sec. 13. Each member of a board of directors appointed under this chapter is entitled to compensation, at a rate fixed by the circuit court but not to exceed thirty-five dollars ($35) per day, for his services under this chapter. The compensation of the board shall be paid from the assessments made under section 16 of this chapter.

As added by Acts 1981, P.L.309, SEC.104. Amended by Acts 1981, P.L.317, SEC.33.

IC 36-9-28-14

Board of directors; employment of assistants; compensation

Sec. 14. A board of directors appointed under this chapter may employ the assistants necessary to perform its duties under this chapter. The compensation of the assistants shall be paid from the

assessments made under section 16 of this chapter.
As added by Acts, 1981, P.L.309, SEC.104.

IC 36-9-28-15
Board of directors; necessary repairs; record of proceedings and of costs and expenses of repairs

Sec. 15. (a) A board of directors appointed under this chapter shall make all repairs necessary to keep the project in its original condition. If, in making the repairs, it is necessary to change the line and location of a ditch at any point, the board may do so, but the board may not change its general line or location.

(b) The board of directors shall keep a record of its proceedings and shall note in that record all expenses incurred in making repairs. The board shall file with the county auditor a statement showing the cost and expenses of making the repairs, specifying the amounts due to each person. The auditor shall then draw his warrant in favor of each person for the amount due them. The amounts due shall be paid out of county revenues and shall be reimbursed to the county from the assessments made under section 16 of this chapter.
As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-16
Assessments; considerations; quotient; negligence of owner or occupant of land; assessment date; certification of assessment; lien

Sec. 16. (a) The money necessary to pay costs incurred by a board of directors in the management and maintenance of a project, including money to be reimbursed to a county under section 15 of this chapter, shall be derived from assessments made under this section.

(b) The board of directors shall determine:

(1) the total number of acres of land benefited by the project and located outside the municipality;

(2) the total number of lots benefited by the project and located outside the municipality; and

(3) the total number of lots benefited by the project and located inside the municipality.

Each lot, whether it is located inside or outside the municipality, shall be counted as one-half (1/2) acre of land, and each major fraction of an acre shall be counted as one (1) full acre.

(c) When the board of directors has determined the total number of acres subject to assessment and the total amount of money required for the next year, the board shall divide the total amount required by the total number of acres assessed. The quotient obtained is the amount per acre to be assessed for the next calendar year.

(d) If repairs have been rendered necessary by the act or negligence of the owner or occupant of any lands, or of his employee or agent, the cost of the repairs shall be assessed against only his lands.

(e) All assessments shall be made before August 2 of each year.

(f) The board of directors shall certify the total amount assessed

against lots located inside the municipality to the municipal fiscal officer. This amount shall be included in the municipal budget, appropriated by the municipal legislative body, and paid out of the municipal general fund.

(g) The board of directors shall make out a certified copy of the assessments made on land outside the municipality, and shall file the copy with the auditor of the county in which the lands and lots are located. The auditor shall place the assessments against the land upon the next tax duplicate. The assessment is a lien from the time the certified copy of the assessments is filed, and shall be collected as other state and county taxes are collected. All the laws regulating the payment and collection of state and county taxes, the assessment of penalties and interest, and the sale of property for delinquent taxes apply to the payment and collection of assessments placed upon tax duplicates under this subsection.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-17

Bonds; issuance when cost of maintaining project exceeds amount that can be raised

Sec. 17. If a board of directors finds that the cost of maintaining a project exceeds the amount that can be raised in any year, the board may issue bonds in the manner in which bonds are issued for construction of levees. However, the bonds and the interest on the bonds shall be paid by assessments made in the manner prescribed by section 16 of this chapter.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28-18

Standing water; removal; costs

Sec. 18. The board of directors in charge of a project may pump out or remove from lands drained by a ditch any standing water that has no means of outlet. The board may purchase pumps or adopt other suitable means for the removal of the water, and the costs necessarily incurred on account of any work done under this section shall be assessed against the lands benefited by the removal of the water. The costs shall be paid, assessed against the lands benefited, and collected in the manner prescribed by section 16 of this chapter.

As added by Acts 1981, P.L.309, SEC.104.

IC 36-9-28.5

Chapter 28.5. Management of Stormwater Runoff From Developed Real Property

IC 36-9-28.5-1

Application

Sec. 1. This chapter applies to counties and municipalities.

As added by P.L.168-1999, SEC.2.

IC 36-9-28.5-2

"Policy" defined

Sec. 2. As used in this chapter, "policy" refers to a policy adopted under this chapter for the management of stormwater runoff from developed real property.

As added by P.L.168-1999, SEC.2.

IC 36-9-28.5-3

Policy established

Sec. 3. By January 1, 2001, the legislative body of a unit shall establish a policy of the unit for the management of stormwater runoff from developed real property in the unit. The legislative body may establish the policy by resolution or ordinance.

As added by P.L.168-1999, SEC.2.

IC 36-9-28.5-4

Provisions for actual management of stormwater runoff

Sec. 4. The policy may, but is not required to, provide for the actual management of stormwater runoff from developed real property.

As added by P.L.168-1999, SEC.2.

IC 36-9-28.5-5

Geographic scope of policy

Sec. 5. (a) If the unit is a city, the geographic scope of the city's policy must include all territory located within the city.

(b) If the unit is a town, the geographic scope of the town's policy must include all territory located within the town unless the legislative body of the town specifies by resolution that the territory of the town be included in the policy of the county where the town is located.

(c) If the unit is a county, the geographic scope of the county's policy must include:

(1) all territory of the county that is not located within a municipality; and

(2) all territory of a town located in the county that has adopted a resolution under subsection (b).

As added by P.L.168-1999, SEC.2.

IC 36-9-28.7

Chapter 28.7. Storm Water Nuisances

IC 36-9-28.7-1

"Artificial conveyance"

Sec. 1. (a) As used in this chapter, "artificial conveyance" means a manmade structure in or into which storm water runoff or floodwaters flow, either continuously or intermittently.

(b) The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, downspouts, roadways, and any other structure using a similar method.

As added by P.L.125-2011, SEC.3.

IC 36-9-28.7-2

"Channel"

Sec. 2. As used in this chapter, "channel" means a part of a natural watercourse or artificial conveyance that:

(1) periodically or continuously contains moving water; and

(2) has a defined bed and banks that serve to confine the water.

As added by P.L.125-2011, SEC.3.

IC 36-9-28.7-3

"Runoff"

Sec. 3. As used in this chapter, "runoff" means the part of precipitation that flows from a drainage area on the land surface, in open channels, or in storm water conveyance systems.

As added by P.L.125-2011, SEC.3.

IC 36-9-28.7-4

"Storm water conveyance system"

Sec. 4. As used in this chapter, "storm water conveyance system" means all methods, natural or manmade, used for conducting storm water to, through, or from a drainage area to any of the following:

(1) Conduits and appurtenant features.

(2) Canals.

(3) Channels.

(4) Ditches.

(5) Storage facilities.

(6) Swales.

(7) Streams.

(8) Culverts.

(9) Roadways.

(10) Pumping stations.

As added by P.L.125-2011, SEC.3.

IC 36-9-28.7-5

"Storm water nuisance"

Sec. 5. As used in this chapter, "storm water nuisance" means a condition:

(1) that arises out of or is related to storm water that is

transferred through runoff or an artificial conveyance that:

(A) is directed to the property of another person;

(B) discharges storm water at or near the property line of another person; or

(C) accelerates or increases the flow of storm water onto another person's property; and

(2) to which one (1) or both of the following apply:

(A) The condition is injurious to health.

(B) The condition substantially obstructs the free use of property.

As added by P.L.125-2011, SEC.3.

IC 36-9-28.7-6
"Swale"

Sec. 6. As used in this chapter, "swale" means an elongated depression in the land surface that:

(1) is at least seasonally wet;

(2) is usually vegetated;

(3) is a conduit for storm water flow; and

(4) conducts storm water into primary drainage channels.

As added by P.L.125-2011, SEC.3.

IC 36-9-28.7-7
"Unit of government"

Sec. 7. As used in this chapter, "unit of government" means:

(1) the town council or its designee if the storm water nuisance is located within the boundaries of a town;

(2) the city board of works or its designee if the storm water nuisance is located within the boundaries of a city; or

(3) the county surveyor or its designee if the storm water nuisance is located within the boundaries of an unincorporated part of a county.

As added by P.L.125-2011, SEC.3.

IC 36-9-28.7-8
Request to investigate storm water nuisance

Sec. 8. (a) If:

(1) a person who owns a tract of land seeks the removal of a storm water nuisance; and

(2) the owner of the land on which the storm water nuisance is located does not remove the storm water nuisance upon request;

the person seeking the removal may file a request under this chapter asking the unit of government to investigate the storm water nuisance.

(b) The request must be filed on a form published by the unit of government that includes:

(1) a general description of the tract of land owned by the person making the request;

(2) a general description of the site of the nuisance; and

(3) a general explanation of the need for the removal of the

nuisance.

As added by P.L.125-2011, SEC.3.

IC 36-9-28.7-9

Investigation fee; assessment of nuisance; investigation report; limitations

Sec. 9. (a) An ordinance may be adopted to allow for the payment of a fee to the unit of government as a condition of filing a request under this chapter. The fee may not be an amount greater than is reasonably necessary to defray the expenses incurred in processing the request, conducting the investigation, and completing the assessment under this section.

(b) A unit of government shall investigate and make a visual assessment limited to the following:

(1) Determine whether the storm water nuisance exists.

(2) Assess whether the removal of the storm water nuisance will:

(A) remove the negative effect of the storm water nuisance from the land of a person making the request; and

(B) cause unreasonable damage to the land on which the storm water nuisance is located.

(3) Make any other observations that may be useful in solving an alleged storm water nuisance problem.

(c) A unit of government, upon making the assessment under subsection (b), shall provide the following to a person that filed the request under section 8 of this chapter:

(1) An oral or written report that may include:

(A) a general description of the investigation and its findings;

(B) whether the storm water nuisance exists;

(C) the need for the removal of the storm water nuisance;

(D) whether the removal of the storm water nuisance will:

(i) remove the negative effect of the storm water nuisance from the land of a person that filed the request under section 8 of this chapter; and

(ii) cause unreasonable damage to the land on which the storm water nuisance is located; and

(E) any other considerations that may be useful in solving the storm water nuisance.

(2) Information concerning alternative dispute resolution options.

(d) A unit of government is not required to use funds to meet the requirements under this chapter.

(e) Except under subpoena, a unit of government may not be compelled to testify in a legal proceeding related to its functions under this chapter.

(f) For purposes of this chapter, the unit of government has a right of entry as provided by IC 36-9-27.4-25.

(g) An artificial conveyance or runoff that was constructed and that operates in compliance with a permit issued by a political

subdivision is not subject to this chapter.
As added by P.L.125-2011, SEC.3.

IC 36-9-29

Chapter 29. Flood Control Districts in Certain Cities

IC 36-9-29-1

Application of chapter

Sec. 1. This chapter applies to second and third class cities.

As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.44, SEC.60.

IC 36-9-29-2

Construction or installation of flood control works; construction or elevation of highways and bridges

Sec. 2. A city acting under this chapter may:

(1) construct or install the flood control works necessary to exclude, divert, remove, reduce, or prevent flood waters caused by the overflowing of watercourses or by storm or surface waters in or about a flood control district established under this chapter; and

(2) construct or elevate highways and bridges necessary to provide reasonable traffic facilities through or over any structures constructed as part of the flood control works.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-3

Declaratory resolution; adoption; contents

Sec. 3. (a) Whenever a city works board determines that:

(1) it is necessary for the general welfare, safety, and security of the city and its inhabitants to carry out any project for the protection of the city and its inhabitants from floods;

(2) the project cannot be carried out in the best or most economical manner without beneficially or injuriously affecting land or other property located outside the corporate boundaries of the city; and

(3) the required flood control works can best be provided for and maintained by the establishment of a special taxing district for that purpose;

it may adopt the declaratory resolution described in subsection (b).

(b) The declaratory resolution must include the following items:

(1) The necessity for providing flood protection for all or part of the city and for all or part of the contiguous territory within four (4) miles outside the corporate boundaries of the city, including all or part of any town within the four (4) mile limit. The necessity must be based upon floods that have occurred in the city and the contiguous territory in the preceding ten (10) years.

(2) The general character of the flood control works that the works board considers necessary to afford proper protection, and the general location and route of the levees, dikes, retaining walls, and other structures that the board considers necessary as part of those works.

(3) A general description of the boundaries of the territory that will be beneficially affected by the construction of the proposed works.

(4) A general estimate of the cost of the property that must be acquired for the construction of the proposed works, including the estimated amounts of damages to property injuriously affected but not acquired.

(5) A general estimate of the cost of construction and installation of the proposed works, based on the available information.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-4

Petition to establish district; procedure

Sec. 4. (a) Upon the adoption of a declaratory resolution under section 3 of this chapter, the city works board shall file with the circuit court for the county in which the city is located a petition requesting the establishment of a flood control district to include the territory described in the resolution. A copy of the resolution shall be attached to the petition. The petition shall be docketed in the court as a pending cause, and shall be entitled "In the matter of the city of _____, petition for the establishment of flood control district".

(b) Upon the filing of the petition, the circuit court shall fix a time when the petition shall be heard, which may not be less than fifteen (15) nor more than thirty (30) days after the filing. The clerk of the court shall publish a notice of the hearing in accordance with IC 5-3-1. The notice must:

(1) contain a brief summary of the petition;

(2) set out the description of the boundaries of the proposed district, as set out in the resolution attached to the petition;

(3) state the time and place fixed for the hearing on the petition; and

(4) advise all interested parties that they may appear and be heard.

(c) The clerk of the circuit court shall certify and send to the attorney general, by registered mail, a copy of the petition, together with a copy of the resolution attached to the petition and a copy of the notice of hearing.

(d) After the publication and mailing of the notice, all persons having any interest in property or highways located in the petitioning city, or within four (4) miles outside the corporate boundaries of the city, are conclusively presumed to have notice of the pendency of the petition and all subsequent proceedings had under the petition.

As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.45, SEC.87.

IC 36-9-29-5

Court hearing; objections; judgment; dismissal; interlocutory order on boundaries; continued hearing

Sec. 5. (a) The circuit court shall hear a petition filed under section 4 of this chapter without a jury. The hearing may be continued and adjourned from time to time as the court may direct. There may be a change of judge as in civil cases, but no change of venue from the county.

(b) All persons affected by the establishment of the proposed flood control district or the construction of the proposed flood control district or the construction of the proposed flood control works may file objections showing any reason why:

(1) the district should not be established;

(2) the works should not be constructed; or

(3) their property should or should not be included in the proposed district.

The court shall hear evidence and determine the facts upon these issues. All objections shall be filed at least two (2) days before the date fixed for the hearing.

(c) If the court finds that a necessity exists for the establishment of a flood control district and the construction and installation of flood control works as requested by the petition, the court shall render judgment accordingly and shall enter a decree establishing the district, describing it in such a manner that the property included in it may be sufficiently identified and segregated to permit the levy and collection of the special taxes provided for by this chapter. There is no appeal from such a judgment, and, after the entry of such a decree, the establishment of the district may not be questioned in any action or proceeding, except as otherwise provided by this chapter.

(d) If the court finds that no necessity exists for the establishment of the flood control district, the proceedings shall be dismissed at the cost of the petitioning city.

(e) If it appears to the court that the boundaries of the flood control district as described in the declaratory resolution should be changed, or that changes in the flood control works as described in the declaratory resolution should be made, and that such changes will beneficially or injuriously affect property that would not have been so affected by the district and works proposed in the declaratory resolution, then the court may enter an interlocutory order to that effect and fix a time for further hearing on the petition.

(f) The date for a hearing under subsection (e) may not be less than ten (10) nor more than fifteen (15) days after the order. The court shall direct the clerk of the court to publish a notice of the hearing that sets out a brief summary of the order, including a brief description of the changes the court proposes to make in respect to the boundaries or works. The notice shall be published in accordance with IC 5-3-1. The notice must state the time and place for the continuation of the hearing on the petition, and advise all parties affected by the proposed changes that they may appear and be heard. Objections may be filed in the manner prescribed by subsection (a), but must be filed at least two (2) days before the time fixed for the continuation of the hearing and must be based solely on the changes proposed to be made. If, at the conclusion of the continued hearing,

the court finds that all or part of the proposed changes should be made, or that the district should be established and the works constructed as provided for in the declaratory resolution, the court shall render judgment accordingly and enter a decree as provided under subsection (c).
As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.45, SEC.88.

IC 36-9-29-6
Special benefit district; territory included

Sec. 6. (a) If twenty-five percent (25%) or more of the territory included within the corporate boundaries of the city petitioning for the establishment of a flood control district has been inundated by flood waters during the preceding ten (10) years, then all of the property within the corporate boundaries of the city is conclusively presumed to be specially benefited and shall be included in the district, except for property that is subject to inundation from floods and will not be included within or protected by the proposed flood control works.

(b) If twenty-five percent (25%) or more of the territory within the corporate boundaries of any town included in whole or in part in the flood control district has been inundated by flood waters during the preceding ten (10) years, then all of the property within the town is conclusively presumed to be specially benefited and shall be included in the district, except for property that is subject to inundation and will not be included within or protected by the proposed flood control works.

(c) Territory that:

(1) is outside the corporate boundaries of a municipality; and

(2) lies at an elevation higher than three (3) feet above the highest flood stage during the preceding ten (10) years;

may be included in a flood control district only if it will be included within or protected by the proposed flood control works.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-7
Special taxing district for flood control purposes; special benefit tax

Sec. 7. Upon the entry of a decree under section 5 of this chapter, a flood control district constitutes a special taxing district for flood control purposes. All property in the district is subject to a special benefit tax for the purpose of providing money to pay the cost of constructing and maintaining the flood control works. The special benefit tax, which shall be levied in the manner prescribed by this chapter, constitutes the amount of special benefits accruing to property in the district on account of the construction and maintenance of the works.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-8

Board of commissioners; membership; oath; removal and appointment; compensation; meeting; quorum; powers and duties; conflict of interest

Sec. 8. (a) If a flood control district is established under this chapter, the construction of the flood control works shall be carried out under the control of a flood control board, to be known as "Board of Commissioners, _____ Flood Control District" (designating the name of the city instituting the proceedings for the establishment of the district).

(b) The flood control board consists of:

(1) the members of the works board of the city petitioning for the establishment of the flood control district; and

(2) the executive of each town or township included in whole or in part in the district.

(c) Before entering upon his duties, each commissioner of the flood control board shall take and subscribe the usual oath of office, and shall file it with the clerk of the circuit court.

(d) If any commissioner of the flood control board fails or refuses to qualify, or after qualifying fails or refuses to take part in the proceedings of the board, then the board, by a majority vote, may petition the circuit court for the appointment of a new commissioner. After a hearing and a showing of cause, the court may remove the offending commissioner. If the court removes a commissioner, the executive of the city shall appoint a new commissioner. The new commissioner must be a freeholder residing in the part of the district previously represented by the commissioner removed.

(e) Each commissioner of a flood control board is entitled to a salary fixed by the board, subject to the approval of the legislative body of the city petitioning for the establishment of the flood control district.

(f) Within ten (10) days after the entry of the decree establishing the flood control district, the commissioners of the flood control board shall meet at the office of the works board of the city petitioning for the establishment of the district, and shall organize by electing one (1) of their number president and one (1) vice president. These officers shall perform the duties usually pertaining to their offices, and shall serve for a period of one (1) year or until their successors are elected and qualified. The board shall also appoint a secretary pro tempore to keep the records of the proceedings until the board appoints a permanent secretary. The minutes of the board shall be kept in a permanent minute book, and the first entry in the book must be a copy of the decree establishing the district and fixing its boundaries.

(g) A majority of the commissioners of the flood control board constitutes a quorum for the transaction of any business. If the board consists of an even number of commissioners and there is a tie vote on any question, the vote of the president on the question is controlling.

(h) The flood control board may:

(1) sue and be sued;

(2) exercise the power of eminent domain;

(3) adopt rules governing the holding of regular meetings, the calling of special meetings, methods of procedure, and similar matters; and

(4) perform all acts necessary and proper for carrying out the purposes of the flood control district.

(i) The office of the flood control board shall be maintained at the office of the works board of the city petitioning for the establishment of the district, or at another place furnished by the city. All records of the board shall be kept at the office and are public records, open to inspection by the public during business hours.

(j) A commissioner, appointee, or employee of the flood control board may not have any direct or indirect interest in any contract let by the board, or in the furnishing of supplies or materials to the board.

As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.317, SEC.34; P.L.7-1983, SEC.42.

IC 36-9-29-9

Executive secretary; compensation; bond; duties

Sec. 9. (a) The flood control board shall appoint an executive secretary. The executive secretary may not be a commissioner of the board before the completion of the flood control works, but may be after their completion.

(b) The salary of the executive secretary shall be fixed by the flood control board.

(c) The executive secretary may be required to furnish bond in the amount the flood control board finds necessary. The cost of the bond may be borne by the district.

(d) The executive secretary:

(1) is the custodian of the records of the district;

(2) shall assist the board in the performance of its duties, as directed by the board; and

(3) shall certify copies of the official records and files of the district that may be required of him by this chapter, or by any person ordering copies and paying the reasonable cost of transcription.

Certification of a record by the executive secretary is prima facie evidence of the record's accuracy.

As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.317, SEC.35.

IC 36-9-29-10

District engineer; duties; compensation

Sec. 10. (a) The flood control board shall appoint a district engineer, who shall perform the duties assigned by the board.

(b) The engineer's compensation shall be fixed by the flood control board. However, when the engineering services are performed by the engineer of the city, the city engineer may receive this compensation.

As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.317, SEC.36.

IC 36-9-29-11
Attorney; duties; compensation

Sec. 11. (a) The flood control board shall appoint one (1) or more attorneys, who shall perform the duties assigned by the board.

(b) The compensation of the attorney or attorneys shall be fixed by the board. However, when the legal services are performed by an attorney of the city legal department, that attorney is entitled to receive this compensation.

As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.317, SEC.37.

IC 36-9-29-12
Employees; compensation; duties

Sec. 12. The flood control board may employ and fix the compensation of all the employees necessary to enable it to perform its duties under this chapter without undue delay.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-13
Employees; term of employment

Sec. 13. All the employees of a flood control district, including the executive secretary, engineer, and attorneys, serve at the pleasure of the flood control board.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-14
County treasurer; duties

Sec. 14. (a) The county treasurer shall act as treasurer of the flood control board and the flood control district. The county treasurer shall make all collections of the special benefit taxes levied by the board, without any additional compensation other than that allowable in the case of the collection of general taxes by the treasurer.

(b) The county treasurer shall give bond in the amount and with the surety prescribed by the flood control board. The cost of the bond shall be paid out of the revenues of the district.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-15
County auditor; duties

Sec. 15. The county auditor shall include on the tax duplicates for the county the special benefit taxes levied for the flood control district and shall perform the same duties in connection with the levy and collection of these taxes as are performed for general taxes levied by any political subdivision in the county.

As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.317, SEC.38.

IC 36-9-29-16
Federal aid; acceptance; conditions

Sec. 16. (a) The flood control board may, on behalf of the flood control district, accept any legal, engineering, financial, construction, or other aid from the federal government or any other source.

(b) If the federal government agrees to construct or furnish and install all or part of the flood control works required by the flood control district, and to furnish the necessary plans and specifications, the flood control board shall accept the offer and adopt the plans and specifications as its own, unless they do not conform to the decree establishing the district.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-17
Use of territory in connection with construction of flood control works; authorization

Sec. 17. (a) If the state or a political subdivision has territory that will be affected in whole or in part by flood control works, it may grant to the flood control district the use of any property in which it has an interest, including its rights in public ways, for use in connection with the construction of the flood control works, upon the terms agreed upon. Such a grant must be authorized by:

(1) the governor and the state agency having jurisdiction of the property, for the state; or

(2) the fiscal body, for a political subdivision.

(b) Grants under this section shall be made in the form of a deed or other written instrument that may be recorded. The grant may provide that when property is no longer needed for the purposes of the flood control district, the property reverts to the state, or the political subdivision, making the grant.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-18
Plans and specifications; preparation, adoption, and filing; objections; hearing; judgment or decree

Sec. 18. (a) After its organization, the flood control board shall prepare and adopt:

(1) plans and specifications for the flood control works to be constructed or installed by or for the flood control district;

(2) estimates of the cost of that part of the works to be contracted for or constructed at the expense of the district;

(3) maps and plats showing the general scope of the works and the boundaries of all lands considered necessary to be acquired for the works or that will be injuriously affected in connection with the construction of the works; and

(4) an acquisition and damage roll showing the separate descriptions of all land and other property to be acquired or injuriously affected by the construction and installation of the works, and an estimate of the total cost of the acquisition or damages.

It is not necessary to prepare, adopt, and file the plans, specifications, and other items required by this section at one (1) time.

(b) In adopting plans under this section, the flood control board, with the approval of the circuit court, may deviate from the general plans approved at the time of the establishment of the district if the board finds that:

(1) it is not practicable to construct or install the works in accordance with that plan; or

(2) the deviation will provide greater protection.

(c) Upon adoption of the plans, specifications, and other items, one (1) copy shall be placed on file at the flood control board's office, and one (1) copy shall be filed in the office of the clerk of the circuit court. These copies are open to inspection by the public. The board shall have notice of the filing published in accordance with IC 5-3-1. The board shall file proofs of publication of the notice with the clerk of the court. The notice must refer to the title and number of the cause in which the district was established and state that the plans, specifications, estimates, maps, plats, and roll required by this section are on file at the offices of the board and clerk of the court, and may be inspected by all interested parties.

(d) Any person owning property injuriously affected by the construction or installation of the proposed flood control works may file separate objections with the circuit court within fifteen (15) days after the first publication of notice under subsection (c). The sole ground of objection is that, due to an unnecessary deviation from the general plan approved at the time of the establishment of the district, the property of the objectors will be injuriously affected or should not be included in the district. The court shall set the objections for hearing without delay, hear evidence, and determine the facts. However, the filing of objections does not delay or interfere with the letting of contracts or the construction of the flood control works, except to the extent that the court may direct by temporary order before the hearing or by judgment after the hearing.

(e) If, after a hearing under subsection (d), the court finds that there has been an unnecessary deviation from the general plan approved at the time of the establishment of the district, or that any of the property included in the district as originally established should be eliminated from the district, the court shall:

(1) render judgment accordingly; and

(2) enter a decree:

(A) setting out the deviation to be corrected; and

(B) describing, by metes and bounds, the property eliminated.

A copy of the decree shall be entered in the records of the board, and the plans shall be changed to meet the requirements of the decree.

As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.45, SEC.89.

IC 36-9-29-19

Acquisition of property; purchase, contract, or eminent domain

Sec. 19. After the flood control board has published notice of the

filing of the acquisition and damage roll under section 18(c) of this chapter, it may acquire the property described in the roll by purchase, by contract, or by the exercise of the power of eminent domain under IC 32-24.
As added by Acts 1981, P.L.309, SEC.105. Amended by P.L.2-2002, SEC.125.

IC 36-9-29-20
Contracts; letting procedure

Sec. 20. (a) All contracts of the flood control district for the construction of flood control works shall be let by the flood control board under the statutes concerning the letting of contracts for public improvements by the works board of the city. The flood control board may let one (1) contract for the entire works or separate contracts for parts of the works.

(b) All contracts shall be awarded to the lowest and best bidder. However, a contract may not be let at a bid higher than the cost of the work, as shown by the estimates previously adopted and filed, unless approved by the circuit court on petition of the flood control board.

(c) All contracts must be in writing and signed by the flood control board's president or vice president and by its executive secretary.

(d) The validity of a contract may be questioned only in an action to enjoin the execution of the contract, filed within ten (10) days after the date of its execution.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-21
Federal labor, material, machinery, and equipment; acceptance of offer; additional labor, material, machinery, and equipment

Sec. 21. If the federal government or another source agrees to furnish all or part of the labor, material, machinery, and equipment required for any construction or installation, the flood control board may accept the offer. The board may supply the necessary additional labor, material, machinery, and equipment to carry out the agreement.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-22
Loans for preliminary expenses; sale of warrants; advancement of funds

Sec. 22. (a) To facilitate the carrying out of preliminary proceedings and provide money for the payment of expenses before the issuance of bonds under this chapter, the flood control board may, by resolution, authorize the making of loans in amounts approved by the circuit court. The loans shall be evidenced by callable warrants payable out of the proceeds of bonds, when available, and the warrants may bear interest at any rate. If the amount of warrants to be issued at any one (1) time exceeds five

thousand dollars ($5,000), they shall be sold at public sale after notice given in accordance with IC 5-3-1. The warrants shall be sold to the bidder offering to purchase them at the lowest actual interest cost to the district, and shall be executed in the name of the district by the board's president or vice president and by its executive secretary.

(b) Any unit having territory included within the flood control district may advance money to the district. The advances must be authorized by the fiscal body of the unit. The advances may be made without appropriation, and warrants evidencing the advances shall be issued by the district, bearing the rate of interest provided for in the resolution or other action authorizing the advances.

As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.45, SEC.90.

IC 36-9-29-23

Bonds; issuance; amount; sale procedure

Sec. 23. (a) The flood control board shall, by resolution, direct that bonds be issued in the name of the flood control district:

(1) for the purpose of procuring money to pay the cost of acquisition of property, the cost of construction or installation of flood control works, or both; and

(2) in anticipation of the collection of the special benefit taxes to be levied under this chapter.

(b) The amount of the bonds may not exceed:

(1) the total cost of property to be acquired and the total amount of damages to be awarded on account of property injuriously affected but not acquired, as shown by the acquisition and damage roll previously adopted and filed by the flood control board or as determined by court action;

(2) the contract price of the works contracted for, or the estimated cost of additional labor, materials, machinery, and equipment when the federal government or others have agreed to supply a part of those items for use on the construction of any part of the works and no construction contract is to be let;

(3) an amount sufficient to pay the cost of supervision and inspection during the period of construction;

(4) all other general, administrative, legal, engineering, and incidental expenses previously incurred on account of or in connection with the establishment of the district, the administration of its affairs, the acquisition of property, and the construction of the works, together with the expenses to be incurred in connection with the issuance and sale of bonds; and

(5) an amount sufficient to pay any outstanding warrants issued for the purpose of obtaining money for expenses before the issuance of bonds.

(c) If different parcels of land are to be acquired or more than one (1) contract for work is let by the flood control board at approximately the same time, the board may provide for the total cost of the land or work in one (1) issue of bonds. If the cost of acquiring

property or the amount required for the payment of damages to property not acquired exceeds the board's estimate of the amount required for that purpose, additional bonds may be issued to supply the deficiency.

(d) The bonds shall be issued in any denomination not exceeding one thousand dollars ($1,000), and in not less than twenty (20) nor more than sixty (60) series, which must be as nearly equal as possible considering the amount of the issue, the number of serial maturities, and the denominations to be used.

(e) The bonds are payable one (1) series each six (6) months. The first payment shall be made on January 1 in the second year following the date of their issue, if a tax levy to meet the requirements of the bonds is made in the year in which the bonds are issued. Otherwise, the first series of bonds is payable on January 1 of the third year following the date of their issue.

(f) The bonds are negotiable instruments.

(g) The bonds may bear interest at any rate, with the exact rate to be determined by bidding. The interest is payable semiannually on January 1 and July 1 of each year, with the first interest payable on July 1 preceding the maturity date of the first series of bonds.

(h) The bonds shall be signed by the president or vice president of the flood control board, and attested by the executive secretary of the board. The interest coupons shall be executed by placing on them the facsimile signature of the president or vice president whose signature appears on the bonds.

(i) The flood control board may not issue any bonds of the flood control district payable out of special benefit taxes when the total amount outstanding for that purpose, including the bonds issued and to be issued, is in excess of five percent (5%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void.

(j) The bonds are not a corporate obligation or indebtedness of any unit having territory included in the district, but are an indebtedness of the flood control district as a special taxing district. The bonds are payable solely out of the special benefit taxes levied under this chapter. The bonds must state these facts upon their face, together with the purpose for which they are issued.

(k) The bonds of any issue may be sold in parcels or as a whole. Notice of the sale must be given by publication in accordance with IC 5-3-1.

(l) The bonds shall be sold to the highest qualified bidder, but may not be sold for less than their par value. The highest bidder is the person who offers the lowest net interest cost to the district, as determined by computing the total interest on all of the bonds to their maturities and then deducting the premium bid, if any.

(m) When the flood control board sells the bonds, the executive secretary of the board shall have the bonds prepared and executed, and shall deliver them to the county treasurer, together with a certificate showing the amount to be paid by the purchaser. Upon the

payment of the purchase price the treasurer shall deliver the bonds to the purchaser. The executive secretary shall furnish the successful bidder a transcript of the proceedings relating to the authorization and issuance of the bonds, together with the other documents necessary to establish the validity of the bonds. The transcript and other documents are presumptive evidence of the validity of the bonds, and shall be accepted in evidence in any litigation relating to or affecting the bonds.
As added by Acts 1981, P.L.309, SEC.105. Amended by Acts 1981, P.L.45, SEC.91; P.L.6-1997, SEC.226.

IC 36-9-29-24
Bonds for replacement, enlargement, extension, or construction of additional works; costs exceeding amount available

Sec. 24. If the flood control board finds that:

(1) it is necessary to replace, enlarge, or extend any part of the flood control works or construct additional works in order to protect the district properly; and

(2) the cost of the replacement, enlargement, extension, or construction will exceed the amount then available out of current maintenance and repair funds;

the board may issue bonds under section 23 of this chapter for that purpose. However, the board must first comply with sections 18, 19, and 20 of this chapter.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-25
Refunding bonds; issuance; payment

Sec. 25. If the flood control district is unable to pay any bonds or the interest on them at the times fixed for payment, refunding bonds may be issued and sold under section 23 of this chapter to obtain money for that purpose. The refunding bonds are payable within the period fixed by the flood control board, which may not exceed ten (10) years.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-26
Bonds issued and their interest exempt from taxation

Sec. 26. All bonds issued under this chapter, together with the interest on them, are exempt from taxation.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-27
Validity of bonds issued

Sec. 27. An action to question the validity of any of the bonds issued under this chapter, or to prevent their issuance, must be brought by the time fixed in the bond sale notice for the receiving of bids. After that time, the bonds may not be contested for any cause.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-28
Flood control district construction fund

Sec. 28. (a) The county treasurer shall keep all proceeds from the sale of bonds under this chapter in a separate fund designated as the "_____ flood control district construction fund". The fund shall be used only to pay the costs listed in section 23(b) of this chapter. Any money remaining out of the proceeds of the bonds after all of the costs are paid shall be paid into the district bond fund established under section 30 of this chapter.

(b) The flood control board shall approve and order all payments made from the flood control district construction fund, and shall determine the amounts and times of the payments. However, a payment to a contractor may not exceed eighty percent (80%) of the district engineer's estimate of work done by the contractor, and the whole amount of a contract may not be paid until all work to be done under the contract has been accepted by the board as fully completed in accordance with the plans and specifications.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-29
Acquisition of property; payment of costs according to terms of purchase or contract; payment of damages in condemnation; title

Sec. 29. (a) If property is acquired by purchase or contract, payment of costs shall be made according to the terms of the purchase or contract.

(b) If property is condemned, the amount of damages assessed shall be paid as soon as the proceeds from the sale of bonds are available. Upon the payment of the damages, the title of the property paid for is fixed and vested in the flood control district in the manner, to the extent, for the purpose, and subject to the limitations provided by this chapter.

(c) Title to all property acquired shall be taken in the name of the flood control district. Within sixty (60) days after any conveyance or grant of any interest in real property is received by the flood control board, the board shall have recorded the deed or other instrument of conveyance or grant, signed by the grantor, in the recorder's office in the county in which the property is located. In case of condemnation, a copy of the decree, certified by the clerk of the circuit court and showing the amount paid to the clerk on account of the damages awarded, shall be recorded.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-30
Special benefit tax levy to pay for bonds; flood control district bond fund

Sec. 30. (a) For the purpose of obtaining money to pay the bonds and the interest on them, the flood control board shall levy a special benefit tax each year upon all of the property in the flood control district. The tax shall be levied in the amount necessary to pay the principal of the bonds as they mature, together with the interest

accruing on them.

(b) The flood control board shall cause the tax levied to be certified to the auditor of the county in which the property subject to the tax is located, before October 2 of each year. The tax levied and certified shall be estimated and entered upon the tax duplicates by the county auditor, and shall be collected and enforced by the county treasurer in the same manner as state and county taxes are estimated, entered, collected, and enforced.

(c) As the tax is collected by the county treasurer, it shall be accumulated in a separate fund to be known as the "_____ flood control district bond fund", and shall be applied only to the payment of the bonds and the interest on them.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-31

Special benefit tax levy to pay for cost of operation, maintenance, and repair of flood control works; presumption; flood control district maintenance fund; temporary loans

Sec. 31. (a) The flood control board may levy a special benefit tax each year for the purpose of providing for the cost of operation, maintenance, and repair of the flood control works after the completion of the works, including the general expenses of the board, such as salary and wages, that the board finds are not properly chargeable to the proceeds of bonds issued under this chapter. The tax may not exceed eleven and sixty-seven hundredths cents ($0.1167) on each hundred dollars ($100) of taxable property in the district, as it appears on the tax duplicates.

(b) The property within the flood control district is conclusively presumed to be benefited to the extent of the annual tax by the maintenance of the district and the maintenance, operation, and repair of the flood control works.

(c) The county auditor shall estimate the tax and enter it upon the tax duplicates, and the county treasurer shall collect and enforce the tax in the same manner as state and county taxes are estimated, entered, collected, and enforced.

(d) The county treasurer charged with the duty of collecting the taxes shall, between the first and tenth days of each month, notify the flood control board of the amount of the tax collected during the preceding month. Upon the date of notification, the treasurer shall credit the amount collected to a fund designated as "_____ flood control district maintenance fund", which may be used only for the purposes stated in this section.

(e) The flood control board has complete and exclusive authority to expend, on behalf of the flood control district, all revenues realized under this section.

(f) The flood control board may, by resolution, authorize and make temporary loans in anticipation of the collection of the special benefit taxes actually levied and in course of collection under this section. The loans mature and shall be paid within the year in which they are made, and may bear interest at any rate payable at the

maturity of the loan. The temporary loans shall be evidenced by warrants, and, if the amount of warrants to be issued exceeds five thousand dollars ($5,000), they shall be sold at public sale in the same manner as the bonds of the district.
As added by Acts 1981, P.L.309, SEC.105. Amended by P.L.6-1997, SEC.227.

IC 36-9-29-32
Emergency flood control district fund

Sec. 32. (a) The flood control board may establish an "emergency flood control district fund", which may not exceed at any time one hundred thousand dollars ($100,000). The emergency fund shall be established out of money transferred from the flood control district maintenance fund.

(b) Whenever the emergency fund is reduced below one hundred thousand dollars ($100,000), the flood control board may transfer from the maintenance fund the sum it considers necessary for the purpose of replenishing the emergency fund.

(c) The county treasurer shall keep the emergency fund separate from the other funds of the flood control district. Any unexpended sum in the fund shall be retained from year to year to meet flood emergencies as they arise.

(d) The sum in the emergency fund may not be considered in making up the budget of the flood control district, except for the purpose of determining the amount to be levied in order to replenish the fund.

(e) All withdrawals from the emergency fund shall be used solely for emergency purposes, and shall be made upon order of the flood control board in the same manner as withdrawals from other funds of the flood control district.
As added by Acts 1981, P.L.309, SEC.105. Amended by P.L.356-1987, SEC.1.

IC 36-9-29-33
Deposit of funds of flood control district

Sec. 33. The money in the funds of the flood control district shall be deposited and held in the same manner as other public funds under IC 5-13.
As added by Acts 1981, P.L.309, SEC.105. Amended by P.L.3-1990, SEC.138.

IC 36-9-29-34
Warrants drawn for items approved by board; payments on bonds and interest coupons

Sec. 34. (a) Except as provided in subsection (b), revenues raised under this chapter may be expended only upon a warrant drawn by the executive secretary of the flood control board for items approved by the board, with the date of approval indicated on the warrant over the signature of the president or vice president of the board.

(b) The county treasurer may pay bonds and interest coupons:

(1) issued by the flood control board; and
(2) presented at or after their maturity;
out of the bond fund established under section 30 of this chapter, without the issuance of warrants or other orders of the board.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-35
Pending actions for filing further petitions and for making further orders

Sec. 35. After the docketing of the petition for the establishment of the flood control district, and until the flood control works have been completed and accepted, the cause remains on the docket of the circuit court as a pending action for the filing of the further petitions and the making of the further orders that are authorized by this chapter or found necessary to facilitate the completion of the works.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-36
Jurisdiction of court

Sec. 36. All court proceedings relating to the establishment or maintenance of the flood control district, or the performance of any act under this chapter, must be brought and determined only in and by the circuit court establishing the district. The jurisdiction of the court in all such matters is conclusive and its judgment is final, except as otherwise provided in this chapter. All proceedings had under this chapter shall be heard by the court without the intervention of a jury, except as otherwise provided in this chapter. Laws with respect to change of venue from the county do not apply to proceedings under this chapter, but changes of venue from the judge may be had as in other civil cases.
As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-37
Supplementary proceedings to cure defects or irregularities; objections

Sec. 37. (a) If any defects or irregularities occur in any of the proceedings had under this chapter, the defects or irregularities may be cured by supplementary proceedings of the same general nature as those provided for by this chapter. Only those parties whose interests or property are directly and adversely affected by the defects or irregularities may object to them.

(b) It is not necessary to delay the general course of the proceedings while defects or irregularities are being corrected or supplied.

(c) If an objection is filed with the circuit court and the objection is overruled or decided adversely to the objecting party, the court costs incurred in the filing, hearing, and determination of the objection shall be taxed to the objecting party. If the objection is sustained or determined in favor of the objecting party, then the costs shall be taxed to the flood control district.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29-38
Required proceedings and notices under this chapter

Sec. 38. Only the proceedings and notices prescribed by this chapter are required for acts performed under this chapter, notwithstanding any other statute to the contrary.

As added by Acts 1981, P.L.309, SEC.105.

IC 36-9-29.1

Chapter 29.1. Flood Control District in Marion County

IC 36-9-29.1-1

Application of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-2

"Board"

Sec. 2. As used in this chapter, "board" refers to the board of public works of the consolidated city, subject to IC 36-3-4-23.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-3

Special taxing district

Sec. 3. The flood control district referred to in IC 36-3-1-6 constitutes a special taxing district for the purpose of protecting the county and its residents from floods and flood hazards.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-4

Powers and duties of board

Sec. 4. (a) To carry out this chapter, the board has jurisdiction to authorize projects of flood control and prevention over all watercourses, and property affected by these projects, within the flood control district and in or along any watercourse in any adjacent county that is a tributary to any watercourse in the district.

(b) In carrying out such a project, the board has the following powers:

(1) To construct and maintain levees, dikes, retaining walls, dams, reservoirs, drains, and all other improvements in or along any watercourse designed to prevent damage and injury through floods and to conserve water resources.

(2) To provide for the disposal of excess water from any reservoir on such terms as the board considers best, so long as this does not impair the function of flood prevention provided by the improvements.

(3) To construct, reconstruct, repair, relocate, widen, or resurface any public way connected with such a project.

(4) To remove obstructions in, to dredge or control, to straighten, or to change the channel of any watercourse.

(5) To reconstruct any new public structure, or any new public bridge or bridges; or to alter, relocate, remove or require the removal of, repair, lengthen, widen, or reconstruct any public structure, or any public bridge or bridges, designed or used for vehicular or pedestrian traffic, and already built and located, whether originally built by a municipal corporation or any other person, across any watercourse.

(6) To regulate and establish channel, bank, and harbor lines on watercourses; to remove or to require to be removed any obstruction or encroachment in, beneath, above, along, or beyond channel, bank, and harbor lines; and to prevent any future obstructions or encroachments beyond these lines by dumping or filling with any material or in any other manner.

(7) To regulate the manner in which all sewers, drains, conduits, viaducts, aqueducts, cables, power lines, and pipelines of any description crossing the bed of any watercourse, or along its banks, or carried across, over, or under it on any bridge, trestle, support, or other structure, shall be located or relocated, replaced, altered, repaired, constructed, reconstructed, lengthened, widened, or removed, whether already constructed or proposed to be constructed or reconstructed by a municipal corporation or any other person.

(8) To regulate the general manner of construction of all temporary or permanent bridges, dikes, moorings, landings, dams, and spillways over, along, or in any watercourses proposed to be constructed or reconstructed by a municipal corporation or any other person.

(9) To regulate the removal by any persons of sand and gravel from watercourses and to establish the distance from bridges and other structures crossing them, and also the uniform grade lines to which sand and gravel may be excavated by any persons.

(10) To regulate the depth, waterway, height, alignment, location, and general manner of construction, reconstruction, and repair of any railroad bridge and of any person crossing over any watercourses or affected by carrying out of projects.

(11) To regulate the general manner of locating, relocating, constructing, reconstructing, altering, repairing, lengthening, widening, raising, and aligning any private bridge, including all its piers, abutments, and supports.

(12) To regulate and order that any of the matters described in this subsection shall be done by the person owning or controlling them, in carrying out projects, all subject to supervision and approval by the board.

(13) To cooperate with any department or agency of the federal government, and with any department or agency of the state, that is established for the purpose of developing a comprehensive plan or program for the protection of life and property from floods or flood hazards.

(c) A project for flood control may not be carried out until it is submitted to and approved by the department of natural resources of the state.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-5

Adoption of resolution

Sec. 5. Whenever the board determines that it is necessary for the

general welfare, safety, or security of the flood control district to undertake and carry out any project to protect the district and its residents from floods or flood hazards, the board shall adopt a resolution declaring this necessity and its purpose to proceed with the project.
As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-6
Adoption of general plans and specifications

Sec. 6. (a) The board, as a part of the resolution, shall adopt the general plans then proposed for the entire project, including a plat showing the general scope of it and the location and bounds of all real property then considered necessary to be acquired or removed, or that would be injuriously affected, in connection with the project. It shall also determine the estimated cost of all the work, including the estimated damages to be awarded to the owners of the real and personal property. An appraisal is not required for those estimates.

(b) The adoption or filing of any specifications covering all or parts of the project and details of other matters is optional with the board, and it may also receive and file alternate plans and specifications, submitted by any person for all or any parts of the project. The board may, at the final hearing, adopt all or any of these materials in place of the board's plans and specifications.
As added by Acts 1982, P.L.77, SEC.24. Amended by P.L.27-1986, SEC.6.

IC 36-9-29.1-7
Filing and notice; resolution, plans, and specifications

Sec. 7. (a) The resolutions and plans, plat, descriptions, and estimates and specifications, if any, shall be filed and opened to inspection by the public at the board's office.

(b) The board shall then give notice in accordance with IC 5-3-1 of the adoption and general purport of the resolution and of the fact that the resolution, plans, plat, descriptions, and estimates and specifications, if any, have been prepared, are on file in the office of the board, and can be inspected. The notice must name a date on which the board will receive and hear objections from any person interested in or who will be affected by the resolution.
As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-8
Hearing and final decision concerning project

Sec. 8. (a) At or before the time fixed for the hearing, any person interested in or who will be affected by the proposed project may file with the board a written remonstrance against the proposed project, in whole or in part.

(b) At the hearing, which may be adjourned from time to time, the board shall hear all persons who are interested in the proceedings and shall finally determine whether or not the proposed project, in whole or in part, is necessary for the general welfare, safety, and security of

the flood control district, in order to provide flood prevention and control. The board may then confirm, modify and confirm as modified, or rescind the resolution.

(c) The final decision shall be entered in the records of the board and is final, binding, and conclusive upon all persons.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-9

Special tax on property within flood control district

Sec. 9. Upon final action of the board confirming the resolution in its original or any modified form, all property, real and personal, located within the flood control district is subject to a special tax for the purpose of providing money to pay the total cost of the construction of the project or projects, and of acquiring all necessary lands or rights-of-way, as described and provided in the resolution, including all necessary incidental expenses. This special tax is declared to constitute the amount of benefits resulting to all the property from the proceedings and shall be levied as provided in this chapter.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-10

Condemnation proceedings

Sec. 10. If the board has finally confirmed any resolution for all or any part of any project of flood prevention and control, and any property is required to be condemned, appropriated, or purchased, or is damaged or injuriously affected by the carrying out of the flood prevention project and work, the board shall proceed with reference to this property and awards of damages in all respects, whenever necessary, in accordance with IC 32-24. Any part of the appropriation proceedings as to any property may be included in either the original resolution or any subsequent resolutions.

As added by Acts 1982, P.L.77, SEC.24. Amended by P.L.2-2002, SEC.126.

IC 36-9-29.1-11

Award of contract for project

Sec. 11. If the board finally confirms the resolution, it shall then proceed to award a contract for the project in accordance with IC 36-1-12.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-12

Flood control district bonds

Sec. 12. (a) For the purpose of raising money to pay for the property and the construction, and in anticipation of the special tax to be levied as provided in section 14 of this chapter, the board may cause to be issued, in the name of the consolidated city, the bonds of the flood control district, not to exceed the amount of the estimated total cost of all lands, rights-of-way, and other property so to be

acquired and the estimated cost of all work or construction as provided for in the resolution, and including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the cost of supervision and inspection during the period of construction of the work.

(b) The expenses to be covered in the amount of the bond issue must include all expenses of every kind actually incurred preliminary to the acquiring of the property and the construction of the work, such as the cost of necessary records, engineering expenses, publication of notices, salaries, and other expenses necessary to be incurred before and in connection with the acquiring of the property, the amending of the contract, and the sale of bonds.

(c) In case different parcels of land are to be acquired, or more than one (1) contract for work is amended, at approximately the same time, whether under one (1) or more resolutions, the board may provide for the estimated total cost of these items in one (1) issue of bonds.

(d) The bonds shall be issued in accordance with IC 36-3-5-8.

(e) The bonds are negotiable instruments and bear interest payable semiannually, on the first days of January and July of each year, with the first interest to be payable on July 1 preceding the maturity of the first series of the bonds.

(f) On adopting a resolution ordering the bonds, the board shall certify a copy of it to the fiscal officer of the consolidated city, who shall prepare the bonds. The bonds shall be executed by the city executive and attested by the fiscal officer.

(g) The bonds are exempt from taxation as provided by IC 6-8-5.

(h) All bonds issued by the board shall be sold by the city fiscal officer in accordance with IC 5-1-11.

(i) Bonds of the flood control district payable by special taxation may not be issued when the total issue for that purpose, including the bonds already issued and to be issued, exceeds two percent (2%) of the adjusted value of the taxable property within the district as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void.

(j) The bonds are not, in any respect, a corporate obligation or indebtedness of the consolidated city, but constitute an indebtedness of the flood control district as a special taxing district, and the bonds and interest on them are payable only out of a special tax levy upon all the property of the district. The bonds must recite these terms upon their face, together with the purpose for which they are issued.

(k) An action to question the validity of any bonds issued for the flood control district or to prevent their issue must be brought before the date set for the sale of the bonds, and all bonds, from and after that date, are incontestable for any reason.

As added by Acts 1982, P.L.77, SEC.24. Amended by P.L.27-1986, SEC.7; P.L.6-1997, SEC.228.

IC 36-9-29.1-13
Fund for deposit of bond proceeds

Sec. 13. (a) All proceeds from the sale of bonds under section 12 of this chapter shall be kept as a separate and specific fund, to pay the cost of land, rights-of-way, and other property acquired and of construction of the work under the resolution, and all costs and expenses incurred in connection with these things, and no part of the proceeds may be used for any other purpose.

(b) The fund shall be deposited at interest with the depository or depositories of other public funds in the consolidated city, and all interest collected on it belongs to the fund.

(c) Any surplus remaining out of the proceeds of the bonds, after all of the costs and expenses are fully paid, shall be paid into and becomes a part of the flood control district bond fund.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-14

Tax levy; flood control district bond fund

Sec. 14. (a) For the purpose of raising money to pay all bonds issued under section 12 of this chapter and the interest on them, the city-county legislative body shall levy each year a special tax upon all the property of the flood control district, in such manner as to meet and pay the principal of the bonds as they severally mature, together with all accruing interest. The tax so levied each year shall be certified to the fiscal officers of the consolidated city and the county before August 2 in each year.

(b) The tax levied and certified shall be estimated and entered upon the tax duplicate by the county auditor, and shall be collected and enforced by the county treasurer, in the same manner as state and county taxes are estimated, entered, collected, and enforced. As the tax is collected by the county treasurer, it shall be accumulated and kept in a separate fund to be known as the "flood control district bond fund," and shall be applied to the payment of the flood control district bonds and interest as they severally mature and to no other purpose. All accumulations before their use for the payment of bonds and interest shall be deposited, at interest, with the depository or depositories of other funds in the consolidated city, and all interest collected on them belongs to the fund.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-15

Additional tax levy; flood control maintenance and general expense fund; temporary loans; insufficient funds

Sec. 15. (a) For the purpose of:

(1) providing for the payment of all general expenses of the board, including salaries of officers and employees and other items of expense not properly chargeable into the cost of any property acquired or work done under any resolution of the board for which flood control district bonds are issued; and

(2) providing for the operation, maintenance, and repair of any levees, dikes, retaining walls, reservoirs, drains, and other works and improvements in or along any watercourse designed

to prevent damage and injury through floods, and other permanent works constructed, including the repair and maintenance of equipment or the performance of any duty imposed by this chapter;

a tax of not exceeding one and thirty-three hundredths cents ($0.0133) on each one hundred dollars ($100) of taxable property in the district as it appears on the tax duplicates, in addition to all other taxes, shall be levied annually by the city-county legislative body for flood control purposes. The county auditor shall estimate the taxes and enter them upon the tax duplicate, and the county treasurer shall collect and enforce the taxes, in the same manner as state and county taxes are estimated, entered, collected, and enforced.

(b) The county treasurer shall, between the first and tenth days of each month, notify the board of the amount of such taxes collected for flood control purposes during the preceding month, and upon the date of notification the county treasurer shall credit an account to be known as the "flood control maintenance and general expense fund" with such amount of taxes for flood control purposes as may have been collected at that time. The fund shall be used and expended only for the purposes prescribed by this chapter. The board may expend on behalf of the district all sums of money thus realized. Warrants for these expenditures shall be drawn by the fiscal officer of the consolidated city upon the vouchers of the board.

(c) The board may by resolution authorize and make temporary loans in anticipation of revenues actually levied under this section, which loans mature and shall be paid within one (1) year from the date of the making of the loan, with interest payable at the maturity of the loan. The warrants or other evidence of these loans shall be sold for not less than par, and before the making of the loan, notice of the time, place, amount, and terms of making of the loan shall be given by publication in accordance with IC 5-3-1. The warrants import no personal obligation for their payment and are payable only out of the tax so levied.

(d) All money remaining in any of the funds to the credit of the board at the end of the calendar year continues to belong to these funds respectively, to be used by the board for the respective purposes for which the funds are created. All funds raised under this section shall be deposited at interest with the depository or depositories of other public funds of the consolidated city, and all interest collected on them belongs to them.

(e) In the event that the revenues in the "flood control maintenance and general expense fund" of the district are at any time insufficient, the consolidated city may appropriate money out of its general fund for the use and benefit of the district, which amount so appropriated and used shall be returned and repaid to the city out of the first available funds by the board.

As added by Acts 1982, P.L.77, SEC.24. Amended by P.L.6-1997, SEC.229.

IC 36-9-29.1-16

Payments for property or work; damages assessed; title vested in consolidated city

Sec. 16. (a) From the separate and specific fund derived from sale of the bonds as provided in this chapter, and from no other source, the board shall pay to the parties entitled to it the amounts respectively due them for any lands, rights-of-way, or other property taken or purchased, or for work done by contract or otherwise.

(b) In case the lands, rights-of-way, or other property is secured by purchase or contract, the payment shall be made according to the terms of the contract. In case of any such property taken by condemnation as provided in this chapter, the amount of damages assessed shall be paid or tendered as provided in this chapter, within ninety (90) days after the final determination of the condemnation proceedings, or as soon after that as the fund arising from the bonds is available. The title to the lands, rights-of-way, or other property, or that part so paid for or otherwise acquired then becomes vested in the consolidated city, in the manner, to the extent, for the purpose, and subject to the limitations provided in this chapter.

(c) The board shall order payments from the fund to be made to contractors in accordance with IC 36-1-12.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-17

Filing and recording; description of land and statement of purpose

Sec. 17. Within sixty (60) days after any land or right in it is paid for and acquired under this chapter, the board shall file and cause to be recorded in the recorder's office of the county in which the land is situated, a description sufficiently accurate for its identification, with a statement of the purpose for which it is acquired or taken, which shall be signed by a majority of the board.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-29.1-18

Expending funds raised under chapter; appropriation

Sec. 18. No part of any of the funds raised under this chapter may be expended except upon warrants drawn by the fiscal officer of the consolidated city, upon vouchers of the board. No appropriation in any form is necessary, but all funds arising under this chapter are considered appropriated to the respective purposes named in this chapter, and are under the control of the board, which has complete and exclusive authority to expend these funds for these purposes.

As added by Acts 1982, P.L.77, SEC.24.

IC 36-9-30

Chapter 30. Solid Waste Collection and Disposal

IC 36-9-30-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-2

Definitions

Sec. 2. As used in this chapter:

"Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, except human excreta, but including garbage, rubbish, ashes, street cleanings, dead animals, offal, and solid commercial, industrial, and institutional wastes.

"Solid waste disposal facility" means a sanitary landfill, an incinerator, a composting facility, a garbage grinding facility, or any other facility that is suitable for solid waste disposal and is constructed and approved under this chapter.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-3

Facilities for collection and disposal; revenue bonds to pay costs

Sec. 3. A unit may establish, acquire, construct, install, operate, and maintain facilities for the collection and disposal of solid waste in order to secure the collection and disposal of solid waste accumulated inside or outside the corporate boundaries of the unit. The unit may issue revenue bonds to pay all or part of the costs of the facilities.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-4

Methods for disposal

Sec. 4. A unit acting under this chapter must obtain approval from the department of environmental management, according to rules adopted by the solid waste management board, for any method or methods used for the disposal of solid waste before obtaining land or facilities. One (1) or more of the methods listed below may be used:

(1) A unit may use a sanitary landfill. If a sanitary landfill is to be used, information necessary to evaluate the project shall be submitted to the department of environmental management for review and approval before the purchase of land or equipment.

(2) A unit may use incineration. If incineration is to be used, the plans and specifications of each incinerating plant or other facility, along with other information necessary to evaluate the project, shall be submitted to the department of environmental management for review and approval before construction of the facilities. The plans must include an approved method for the disposal of noncombustible solid waste and incinerator residue.

(3) A unit may use composting. If composting is to be used, the

plans and specifications of composting facilities, along with other information necessary to evaluate the project, shall be submitted to the department of environmental management for review and approval before construction of the facilities. The plans must provide for the proper disposal of all solid waste that is not suitable for composting.

(4) A unit may use a garbage grinding system involving the separate collection and disposal of garbage into a community sewerage system through commercial-type grinders or community-wide installation of individual grinders. As used in this subdivision, "garbage" means all decayable solid and semisolid wastes resulting from the processing, preparation, cooking, serving, or consumption of food or food materials. The plans and specifications for the garbage grinding facilities, along with other information necessary to evaluate the project, shall be submitted to the department of environmental management for review and approval before construction or installation of the facilities. The plans must provide for the proper disposal of all solid waste that is not suitable for grinding.

(5) A unit may use any other suitable methods or facilities for the disposal of solid waste, if the plans and specifications, along with other information necessary to evaluate the project, are submitted to the department of environmental management for review and approval before the acquisition, construction, installation, or operation of the method or facility.

As added by Acts 1981, P.L.309, SEC.106. Amended by P.L.143-1985, SEC.203.

IC 36-9-30-5

Contracts for collection or disposal; requirements

Sec. 5. (a) A unit may contract with persons for the collection or disposal of solid waste. The contract may provide that persons contracted with have the exclusive right to collect or dispose of solid waste under section 4 of this chapter.

(b) A unit may contract with any business or institution for the collection and disposal of industrial, commercial, or institutional solid waste. All fees collected by the unit shall be deposited in the treasury of the unit for the administration, operation, and maintenance of the solid waste collection and disposal project.

(c) A unit may contract for the use of privately owned solid waste disposal facilities.

(d) If a contract executed under subsection (a) or (b) will yield a gross revenue to a contractor (other than a governmental entity) of at least twenty-five thousand dollars ($25,000) during the time it is in effect, then the unit must comply with IC 36-1-12-4 in awarding the contract. The unit shall require the bidder to submit a financial statement, a statement of experience, the bidder's proposed plan or plans for performing the contract, and the equipment that the bidder has available for the performance of the contract. The statement shall

be submitted on forms prescribed by the state board of accounts. IC 36-1-12-4(b)(6) does not apply to this subsection.

(e) A unit may contract with private persons that operate facilities that combine significant elements of recycling or production of refuse derived fuel.

As added by Acts 1981, P.L.309, SEC.106. Amended by P.L.329-1985, SEC.25; P.L.19-1990, SEC.39.

IC 36-9-30-5.5

Contracts for incineration of waste

Sec. 5.5. (a) As used in this section, "waste" includes solid waste and waste disposed of in conjunction with the disposal of solid waste, as well as liquid waste (consisting of sludge from air and water pollution control facilities or water supply treatment facilities) when disposed of in conjunction with the disposal of solid waste.

(b) A unit may contract for twenty (20) years or less for the incineration of waste.

As added by P.L.353-1985, SEC.1.

IC 36-9-30-6

Appropriations for acquisition, establishment, operation, and maintenance of premises, facilities, and services

Sec. 6. The fiscal body of a unit acting under this chapter may make appropriations for the acquisition, establishment, operation, and maintenance of premises, facilities, and services for the collection and disposal of solid waste. Appropriations under this section may include amounts for employees, vehicles, and equipment necessary or incidental to the collection or disposal of solid waste.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-7

Supervision and control of functions by works board

Sec. 7. (a) Except as provided in subsection (b), the:

(1) construction, acquisition, improvement, equipment, custody, administration, operation, and maintenance of any facilities for the collection and disposal of solid waste; and

(2) collection of revenues for the use and services of the facilities;

are under the supervision and control of the works board of the unit.

(b) The legislative body of a municipality may provide by ordinance that the functions described by subsection (a) are under the supervision and control of the sanitary board or utility service board of the municipality.

(c) As used in the following sections of this chapter, "board" means the works board or other board performing the functions described by subsection (a).

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-8

Contracts or agreements necessary to performance of board's

duties

Sec. 8. The board may take all steps and proceedings and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. However, any contract relating to the financing of the acquisition, construction, or purchase of facilities for the collection and disposal of solid waste must be approved by the fiscal body of the unit before it is effective.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-9

Personnel necessary in execution of board's powers and duties

Sec. 9. The board may employ, fix the compensation of, and assign the duties of engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and other employees it considers necessary in the execution of its powers and duties.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-10

Expenses

Sec. 10. All expenses incurred by the board in carrying out this chapter shall be paid solely from money provided under this chapter. The board may not bind itself or the unit beyond the extent to which money has been or may be provided under this chapter.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-11

Operation, management, and control of facilities

Sec. 11. After the:

(1) construction, installation, and completion; or

(2) acquisition;

of facilities for the collection and disposal of solid waste, the board shall operate, manage, and control the facilities. The board may extend and improve the facilities, if money is available for that purpose under this chapter.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-12

Adoption of rules

Sec. 12. The board shall adopt rules for the use and operation of facilities constructed or acquired under this chapter.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-13

Operation of facilities

Sec. 13. The board shall do all things necessary or expedient for the successful operation of facilities constructed or acquired under this chapter.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-14
Contracts with other units desiring use of facility; cost and expenses; term

Sec. 14. A unit constructing, acquiring, or maintaining facilities for the collection and disposal of solid waste may contract with a unit that wants to use the facilities for the payment of all or part of the cost and expenses of the facilities, for any term not exceeding twenty-five (25) years. A contract under this section must be executed in accordance with IC 36-1-7.
As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-15
Methods of financing of facilities and land

Sec. 15. The acquisition, establishment, construction, installation, operation, and maintenance of facilities and land for the collection and disposal of solid waste may be financed through general taxation, service fees, or a combination of these methods.
As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-16
Preliminary expenses; payment; procedure; reimbursement of fund

Sec. 16. (a) All or part of the necessary preliminary expenses that are incurred by a board and must be paid before the issuance and delivery of revenue bonds under this chapter may be paid in the manner provided by this section.

(b) The board may certify the items of expense to the fiscal officer of the unit, who shall immediately draw a warrant or warrants to be paid out of the unappropriated part of the general fund of the unit, without a special appropriation being made. If the unit has no unappropriated money in its general fund, the fiscal officer shall recommend to the fiscal body of the unit:

(1) the temporary transfer from other funds of a sufficient amount to meet the items of expense; or

(2) the making of a temporary loan for that purpose.

The fiscal body shall immediately make the transfer or authorize the temporary loan.

(c) The fund or funds from which the payments are made shall be fully reimbursed and repaid out of the first proceeds of the sale of revenue bonds, and before any other disbursements are made from those proceeds. The amount advanced to pay preliminary expenses is a first charge against the proceeds resulting from the sale of the revenue bonds until it has been repaid.
As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-17
Revenue bonds; issuance; interest rates; terms and conditions; nature of bonds; sale

Sec. 17. (a) The unit may issue revenue bonds to provide all or part of the money necessary to pay the costs of facilities acquired or

constructed under this chapter. The bonds, which are payable solely from the fund established under section 18 of this chapter, must be authorized by an ordinance of the fiscal body of the unit, setting forth the terms and conditions of the bonds.

(b) The bonds may bear interest at any rate determined by the ordinance, payable semiannually, and mature serially, either annually or semiannually and beginning at the time and extending over the period of years determined by the ordinance.

(c) The ordinance may include the terms and conditions considered necessary and proper to protect the bondholders.

(d) The bonds shall be issued in the name of the unit, but they are not a corporate indebtedness of the unit. The bonds must contain a statement on their face that the unit is not obligated to pay them or the interest on them, except from the fund established under section 18 of this chapter.

(e) The bonds are negotiable instruments.

(f) The bonds and the interest on them are exempt from all state, county, and municipal taxation.

(g) The bonds shall be executed in the same manner as other bonds issued by the unit are executed, and shall be sold in accordance with IC 5-1-11 or at a negotiated sale.

(h) Bonds issued by a lessor corporation under this chapter shall be sold in accordance with IC 5-1-11 or at a negotiated sale.

As added by Acts 1981, P.L.309, SEC.106. Amended by P.L.35-1990, SEC.71.

IC 36-9-30-18

Revenue bonds; ordinance authorizing bond

Sec. 18. The ordinance authorizing the revenue bonds must also:

(1) establish a sinking fund for the payment of the bonds, the interest on the bonds, and the charges of banks or trust companies for making payment of the bonds or interest; and

(2) pledge the revenues of the facilities, after the payment of the reasonable expense of operation, repair, and maintenance, into the sinking fund at intervals to be determined by the ordinance, for:

(A) the payment of interest on the bonds as it falls due;

(B) the payment of the bonds as they fall due; and

(C) the accumulation of reasonable reserves in the sinking fund as a margin for safety and a protection against default, and for the payment of premiums upon bonds retired by call or purchase.

The required payments constitute a first charge upon the revenues of the facilities, after the payment of the reasonable expense of operation, repair, and maintenance.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-19

Revenue bonds; application of proceeds; costs of facility

Sec. 19. (a) All money received from any revenue bonds issued

under this chapter, after reimbursements for preliminary expenses under section 16 of this chapter, shall be applied solely to the payment of the costs of the facilities acquired or constructed under this chapter. Any surplus of bond proceeds above that amount shall be paid into the fund established under section 18 of this chapter. The holders of the bonds have a lien on the money until it is applied in the manner prescribed by this section.

(b) For purposes of this section, costs of the facilities include:

(1) the cost of all property and rights considered necessary or convenient for installing, constructing, and equipping the facilities;

(2) interest on bonds before and during the acquisition, installation, construction, and equipment of the facilities, and for six (6) months after the start of collection of fees under this chapter;

(3) engineering and legal expenses;

(4) expenses for estimates of cost and revenues;

(5) expenses for surveys and plans;

(6) other expenses necessary or incidental to determining the feasibility or practicability of the method or methods to be used for the disposal of solid waste;

(7) administrative expenses; and

(8) other expenses necessary or incidental to financing under this chapter.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-20

Revenue bonds; action to question validity and to protect and enforce bondholders' rights

Sec. 20. (a) An action to question the validity of the revenue bonds or to prevent their issuance may not be brought after the date fixed for their sale.

(b) Any holder of any of the revenue bonds or the coupons attached to them may bring any action necessary to:

(1) protect and enforce his rights under this chapter or the ordinance authorizing the bonds; and

(2) enforce and compel performance of all duties required by this chapter or the ordinance authorizing the bonds, including the making and collecting of reasonable and sufficient fees for the use of and services rendered by the facilities for the disposal of solid waste.

However, the unit may not be compelled to pay fees on behalf of other users or owners.

(c) If there is a failure to pay the principal or interest of any of the bonds on the date named for payment, any court having jurisdiction of the action may appoint a receiver to administer the facilities on behalf of the unit and the bondholders. The receiver may:

(1) charge and collect from all users or owners fees sufficient to provide for the payment of the expenses of operation, repair, and maintenance;

(2) pay any bonds and interest outstanding; and

(3) apply the revenues in conformity with this chapter and the ordinance authorizing the bonds.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-21

Fees for use of and service rendered by facilities

Sec. 21. (a) Except as provided in subsection (l), the fiscal body of the unit owning, operating, and maintaining facilities for the collection or disposal of solid waste may, by ordinance, establish and maintain just and equitable fees for the use of and the service rendered by the facilities.

(b) Except as provided in subsection (m), if the fiscal body of a unit has authorized the issuance of revenue bonds under this chapter, it shall, as long as the bonds are outstanding, establish and maintain fees with respect to the facilities for which the bonds are issued.

(c) The aggregate amount of the required fees must be sufficient to pay the cost of operation, repair, depreciation, and maintenance of the facilities, and to pay the sums required to be paid into the bond fund under this chapter.

(d) The ordinance may provide that the fees are payable:

(1) by either the users of the facilities, the owners of the property served by the facilities, or the unit; or

(2) by the users, owners, and the unit in the proportions fixed by the ordinance.

(e) Revenues collected under this section are considered revenues of the facilities.

(f) The fees may not be established until after a public hearing at which the users of the facilities, the owners of property served or to be served by the facilities, and other interested parties have an opportunity to be heard concerning the proposed fees and the provisions concerning payment of the fees.

(g) After introduction of the ordinance fixing the fees and providing for their payment, and before the ordinance is finally adopted, notice of the hearing, setting forth the proposed schedule of fees and the provisions concerning payment, shall be published in accordance with IC 5-3-1.

(h) After the hearing, which may be adjourned from time to time, the ordinance, as originally introduced or as amended, shall be passed and put into effect. A copy of the schedule of fees established shall be kept on file in the office of the board and in the office of the fiscal officer of the unit. The fee schedule is a public record.

(i) The fees or the provisions for their payment may be changed or readjusted in the manner by which they were originally established. However, if the change or readjustment is made substantially pro rata as to all classes of use or service, no hearing or notice is required.

(j) If:

(1) a user of the facilities; or

(2) an owner of property served by the facilities;

does not pay a fee within thirty (30) days after it is due, the amount of the fee, together with a penalty of ten percent (10%) and a reasonable attorney's fee, may be recovered by the unit in a civil action in the name of the unit.

(k) The unit is subject to the fees established under this chapter. The unit shall pay the fees when due. The payments are considered part of the revenues of the facilities.

(l) This subsection applies to a county having a population of more than fifty-seven thousand (57,000) but less than sixty thousand (60,000). The county executive owning, operating, and maintaining facilities for the collection or disposal of solid waste may, by ordinance, establish and maintain just and equitable fees for the use of and the service rendered by the facilities.

(m) If the fiscal body of a county that is subject to subsection (l) has authorized the issuance of revenue bonds under this chapter, the county executive shall, as long as the bonds are outstanding, establish and maintain fees with respect to the facilities for which the bonds are issued.

As added by Acts 1981, P.L.309, SEC.106. Amended by Acts 1981, P.L.45, SEC.92; P.L.102-1987, SEC.2; P.L.12-1992, SEC.188; P.L.170-2002, SEC.171; P.L.119-2012, SEC.234.

IC 36-9-30-22

Solid waste disposal nonreverting capital fund

Sec. 22. (a) At the request of the board, the fiscal body of the unit may, by ordinance, establish a solid waste disposal nonreverting capital fund.

(b) Capital for the fund consists of:

(1) deposits by the board of the revenues of its facilities that remain after payment of expenses, in an amount determined by the fiscal body upon the recommendation of the board; and

(2) appropriations of money derived from user fees, in an amount determined by the fiscal body.

(c) After an appropriation by the fiscal body, the board may use the fund for:

(1) acquisition of property and other rights;

(2) installing, constructing, equipping, expanding, modifying, or remodeling new or existing facilities; or

(3) engineering, legal, surveying, estimating, appraising, planning, designing, and other expenses necessary to determine the feasibility of implementing solid waste disposal methods.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-23

Garbage grinders

Sec. 23. (a) A garbage grinder may not be installed on any private property under this chapter unless the property owner and the tenant, if any, files a written request for garbage disposal service and the installation of a garbage grinder.

(b) The users of garbage grinders may discontinue the service at

any time by filing a written request for the discontinuance of the service with the board.

(c) All property rights in the garbage grinders remain in the unit. The unit may remove a garbage grinder upon the discontinuance of the service by the user or if any fees are not paid within thirty (30) days after they are due.

(d) The users of garbage grinders are responsible for any damages to the grinders, except for ordinary wear and tear.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-24

Lease with option to purchase facilities; terms and conditions

Sec. 24. (a) A unit may enter into a lease with option to purchase of solid waste disposal facilities inside or outside the corporate boundaries of the unit. However, a lease with an option to purchase may not be entered into for a term of more than thirty (30) years unless:

(1) the lessor is a corporation organized under Indiana law or admitted to do business in Indiana;

(2) a petition for the lease, signed by fifty (50) or more resident taxpayers of the unit, has been filed with the board; and

(3) the board has, after investigation, determined that there is a need for the facilities.

The terms and conditions of the option to purchase must be specified in the lease.

(b) A lease under this section may provide that as a part of the lease rental for the solid waste disposal facilities, the unit agrees to:

(1) pay all taxes and assessments levied against or on account of the leased property;

(2) maintain insurance on the leased property for the benefit of the lessor corporation; and

(3) assume all responsibilities for repair and alterations of the leased property during the term of the lease.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-25

Lease with option to purchase facilities; hearing; notice; authorization to execute lease

Sec. 25. (a) After the lessor corporation and the unit have agreed upon the terms and conditions of a lease under section 24 of this chapter, and before the final execution of the lease, notice of a hearing to be held before the board shall be given to all interested persons. The hearing may not be earlier than ten (10) days after the publication of notice.

(b) The notice of hearing shall be published one (1) time in the manner prescribed by IC 5-3-1. The notice must name the day, place, and hour of the hearing and set forth a brief summary of the principal terms of the lease, including the location and name of the proposed lessor corporation, the character of the property to be leased, the rental to be paid, the term of the lease, and a summary of the terms

of purchase under the option. The cost of publication shall be paid by the lessor corporation.

(c) The proposed lease, drawings, plans, specifications, and estimates for the solid waste disposal facilities shall be kept available for inspection by the public during the ten (10) day period and at the meeting.

(d) At the hearing, which may be adjourned from time to time, all interested persons are entitled to be heard upon the necessity for the execution of the lease and upon the fairness and reasonableness of the rental and purchase price provided for in the lease.

(e) After the hearing, the board may authorize the execution of the lease as originally agreed upon or make the modifications in the lease that are agreed upon with the lessor corporation. However, the lease rental or purchase price as set out in the published notice may not be increased.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-26

Lease with option to purchase facilities; notice of date of execution of lease

Sec. 26. When the execution of a lease is authorized under section 25 of this chapter, the board shall give at least ten (10) days' notice of the date upon which the lease will be executed. The notice shall be published one (1) time in the manner prescribed by IC 5-3-1. An action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease may not be brought after the execution of the lease.

As added by Acts 1981, P.L.309, SEC.106. Amended by P.L.169-2006, SEC.81.

IC 36-9-30-27

Lease with option to purchase facilities; lessor corporation; payment

Sec. 27. In anticipation of the acquisition of a site and the construction and erection of solid waste disposal facilities, including the necessary equipment and appurtenances, a unit may enter into a lease with option to purchase with a lessor corporation, subject to the approval of the department of local government finance. Such a lease may not provide for the payment of any lease rental by the lessee until the facilities are completed and ready for solid waste disposal. The lessor corporation shall agree in the lease to furnish a bond satisfactory to the lessee and conditioned upon final completion of the facilities within the period specified in the lease, except for unavoidable delays.

As added by Acts 1981, P.L.309, SEC.106. Amended by P.L.90-2002, SEC.515.

IC 36-9-30-28

Lease with option to purchase facilities; erection of facility on land owned by unit

Sec. 28. A unit that wants to have solid waste disposal facilities erected on land owned or to be acquired by the unit may:

(1) sell that land to the lessor; or

(2) lease that land to the lessor for a nominal rental for the same period of years that the unit leases the facilities, and grant an option to the lessor to purchase the land within six (6) months after the termination of the lease of the facilities if the unit defaults under the terms of the lease and the lease is terminated.

If the option price on the land is not fixed in the original lease, the circuit court for the county shall appoint three (3) appraisers who reside in the unit to determine the price to be paid for the land under the option.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-29

Lease with option to purchase facilities; submission of plans, specifications, and estimates; preliminary engineering design work

Sec. 29. (a) A lessor corporation proposing to build solid waste disposal facilities, including the necessary equipment and appurtenances, shall, after the execution of the lease, submit to the unit plans, specifications, and estimates for the facilities. The plans and specifications shall be submitted to the state department of health and must be approved in writing by the state department and by the unit before the execution of the lease.

(b) This section does not prohibit the unit from contracting for the preliminary engineering design work necessary to initiate the planning and engineering of the solid waste disposal facilities, and making provisions for payment for these services.

As added by Acts 1981, P.L.309, SEC.106. Amended by P.L.2-1992, SEC.895.

IC 36-9-30-30

Lease with option to purchase facilities; annual tax levy; review of levy

Sec. 30. A unit that wants to lease solid waste disposal facilities under this chapter shall annually levy a tax sufficient to produce the money required to pay the rental stipulated in the lease. The levy may be reviewed by other bodies vested by law with that authority, in order to ascertain that the levy is sufficient to raise the amount required under the lease.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-31

Lease with option to purchase facilities; tax exemption

Sec. 31. A solid waste disposal facility leased by a lessor corporation to a unit under this chapter is exempt from all state, county, and other taxes, including all sales and use taxes applicable to tangible personal property incorporated or to be incorporated in the facility. However, the rental paid to a lessor corporation under the terms of such a lease is subject to all applicable taxes.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-32
Lease with option to purchase facilities; exercise of option; nonexercise of option; extension of lease

Sec. 32. (a) If a unit exercises an option to purchase contained in a lease under section 24 of this chapter, it may pay the purchase price of the facilities purchased with money obtained from bonds issued and sold under the statutes governing the issue and sale of bonds of the unit.

(b) If the unit does not exercise the option to purchase at the expiration of the lease, the solid waste disposal facilities covered by the lease become the absolute property of the unit upon the unit's full discharge and performance of its obligations under the lease. The lessor corporation shall execute proper instruments conveying to the unit good and merchantable title to the facilities.

(c) If the unit does not exercise the option to purchase, then the board, subject to the approval of the fiscal body of the unit, may extend the lease of the solid waste disposal facility for the term, not to exceed a period equal to the term of the original lease, and for the consideration agreed to by the parties to the original lease or their assignees. At the end of the extension period, the facility covered by the lease becomes the absolute property of the unit, and the lessor corporation shall execute all proper instruments to convey the facility to the unit.

As added by Acts 1981, P.L.309, SEC.106.

IC 36-9-30-33
Adoption of rules

Sec. 33. The solid waste management board may adopt rules under IC 4-22-2 to carry out this chapter.

As added by Acts 1981, P.L.309, SEC.106. Amended by P.L.143-1985, SEC.204.

IC 36-9-30-34
Statutes, ordinances, or rules

Sec. 34. Action taken by the department of environmental management under this chapter does not limit the powers of other governmental entities to make or enforce other statutes, ordinances, or rules for the storage, collection, removal, or disposal of solid waste, if they do not conflict with this chapter. For purposes of this section, the provisions of this chapter shall be construed as cumulative or alternative.

As added by Acts 1981, P.L.309, SEC.106. Amended by P.L.143-1985, SEC.205.

IC 36-9-30-35
Methods of disposal; necessity of compliance with laws and rules; operation of nuisance inimical to human health; Class C infraction; injunctive or mandatory relief

Sec. 35. (a) Solid waste may be disposed of on land only through use of sanitary landfills, incineration, composting, garbage grinding, or other acceptable methods approved by the department of environmental management in accordance with rules adopted by the solid waste management board. A person may not operate or maintain an open dump.

(b) A person may not operate or maintain facilities for the collection and disposal of solid waste, except as set out in section 4 of this chapter or under rules adopted by the solid waste management board.

(c) Failure to comply with this section constitutes the operation of a nuisance inimical to human health. A prosecuting attorney who receives a report of such a failure from the department of environmental management, a solid waste management district, or a local health officer shall cause appropriate court proceedings to be instituted.

(d) A person who fails to comply with this section commits a Class C infraction. If the violation is of a continuing nature, each day of failure to comply constitutes a separate infraction.

(e) The department of environmental management may bring proceedings for injunctive or mandatory relief through the attorney general against any person (including any agency of the state or federal government) for failure to comply with this section.

As added by Acts 1981, P.L.309, SEC.106. Amended by P.L.143-1985, SEC.206; P.L.33-1992, SEC.22.

IC 36-9-30-36
Repealed

(*Repealed by P.L.40-1999, SEC.3.)*

IC 36-9-31

Chapter 31. Collection and Disposal of Waste in Indianapolis

IC 36-9-31-1

Application of chapter

Sec. 1. This chapter applies to each consolidated city.

As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to the board of public works of the consolidated city, subject to IC 36-3-4-23.

"Byproduct" means energy and materials from wastes in a form that will allow their reuse.

"Byproduct recovery facility" means a facility for the systematic separation and recovery of energy and recyclable material from waste.

"Cost" as applied to a facility, or any part of a facility, includes the cost of construction, modification, or acquisition of the facility, or any part of it, financing charges, interest before and during construction and for one (1) year after commencement of operation of the facility, cost of funding any reserves to secure the payment of principal and interest on the bonds, cost of funding any operation and maintenance reserve fund, cost of funding any major repair or replacement fund, legal and underwriting expenses, plans, specifications, surveys, estimates of costs and revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing the facility, administrative expense, and such other expenses as may be necessary or incident to the construction, modification, or acquisition of the facility, the financing of the construction, modification, or acquisition, and the placing of the facility in operation.

"Developer" means any person that proposes to enter into or has entered into a financing agreement with the consolidated city for financing a facility and that proposes to enter into or has entered into a separate agreement with some other person for the use and operation of the facility so financed.

"Disposal" includes the treatment of as well as the placing, processing, confining, compacting, storing, or covering of waste.

"Facility" means any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture, or other real or personal property that is to be used, occupied, or employed for the storage, processing, or disposal of waste or the recovery and marketing by any means of any byproduct, such as recycling centers, transfer stations, trucks, bailing facilities, rail haul or barge haul facilities, processing systems, byproduct recovery facilities or other facilities for reducing waste volume, sanitary landfills, plants and facilities for compacting, composting, or pyrolization of wastes, incinerators, and other waste disposal, reduction, or conversion

facilities or any combination thereof. The term excludes any energy generating facility that does not rely on waste as its primary fuel source and any facility regulated under IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14.

"Financing agreement" includes an agreement between the consolidated city and a developer or between a developer or user, or both, concerning the financing of, the title to, or possession of facilities, or both, and payments to the city in respect thereof.

"Grant" means money to be received from the federal government or any of its agencies, or the state or any of its agencies, intended to be used for the construction, modification, or acquisition of waste disposal facilities. The term also includes federal revenue-sharing money to which the consolidated city is entitled.

"Net revenues" means the amount of revenues received by the consolidated city from the operation and ownership of facilities less the reasonable expenses of the operation, repair, and maintenance of these facilities.

"Processing" means an operation for the purpose of modifying the characteristics or properties of waste to facilitate transportation of, disposal of, or the recovery of byproducts from waste.

"Proposal" means a written response to a request for proposals.

"Proposer" means any person that has submitted a proposal in response to a request for proposals issued to the person by the board.

"Public notice" means a notice published in accordance with IC 5-3-1.

"Put or pay contract" means a contract entered into by the consolidated city with any person whereby the city guarantees the provision of a specified amount of waste to the person and the city is obligated to pay the person a specified amount for waste that is not so provided.

"Request for proposals" means an invitation to submit a proposal to the consolidated city for the construction, modification, acquisition, operation, or combination of any of these, of the facility under section 4 of this chapter.

"Request for qualifications" means an invitation by the consolidated city to any person to submit qualifications in order to qualify to submit a proposal.

"Revenue bonds" means bonds issued under section 10 of this chapter.

"Revenues" means the amounts received by the consolidated city from the operation or ownership of facilities, including amounts received from the collection of fees under section 8 of this chapter, amounts received under financing agreements under section 11 of this chapter, tipping fees, lease rentals, and amounts received from the sale or other disposition of byproducts, but not including any amounts derived from the levy of taxes.

"Service district" means the solid waste collection special service district created by IC 36-3-1-6.

"Solid waste" has the meaning set forth in IC 36-9-30-2, except that the term excludes sewage and other highly diluted water-carried

materials or substances and those in gaseous forms, excludes waste when the waste is to be reused or reclaimed as salvage, and excludes waste regulated under IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14.

"Tipping fees" means the charge by any person for the disposal of waste at a facility.

"User", for purposes of section 11 of this chapter only, means a person that has entered into a financing agreement with the consolidated city, or with a developer, in contemplation of the user's use and operation of the facilities referred to in the agreement.

"Waste" includes solid waste and water disposed of in conjunction with the disposal of solid waste, as well as liquid waste (consisting of sludge from air or water pollution control facilities or water supply treatment facilities), when disposed of in conjunction with the disposal of solid waste.

"Waste disposal development bonds" means bonds issued under section 11 of this chapter.

"Waste disposal district" means the waste disposal special taxing district referred to in IC 36-3-1-6.

"Waste disposal district bonds" means bonds issued under section 9 of this chapter.

As added by Acts 1982, P.L.77, SEC.27. Amended by P.L.1-1996, SEC.95.

IC 36-9-31-3
Powers and duties of board

Sec. 3. In order to provide for the collection and disposal of waste in the consolidated city and for the management, operation, acquisition, and financing of facilities for waste disposal, the board may exercise the following powers on behalf of the city, in addition to the powers specifically set forth elsewhere in this chapter:

(1) To sue and be sued.

(2) To exercise the power of eminent domain as provided in IC 32-24 within the corporate boundaries of the city; however, the power of eminent domain may not be exercised to acquire the property of any public utility used for the production or distribution of energy.

(3) To provide for the collection of waste accumulated within the service district and to provide for disposal of waste accumulated within the waste disposal district, including contracting with persons for collection, disposal, or waste storage, and the recovery of byproducts from waste, and granting these persons the right to collect and dispose of any such wastes and store and recover byproducts from them.

(4) To plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for waste disposal.

(5) To enter into all contracts or agreements necessary or incidental to the collection, disposal, or recovery of byproducts from waste, such as put or pay contracts, contracts and agreements for the design, construction, operation, financing,

ownership, or maintenance of facilities or the processing or disposal of waste or the sale or other disposition of any products generated by a facility. Notwithstanding any other statute, any such contract or agreement may be for a period not to exceed forty (40) years.

(6) To enter into agreements for the leasing of facilities in accordance with IC 36-1-10; however, any such agreement having an original term of five (5) or more years is subject to approval by the department of local government finance under IC 6-3.5. Such an agreement may be executed before approval, but if the department of local government finance does not approve the agreement, it is void.

(7) To purchase, lease, or otherwise acquire real or personal property.

(8) To contract for architectural, engineering, legal, or other professional services.

(9) To exclusively control, within the city, the collection, transportation, storage, and disposal of waste and, subject to the provisions of sections 6 and 8 of this chapter, to fix fees in connection with these matters.

(10) To determine exclusively the location and character of any facility, subject to local zoning ordinances and environmental management laws (as defined in IC 13-11-2-71).

(11) To sell or lease to any person any facility or part of it.

(12) To make and contract for plans, surveys, studies, and investigations.

(13) To enter upon property to make surveys, soundings, borings, and examinations.

(14) To accept gifts, grants, or loans of money, other property, or services from any source, public or private, and to comply with their terms.

(15) To issue from time to time waste disposal district bonds to finance the cost of facilities as provided in section 9 of this chapter.

(16) To issue from time to time revenue bonds to finance the cost of facilities as provided in section 10 of this chapter.

(17) To issue from time to time waste disposal development bonds to finance the cost of facilities as provided in section 11 of this chapter.

(18) To issue from time to time notes in anticipation of grants or in anticipation of the issuance of bonds to finance the cost of facilities as provided in section 13 of this chapter.

(19) To establish fees for the collection and disposal of waste, subject to the provisions of sections 6 and 8 of this chapter.

(20) To levy a tax within the service district to pay costs of operation in connection with waste collection, waste disposal, mowing services, and animal control, subject to regular budget and tax levy procedures. For purposes of this subdivision, "mowing services" refers only to mowing services for rights-of-way or on vacant property.

(21) To levy a tax within the waste disposal district to pay costs of operation in connection with waste disposal, subject to regular budget and tax levy procedures.
(22) To borrow in anticipation of taxes.
(23) To employ staff engineers, clerks, secretaries, and other employees in accordance with an approved budget.
(24) To issue requests for proposals and requests for qualifications as provided in section 4 of this chapter.
(25) To require all persons located within the service district or waste disposal district to deposit waste at sites designated by the board.
(26) To otherwise do all things necessary for the collection and disposal of waste and the recovery of byproducts from it.

As added by Acts 1982, P.L.77, SEC.27. Amended by P.L.38-1984, SEC.5; P.L.85-1995, SEC.42; P.L.1-1996, SEC.96; P.L.67-1999, SEC.1; P.L.2-2002, SEC.127.

IC 36-9-31-4
Contracts or agreements with board; competitive bidding; proposal procedure; action to contest validity of award; negotiated contracts; insurance

Sec. 4. (a) Notwithstanding any statute relating to the length, duration, and terms of contracts and agreements, the board on behalf of the consolidated city may enter into any contract or agreement with any person upon such terms and conditions as may be agreed upon, for the design, construction, operation, financing, ownership, or maintenance of a facility for waste disposal in accordance with the requirements and conditions of this section. Before or after the expiration or termination of the term or duration of any contract or agreement entered into or granted under this section, the board, in accordance with the requirements and conditions of this section, may from time to time enter into amended, extended, supplemental, new, or further contracts or agreements with the same or any other person for any purpose referred to in this section.

(b) Overall cost, including construction costs, tipping fees, and reductions in costs resulting from the sale of byproducts, should in all cases be a major criterion in the selection of contractors for award of contracts under this section. The board shall consider the highly complex and innovative nature of byproduct recovery technology, the variety of waste disposal technology available, the desirability of flexibility for the development of these complex facilities, and the economic and technical utility of contracts for byproduct recovery projects that include in their scope various combinations of design, construction, operations, management, or maintenance responsibilities over prolonged periods of time and that in some instances it may be beneficial to the consolidated city to award a contract on the basis of factors other than cost alone, for example, facility design, system reliability, energy efficiency, compatibility with source separation and other recycling systems and environmental protection. Accordingly, and notwithstanding any

other statute, a contract entered into between the board on behalf of the city and any person under this section may be awarded by the board by following either of the following procedures:

(1) Public bidding in compliance with IC 36-1-12.

(2) Compliance with subsection (c).

(c) The board may issue a request for qualifications and request for proposals prepared by or for the consolidated city in accordance with the following provisions:

(1) All persons may be required to prequalify as a proposer by submitting information relating to the experience of the proposer, the basis on which the proposer purports to be qualified to carry out all work required by a proposed contract, and the financial condition of the proposer. Minimum requirements may be set by the board as to these minimum qualifications in a request for qualifications issued before that.

(2) Before the issuance of a request for proposals under this section, the board shall adopt a proposed request for proposals and shall publish a public notice that may contain a request for qualifications, if a prequalification process has been adopted under subdivision (1), including the criteria on which proposers may be selected. The public notice must include the intent to issue a request for proposals, and must further designate times and places where the proposed request for proposals may be viewed by the general public. Comments may be addressed to the scope or contents of the proposed request for proposals. The board shall allow not less than a thirty (30) day period for the submission of qualifications and comments on the proposed request for proposals, following which the board shall select a proposer and adopt a request for proposals. After that, the board shall notify each proposer that is selected of the selection, inform each proposer of the date and place proposals are to be submitted, and deliver to each proposer a copy of the request for proposal.

(3) Requests for proposals must include a clear identification and specification of all elements of cost that would become charges to the city, in whatever form, in return for the fulfillment by the proposer of all tasks and responsibilities established by the request for proposals for the full lifetime of a proposed contract, including such appropriate matters as proposals for project staffing, implementation of all work tasks, carrying out of all responsibility required by the proposed contract, the cost of planning, design, construction, operation, management, or maintenance of any facility, or the cost of processing or disposal of solid waste, and a clear identification and specification of any revenues that would accrue to the city from the sale of any byproducts or from any other source, and such other information as the board may determine to have a material bearing on its ability to evaluate any proposal in accordance with this section. However, the board may prescribe the form and content of proposals and, in any event, the

proposer must submit sufficiently detailed information to permit a fair and equitable evaluation by the board of the proposal. In addition, the board in the request for proposals may set such maximum allowable cost limits as it determines to be appropriate.

(4) Proposals may not be received by the board before thirty (30) days following notification to the proposers of their selection.

(5) Proposals received under this section shall be evaluated by the board as to net cost or revenues and, in the manner consistent with provisions set forth in the requests for proposals, may be evaluated on the basis of additional factors such as the technical evaluation of facility design, net energy efficiency, environmental protection, overall system reliability, and financial condition of the proposer.

(6) The board, on behalf of the city, may negotiate with the proposer and may make a contract award to any responsible proposer. The board shall give public notice of a public hearing, which notice must designate the time and place of a public hearing at which hearing the board shall hear comments upon the contract to be awarded. Following the public hearing, the board shall make a contract award to any responsible proposer selected under this section based on a determination by the board that the selected proposal is the most responsive to the needs of the city. The award must be in the form of a resolution and must include particularized findings relative to factors evaluated under this section, indicating that the city's needs are met by the award and that the action is in the public interest.

(d) An action to contest the validity of the contract awarded or the procedure by which it was awarded must be brought within thirty (30) days following the award of the contract. After that date, the contract is incontestable for any cause.

(e) Notwithstanding any other statute, any contract entered into by the board with any person on behalf of the consolidated city for the collection of solid waste may be awarded by negotiation or by competitive bids. The board shall consider the following factors in awarding a negotiated contract:

(1) Price quoted by the proposed contractor.

(2) Prior experience of the proposed contractor.

(3) Financial status of the proposed contractor.

(4) Number of vehicles and other equipment to be used by the proposed contractor.

(5) Any other factors related to the proposed contractor's ability to perform under the contract.

If a contract is awarded by negotiation, the reason for using negotiation as the method to award the contract must be stated in writing by the board at the time that the contract is awarded. A copy of this statement must be kept available for public inspection.

(f) The board shall award competitive bid contracts to the lowest responsible and responsive bidder after advertising for bids.

However, if a contract is not awarded to the lowest bidder, the factors used to justify that award must be stated in the minutes or memoranda at the time the award is made, and a copy of the minutes or memoranda must be kept available for public inspection. The procedures for granting a collection contract by competitive bidding shall be prescribed in an ordinance adopted by the city-county legislative body or, in the absence of such an ordinance, by IC 36-1-12-4.

(g) The board may contract with multiple parties for solid waste collection and may award separate contracts for separate geographical areas within the consolidated city.

(h) This subsection applies to contracts of less than three hundred thousand dollars ($300,000) a year for the collection of solid waste. The board may require a waste collector under a contract to carry insurance coverage in a form which protects against losses in excess of the amount covered by other liability insurance policies. The board may not require a waste collector to carry such umbrella insurance coverage in excess of one million dollars ($1,000,000). A waste collector under a contract must provide one (1) of the following as determined by the board:

(1) A performance bond or an irrevocable letter of credit equal to ten percent (10%) of the annual contract price.

(2) An agreement that ten percent (10%) of the annual contract price may be withheld by the board as security for performance of the contract.

As added by Acts 1982, P.L.77, SEC.27. Amended by P.L.357-1987, SEC.1; P.L.175-1990, SEC.1.

IC 36-9-31-5

Put or pay contract procedure; action to contest validity; tax levy

Sec. 5. (a) Any put or pay contract may provide for payments to be made by the consolidated city under the contract from:

(1) the levy of taxes;

(2) revenues;

(3) any other available funds of the consolidated city; or

(4) any combination of the foregoing.

(b) A put or pay contract may further provide that payments by the consolidated city to the other person to the contract are required only to the extent and only for the period or periods that person is able to accept and dispose of waste in accordance with the contract had such waste been delivered to the person.

(c) A put or pay contract may be entered into by the consolidated city extending for a period of five (5) years or more only after a public hearing by the board, at which all interested persons shall be heard. After the public hearing, the board may adopt a resolution authorizing the execution of the contract on behalf of the city if it finds that the estimated amount of waste to be provided throughout the term of the contract will not be less than the specified amount of waste required to be provided by the contract.

(d) A put or pay contract providing for payments by the

consolidated city in whole or in part from the levy of taxes is not valid unless approved by ordinance of the city-county legislative body. Upon execution of such a contract and approval by the legislative body, the board shall cause notice of the execution of the contract and its approval to be given by public notice. Fifty (50) or more taxpayers residing in the city who will be affected by the contract and who may be of the opinion that no necessity exists for the execution of the contract or that the payments provided for in the contract are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval, setting forth their names, addresses, and objections to the contract and the facts showing that the execution of the contract is unnecessary or unwise or that the payments provided for in the contract are not fair and reasonable, as the case may be. Upon the filing of the petition, the county auditor shall immediately certify a copy of it, together with such other data as may be necessary in order to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for the hearing of the matter, which must be not less than five (5) nor more than thirty (30) days thereafter in the city. Notice of the hearing shall be given by the department of local government finance to the members of the board and to the first fifty (50) taxpayer-petitioners upon the petition by a letter signed by the commissioner or deputy commissioner of the department of local government finance and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal, upon the necessity for the execution of the contract, and as to whether the payments under it are fair and reasonable, is final.

(e) An action to contest the validity of the contract or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of notice of the execution and approval of the contract, or if an appeal has been taken to the department of local government finance, then within thirty (30) days after the decision of the department.

(f) After the consolidated city has entered into a put or pay contract under this section, the city-county legislative body shall annually levy a tax sufficient to produce each year the necessary amount, with other amounts available, if any, that is sufficient to pay the amounts that the contract provides are to be paid from the levy of taxes. The tax levies provided for in this chapter are reviewable by other bodies vested by law with authority to ascertain that the levies are sufficient to raise the amount that, with other amounts available, is sufficient to meet the payments under the contract payable from the levy of taxes.

As added by Acts 1982, P.L.77, SEC.27. Amended by P.L.90-2002, SEC.516.

IC 36-9-31-6
Taxing units; ad valorem tax levies; user fee

Sec. 6. For purposes of IC 6-3.5-1.1, the service district and the waste disposal district constitute civil taxing units, and they may impose ad valorem property tax levies for the purpose of paying for waste collection, or waste disposal. However, notwithstanding any other provision of this chapter, if a property tax is levied for waste collection, a user fee may not also be charged for waste collection or animal control.

As added by Acts 1982, P.L.77, SEC.27. Amended by P.L.73-1983, SEC.22; P.L.38-1984, SEC.6; P.L.85-1995, SEC.43.

IC 36-9-31-7
Creation and purpose of service district

Sec. 7. The service district is created for the purpose of providing persons within its territory with solid waste collection service.

As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-8
Fees for waste collection and disposal

Sec. 8. (a) The board may establish fees for waste collection and disposal. The board shall establish fees for waste disposal when necessary to pay principal or interest on any bonds issued under section 10 of this chapter. Fees established under this subsection shall apply to all persons owning real property benefited by waste collection, a facility for waste disposal, or both. The board may change and readjust fees from time to time.

(b) The board may fix the fees for waste collection on the basis of a schedule of charges for each classification of residence or building in use in the solid waste collection service district, and may fix the fees for waste disposal on the basis of a schedule of charges for each classification of residence or building in use in the waste disposal district. These classifications of residences and buildings shall be based on:

(1) weight or volume of the refuse received;
(2) the average number of containers or bags of refuse received;
(3) the relative difficulty associated with the disposal of the waste received; or
(4) any combination of these criteria or any other criteria the board determines to be logically related to the service.

(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner.

(d) If the fees are not paid when due (by the affected property owner), a lien is created upon the property benefited by the collection and disposal of waste. When the property is sold at a tax sale under the procedures provided by statute, the amount of the purchase price attributable to the waste charge lien reverts to the consolidated city.

(e) The board may exercise reasonable discretion in adopting

differing schedules of fees, based upon variations in the cost of furnishing the services included within this chapter to various classes of owners of property, the distance of the property benefited from the facility, or any other variations the board determines to be logically related to the cost of the service.

(f) Fees shall be established only after a public hearing before the board at which all persons using facilities or owning property benefited by waste collection and disposal, and others interested, have had opportunity to be heard by the board concerning the proposed fees. After adoption of the resolution fixing fees and before the resolution takes effect, public notice of the hearing, setting forth the schedule of fees, shall be given. The hearing may be adjourned from time to time. After the hearing, the resolution establishing fees, either as originally passed or as amended, shall be passed and put into effect. A copy of the schedule of fees so established shall be kept on file in the office of the board and shall be kept open to inspection by all persons interested. The fees established shall be extended to cover any additional territory later served that falls within the same class, without the necessity of any hearing or notice. Any change or readjustment of fees may be made in the same manner as they were originally established.

(g) An action to contest the validity of the fees adopted or the procedure by which they were adopted must be brought within thirty (30) days following the adoption of the fees.

(h) Fees imposed under this chapter may be used, together with any other revenues, to pay the cost of facilities for waste disposal, waste collection, the operation and maintenance of facilities, cost incurred under put or pay contracts, charges that may be pledged to the payment of principal of and interest on waste disposal district or revenue bonds, or amounts required by put or pay contracts.

(i) Before any fee established by the board for waste collection or disposal may take effect, the city-county legislative body must by ordinance approve, reject, or modify the fee.

As added by Acts 1982, P.L.77, SEC.27. Amended by P.L.38-1984, SEC.7.

IC 36-9-31-9

Special benefit tax; waste disposal district bonds; bids or proposals; resolution; waste disposal district bond fund

Sec. 9. (a) The waste disposal district constitutes a special taxing district for the purpose of levying a special benefit tax for the purpose of providing the disposal of waste and the recovery of byproducts from waste.

(b) Whenever, upon investigation, the board determines that a facility or facilities for waste disposal is necessary for the public health and welfare, and that the construction, modification, or acquisition of the facility or facilities will be of public utility and benefit, the board may, upon approval of the city-county legislative body, issue waste disposal district bonds under this section for the payment of the cost of the facility.

(c) Before authorizing the waste disposal district bonds the board may either accept public bids for the facility or adopt a resolution approving a request for proposals all as provided in section 4 of this chapter.

(d) When plans and specifications have been prepared according to the public bidding requirements of IC 36-1-12, or a resolution adopted by the board approving a request for proposals, the board shall adopt a resolution declaring that, upon investigation, it has been found that it is necessary for the public health and welfare and will be of public utility and benefit to construct, modify, or acquire (and maintain where constructed) the facility or facilities and to acquire the property described for that purpose. The resolution shall be kept open to inspection by all persons interested in or affected by the acquisition of the property or the construction of the facility. Upon adoption of the resolution, the board shall give public notice of the adoption and its purpose, which notice must name a date not less than ten (10) days after the date of the last publication on which the board will receive or hear remonstrances from persons interested in or affected by the facility or facilities and will determine their public utility and benefit.

(e) At the time fixed for the hearing, or at any time before that, any person owning real or personal property within the waste disposal district may file a written remonstrance with the board. At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances filed. After considering the remonstrances, the board shall take final action determining the public utility and benefit of the proposed proceedings and confirm, modify and confirm, or rescind the resolution, which final action shall be duly recorded. This action is final and conclusive upon all persons, except that any person who has remonstrated in writing and who is aggrieved by the decision of the board may take an appeal as provided in subsection (f).

(f) Any person who has filed a written remonstrance with the board as provided in subsection (e), in case the board takes final action confirming the resolution in its original or any modified form, is entitled to appeal to the superior court of the county. Within ten (10) days after the final action of the board, the remonstrator must file in the office of the clerk of the court a copy of the resolution of the board and his remonstrance, together with a surety bond conditioned to pay the costs of the appeal should the appeal be determined against him. The only ground of remonstrance of which the court has jurisdiction on appeal is the question of whether it will be of public utility and benefit to construct, modify, or acquire the proposed facility, and the burden of proof is upon the remonstrator. The cause shall be summarily tried by the court without a jury. All remonstrances upon which an appeal are taken shall be consolidated and heard as one (1) cause of action by the court, and the cause shall be heard and determined by the court within thirty (30) days after the time of filing the appeal. Upon the date fixed for hearing, the court shall hear evidence upon the remonstrances and shall confirm the

final action of the board on the resolution or sustain the remonstrance.

(g) Upon final action of the board, or court, confirming the resolution in its original or any modified form, all real or personal property located within the waste disposal district is subject to a special tax for the purpose of providing money to pay all or a part of the total cost of the acquisition, modification, or construction of the facility, which special tax is declared to constitute the amount of benefits resulting to all of the property in the district.

(h) For the purpose of raising money to pay the cost of the facility, and in anticipation of the special tax to be levied, the board shall, upon the approval of the legislative body, cause to be issued waste disposal district bonds in the name of the consolidated city in accordance with IC 36-3-5-8.

(i) On adopting a resolution ordering the issuance of waste disposal district bonds, the board, with legislative body approval, shall then certify a copy of the resolution and a copy of the approval to the fiscal officer of the consolidated city, who shall then prepare the bonds.

(j) The waste disposal district bonds are not, in any respect, a corporate obligation or indebtedness of the consolidated city, but constitute an indebtedness of the waste disposal district. The waste disposal district bonds, and interest on them, issued under this section are payable out of a special tax levied upon all of the property of the waste disposal district and any other revenues made available for that purpose under this chapter. The waste disposal district bonds must so recite these terms upon their face, together with the purpose for which they are issued.

(k) All proceeds from the sale of waste disposal district bonds shall be kept as a separate and specific fund, to pay the cost of the facility, and no part of the proceeds may be used for any other purpose. Any surplus remaining out of the proceeds of the waste disposal district bonds, after all of the cost is fully paid, shall be paid into and becomes a part of the waste disposal district bond fund; however, money derived from sources other than the waste disposal district bond proceeds, such as state or federal grants or other contributions, are not so restricted as to application regardless of whether the contribution arises for a project financed from waste disposal district bond proceeds.

(l) For the purpose of raising money to pay the waste disposal district bonds issued under this section, the city-county legislative body shall levy each year a special tax upon all the property of the waste disposal district in such amount and manner as to meet and pay the principal of the waste disposal district bonds as they severally mature, together with all accruing interest on them. The tax so levied each year shall be certified to the fiscal officers of the consolidated city and the county. The tax so levied and certified shall be estimated and entered upon the tax duplicate by the county auditor and shall be collected and enforced by the county treasurer in the same manner as county taxes are estimated, entered, collected and enforced. As the

tax is collected by the county treasurer, it shall be accumulated and kept in a separate fund to be known as the waste disposal district bond fund, and shall be applied to the payment of the principal of and interest on the waste disposal district bonds as they become due and to no other purpose. In fixing the amount of the necessary levy the legislative body shall consider the amount of net revenues, if any, to be derived from the collection of fees under section 8 of this chapter or any other net revenues collected under this chapter above the amount of revenues necessary to be applied upon or reserved by or for the city for the operation, maintenance, and administrative expenses of the facilities. The board shall annually, in lieu of making the levy or to reduce the amount of the levy, set aside by resolution the amount of the net revenues to be collected before maturity of the principal and interest of the waste disposal district bonds payable in the following calendar year. If the board adopts this resolution, then it is unlawful for the board to use any part of the amount so set aside out of the net revenues for any purpose other than the payment of waste disposal district bonds and the interest on them. A proportionate payment of this amount shall be made to the waste disposal district bond fund monthly.

(m) The board may not issue waste disposal district bonds under this section, payable by special taxation for that purpose in a total amount, including outstanding bonds already issued, in an amount exceeding six percent (6%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15. All waste disposal district bonds issued in violation of this subsection are void. *As added by Acts 1982, P.L.77, SEC.27. Amended by P.L.6-1997, SEC.230.*

IC 36-9-31-10
Revenue bonds of consolidated city

Sec. 10. (a) The board may recommend to the city-county legislative body that it finance the cost of facilities for waste disposal by borrowing money and issuing revenue bonds from time to time under this section.

(b) The issuance of revenue bonds must be authorized by ordinance of the legislative body.

(c) The revenue bonds are special obligations of the consolidated city and are payable solely from and secured by a lien upon the revenues of all or part of the facilities whether or not the facilities are being financed with revenue bonds under this section, as shall be more fully described in the ordinance authorizing the issuance of the revenue bonds. The ordinance may pledge and assign for the security of the revenue bonds all or part of the revenues or net revenues of the facilities.

(d) The revenue bonds, and interest on them, are not a debt of the consolidated city or the board, nor a charge, lien, or encumbrance, legal or equitable, upon property of the board or the city, or upon the revenues of the board other than those revenues of the facilities that have been pledged to the payment of the revenue bonds. Every

revenue bond must recite in substance that the revenue bond, including interest, is payable solely from the revenues pledged to its payment, and that neither the board nor the city is under any obligation to pay it, except from those revenues.

(e) In order that the payment of the revenue bonds and the interest on them be adequately secured, the consolidated city and its officers, agents, and employees shall provide for such covenants and do such other acts and things that may be necessary, convenient, or desirable in order to secure the revenue bonds or that may tend to make the revenue bonds more marketable.

As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-11

Agreements and contracts requested by board; waste disposal development bonds; financing agreements; advancement of bond expenses; exemption from property taxes on facilities; approvals and permits

Sec. 11. (a) The consolidated city may, upon request of the board:

(1) enter into agreements concerning, and acquire by any lawful means, real property or interests in real and personal property needed for the purposes of this section;

(2) enter into financing agreements to purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve facilities for waste disposal;

(3) lease facilities to users or developers with or without an option to purchase;

(4) sell facilities to users or developers for consideration, which may be paid in installments or otherwise;

(5) make direct loans to users or developers for the cost of acquisition, construction, or installation of facilities, including land, machinery, or equipment, in which event the bonds shall be secured by the pledge of one (1) or more bonds or other secured or unsecured debt obligations of the users or developers;

(6) enter into agreements with users or developers to allow the users or developers to wholly or partially acquire, construct, or modify facilities to be acquired by the city; and

(7) issue waste disposal development bonds under this section to accomplish the purposes of this section and to secure payment of the bonds as provided in this section.

(b) This section does not authorize the financing of facilities for a developer unless any agreement that may exist between a developer and a user is fully disclosed to, and approved by, the board.

(c) The board may, from time to time, enter into negotiations with any one (1) or more persons concerning the terms and conditions of financing facilities. Preliminary expenses in connection with negotiations may be paid from money furnished by the proposed user or developer, or from grant money, or from funds of the board.

(d) The board shall hold a public hearing on the proposed financing of the facilities after giving public notice. Upon findings

by the board that the proposed financing will be of benefit to the health or welfare of the consolidated city and that the proposed financing complies with the purposes and provisions of this chapter, the board shall, by resolution, approve the financing, including the form and terms of the financing agreement, the waste disposal development bonds, and the trust indenture, if any. The resolution of the board shall be transmitted by the secretary of the board to the legislative body.

(e) If the legislative body finds that the proposed financing will be of benefit to the health or welfare of the consolidated city and complies with the purposes and provisions of this section, it may adopt an ordinance approving the proposed financing. The ordinance may also authorize the issuance of waste disposal development bonds payable solely from revenues and receipts derived from a financing agreement or from payments made under a guaranty agreement by a developer, user, or any other person. The waste disposal development bonds are not in any respect a general obligation of the consolidated city.

(f) Any financing agreement must provide for payments in an amount not less than an amount sufficient to pay the principal of, premium, if any, and interest on the waste disposal development bonds authorized for the financing of the facilities. The term of any financing agreement may not exceed forty (40) years from the date of any waste disposal development bonds issued under the agreement. However, a financing agreement does not terminate after forty (40) years if a default under it remains uncured, unless the termination is authorized by and according to the terms of the financing agreement. If the consolidated city retains an interest in the facilities, the financing agreement must require the user or developer to pay all costs of maintenance, repair, taxes, assessments, insurance premiums, trustee's fees, and any other expenses relating to the facilities, so that the city will not incur any expenses on account of the facilities that are not covered by the payments provided for in the financing agreement.

(g) The consolidated city may advance all expenses, premiums, and commissions that it considers necessary or advantageous in connection with the issuance.

(h) The consolidated city is exempt from all property taxes on facilities. Developers and users are liable for property taxes on facilities as provided by law. This section does not deny any tax exemption a developer or user may have under other laws because of the nature of the facilities or the user.

(i) The user or developer is responsible for obtaining and maintaining all approvals and permits required for the construction of the facilities under this section.

As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-12

Refunding bonds

Sec. 12. If the legislative body finds that a refunding of

outstanding bonds would be of benefit to the health and welfare of the consolidated city and would comply with the purposes and provisions of this chapter, it may authorize the issuance of bonds under IC 5-1-5 to refund outstanding bonds issued in accordance with this chapter. A saving to the issuing body as provided in IC 5-1-5-2 is not required for the issuance of refunding bonds.
As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-13
Borrowing limitations pending receipt of grant to city

Sec. 13. (a) The consolidated city, pending receipt of any grant may, but within the limitation set forth in this section, borrow money from any person and evidence the debt so incurred by note or notes executed by the executive and fiscal officer of the consolidated city and containing such terms and provisions as may be prescribed by the board. The city may, in anticipation of the issuance of bonds issued under section 9, 10, or 11 of this chapter, borrow money from any person and evidence the debt so incurred by note or notes executed by the executive and fiscal officer and containing such terms and provisions as may be prescribed by the board.

(b) Any note or notes issued under this section or any renewal of them must mature not more than five (5) years from the date of issuance of the original note and must pledge for the payment of the principal and interest the proceeds of the grant or bonds.

(c) The board shall apply the proceeds of any note or notes issued under this section to the cost of the facility for which the grant is to be made or bonds issued, but no purchaser of any obligations is liable for the proper application of the proceeds.
As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-14
Bonds issued

Sec. 14. (a) All bonds issued under this chapter may:

(1) be issued as serial bonds or as term bonds or a combination of both types;
(2) be executed and delivered by the consolidated city at any time and from time to time;
(3) bear such date or dates;
(4) bear interest at such rate or rates;
(5) be redeemable before their stated maturities on such terms and conditions and at premiums as necessary or advisable;
(6) be issued in any denomination or denominations of not less than five thousand dollars ($5,000);
(7) be in a form, either coupon or registered or a combination of both types;
(8) carry registration conversion privileges;
(9) be payable in a medium of payment and at a place or places, which may be at any one (1) or more banks or trust companies within or without Indiana;
(10) provide for the replacement of mutilated, destroyed, stolen,

or lost bonds;

(11) be authenticated in a manner and upon compliance with conditions;

(12) establish reserves from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the principal and interest on the bonds issued under this chapter;

(13) establish reserves, from the proceeds of the sale of bonds or from other funds or both, for extensions, enlargements, additions, replacements, renovations, and improvements to or for the facilities; and

(14) contain other terms and covenants;

all as provided in the ordinance of the legislative body or the resolution of the board authorizing the bonds.

(b) The bonds issued under this chapter may mature at such time or times not to exceed forty (40) years.

(c) The bonds issued under this chapter may bear either the impressed or facsimile seal of the consolidated city and shall be executed by the manual or facsimile signature of the city executive and attested by the manual or facsimile signature of the city fiscal officer, so long as one (1) of these signatures is manual.

(d) The coupons appertaining to the bonds issued under this chapter shall be executed by the facsimile signature of the city fiscal officer.

(e) The bonds and the interest coupons appertaining to them, if any, issued under this chapter are valid and binding obligations of the consolidated city for all purposes in accordance with the terms of this chapter, notwithstanding that before delivery of them any of the persons whose signatures appear on them have ceased to be officers of the city, as if the persons had continued to be officers of the city until after delivery.

(f) The bonds issued under this chapter may be sold at public or private sale for such price or prices as may be provided in the ordinance authorizing their issuance.

As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-15

Trust indenture, resolution, or ordinance; bonds issued

Sec. 15. The bonds issued under this chapter may be secured by a trust indenture by and between the consolidated city and a corporate trustee, which may be any national or state bank having its principal office in Indiana and having trust powers. The trust indenture or resolution or ordinance under which the bonds are issued may:

(1) mortgage the land, any interest in land, or the facilities on account of which the bonds are issued;

(2) pledge the revenues or any other funds, or any part of them, to be received by the consolidated city;

(3) contain such provisions for protecting and enforcing the rights and remedies of the bondholders or lenders as may be considered reasonable, including covenants setting forth the

duties of the city and board in relation to the construction of the facilities and the custody, safeguarding, application, and investment of all money received or to be received by the city on account of the facilities financed by the issuance of the bonds;

(4) provide for the establishment of reserve funds from the bond proceeds or from other sources to the extent authorized;

(5) set forth the rights and remedies of the bondholders and trustee, and provisions restricting the individual right or actions of bondholders;

(6) contain provisions regarding investment of funds, sales, exchange or disposal of property, and manner of authorizing and making of payments without regard to any general statute relating to these matters;

(7) provide for the payment of the proceeds of the sale of bonds to such trustee, officer, bank, or depository as it may determine for their custody, and for the method of their disbursement, with such safeguards and restrictions as it may determine;

(8) provide for the appointment of a receiver by the superior court of the county under terms and conditions as are considered reasonable; and

(9) contain such other provisions as the authority may consider reasonable and proper for the security of the bondholders.

As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-16

Securities registration exemption

Sec. 16. Any security issued in connection with a financing under this chapter the interest on which is excludable from adjusted gross income tax is exempt from the registration requirements of IC 23-19 or any other securities registration law.

As added by Acts 1982, P.L.77, SEC.27. Amended by P.L.192-2002(ss), SEC.189; P.L.27-2007, SEC.36.

IC 36-9-31-17

Tax exemption; bonds and grant and bond anticipation notes

Sec. 17. All bonds, as well as grant and bond anticipation notes, issued under this chapter and the interest on them are exempt from taxation in accordance with IC 6-8-5.

As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-18

Tax exemption; city revenues

Sec. 18. All revenues received by the consolidated city under this chapter are exempt from all taxation.

As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-19

Facilities financing methods

Sec. 19. The facilities, or any part of them, to be financed under

this chapter, may be financed by any one (1) or more or any combination of one (1) or more of the methods provided for in this chapter.
As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-20
Limitation of actions; contesting bonds
Sec. 20. An action to contest the validity of the bonds or to prevent their issuance must be brought within thirty (30) days following the adoption of the ordinance or resolution authorizing the bonds.
As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-21
Effect of chapter; issuance of bonds; acts authorized; powers conferred
Sec. 21. This chapter constitutes full authority for the issuance of bonds. No procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things, by a board, officer, commission, department, agency, or instrumentality of the state is required to issue bonds or to do any act or perform anything under this chapter except as prescribed by this chapter. The powers conferred by this chapter are in addition to, and not in substitution for, and the limitations imposed by this chapter do not affect, the powers conferred by any other statute.
As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-22
Exemption of facilities from public utilities regulations
Sec. 22. A facility owned, operated, or financed under this chapter and the sale of byproducts from it are exempt from regulation under IC 8-1-2. IC 8-1-11.1 does not apply to such a facility or its operation or financing.
As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-23
Nondiscriminatory acceptance of waste; fees
Sec. 23. (a) Subject to subsection (b), any facility:
(1) owned;
(2) operated; or
(3) financed after December 2, 2008;
under this chapter shall accept waste accumulated within the waste disposal district without discrimination as to whether or not the waste is collected by the consolidated city. The fees made by any such facility for any services rendered or to be rendered, either directly or in connection with them, must be nondiscriminatory, but they may vary based upon the volume, weight, hazardousness, or difficulty of disposal of the waste disposed of or processed by the facility.
(b) If a person enters into a contract with the consolidated city to

accept the consolidated city's waste at a facility, the person may not be considered to be operating the facility for purposes of this section.
As added by Acts 1982, P.L.77, SEC.27. Amended by P.L.131-2006, SEC.13.

IC 36-9-31-24
Energy byproduct sales

Sec. 24. An energy byproduct of a facility may not be sold to a person already being served the same type of energy by a public utility subject to regulation by the utility regulatory commission; however, an energy byproduct of a facility may be sold to a person who:

(1) after the in-service date of the facility is not receiving the same type energy from the public utility; or

(2) constructs a new facility that is not served the same type energy by the public utility.

In the case of a new facility that is not served the same type energy by the public utility, the energy byproduct must first be offered to the public utility upon the same terms and conditions agreed to in good faith, by the person who constructs the new facility. If the public utility fails to accept, in writing, the purchase of the energy byproduct upon those terms and conditions within forty-five (45) days after the date the offer is made to the public utility, then the energy byproduct may be sold directly to the person by the facility.
As added by Acts 1982, P.L.77, SEC.27. Amended by P.L.23-1988, SEC.130.

IC 36-9-31-25
Effect of chapter; compliance with other laws

Sec. 25. This chapter is supplemental to all other statutes covering the acquisition, construction, modification, use, and maintenance of facilities for waste disposal by a consolidated city. As to facilities acquired, constructed, modified, operated, or leased under this chapter, and the collection of wastes under this chapter, it is not necessary to comply with other statutes concerning the acquisition, construction, modification, use, and maintenance of facilities or the collection of waste by cities, except as specifically required by this chapter.
As added by Acts 1982, P.L.77, SEC.27.

IC 36-9-31-26
Repealed

(*Repealed by P.L.2-2005, SEC.131.)*

IC 36-9-32

Chapter 32. Financing of Public Improvements in Municipalities

IC 36-9-32-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-2

Legislative findings and declaration

Sec. 2. It is found and declared that municipalities in Indiana have a need to finance public improvements to provide for industrial and commercial growth and for general public use. Therefore, the general assembly finds it necessary and proper to provide an alternative method for municipalities to finance public improvements, to provide for industrial and commercial growth, to provide employment opportunities, diversification of industry and commerce, and to provide general public access to those public improvements. It is declared that the financing of public improvements for use by the general public, including industrial and commercial enterprises, is a public purpose.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-3

Definitions

Sec. 3. As used in this chapter:

"Public improvements" means:

(1) any improvement, as defined in this article;

(2) any improvement, including the construction, equipping, remodeling, extension, repair, and betterment of any municipally owned utility, as defined in IC 8-1-2-1; or

(3) any acquisition or improvement of real estate upon which such an improvement is to be located or that will itself constitute a public improvement.

"System" means any sewage works or municipally owned utility, as defined in IC 8-1-2-1.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-4

Loan agreements; loan of grant proceeds; pledge of revenues to secure bonds

Sec. 4. A municipality may enter into a loan agreement with any person and loan the proceeds of any grant received by the municipality to that person with the repayment of the loan to be secured by the pledge of a note or other secured or unsecured debt obligation of that person. The municipality may pledge the revenues from the note or other secured or unsecured debt obligation of that person or of any entity organized for economic development purposes to the payment of bonds issued under this chapter. In no

event may a municipality pledge revenues other than from the sources authorized in this chapter as security for the bonds issued under this chapter. A municipality may not issue bonds under this chapter if principal and interest payments on those bonds would exceed revenues to be derived by the municipality from the notes or other secured or unsecured debt obligations of any person that has entered into a loan agreement with the municipality under this chapter, or from other sources of principal and interest payments under this chapter. Any municipality may issue bonds under this chapter whether the revenues pledged to secure the bonds are to be derived from a loan agreement entered into before or after March 1, 1984. The validity of any bonds issued under this chapter is not dependent on or affected by the validity of the loan agreement at the time it was executed and delivered. All loan agreements between municipalities and persons borrowing grant proceeds entered into before March 1, 1984, are fully legalized and declared valid.
As added by P.L.23-1984, SEC.18.

IC 36-9-32-5
Public improvements connected to an existing system; payment of bonds; letting of contracts; ownership or operation of improvements

Sec. 5. (a) If a public improvement financed under this chapter is connected to a system, the public improvement becomes a part of the existing system. Any person entering into a loan agreement with a municipality under this chapter shall pay rates and charges or fees for the use of that system in the same manner any other member of the general public is required to pay such rates and charges or fees. The municipality may not establish rates and charges or fees for the use of that system that include a revenue requirement for payment of principal and interest on bonds issued under this chapter. Bonds issued under this chapter are payable solely from revenues derived from notes or other secured or unsecured obligations of any person entering into a loan agreement with a municipality under this chapter, or from other sources of principal and interest payments under this chapter, and not from revenues of the system.

(b) Contracts for public improvements under this chapter shall be let in accordance with statutes relating to public works and public purchases.

(c) Public improvements may be financed under this chapter even if the municipality building or acquiring those improvements will not own or operate those improvements, so long as the public improvements will be owned or operated by a political subdivision.
As added by P.L.23-1984, SEC.18.

IC 36-9-32-6
Ordinances approving issuance of bonds

Sec. 6. If the legislative body finds that the issuance of bonds under this chapter will be of benefit to the health or welfare of the municipality and serves the public purpose set forth in section 2 of

this chapter, it may adopt an ordinance approving the issuance of bonds under this chapter. The municipality may publish a notice of a hearing regarding the public purpose of the issuance of the bonds and any other matter and, if the notice is published, it shall be published in accordance with IC 5-3-1.
As added by P.L.23-1984, SEC.18.

IC 36-9-32-7
Bonds; issuance and sale; payment; ordinances; amount; validity; taxation; refunding bonds; security registration

Sec. 7. (a) The municipality may issue and sell bonds to provide money for any public improvement under this chapter.

(b) The bonds and interest on them are payable only out of a special fund, to be established as provided in this chapter. The bonds do not constitute an indebtedness of the municipality within the meaning of any constitutional limitation. Each bond must state plainly on its face that it is payable only from a special fund and that it does not constitute an indebtedness of the municipality within the meaning of any constitutional debt limitation. Neither the faith and credit nor the taxing power of the municipality is or may be pledged for the payment of the principal of, premium (if any) on, or interest on bonds issued under this chapter. An owner of bonds issued under this chapter is not entitled to compel the exercise of the taxing power by the municipality or the forfeiture of any of its property in connection with any default on bonds issued under this chapter.

(c) Bonds issued under this chapter may be sold at public or private sale for the price, in the manner, and at the time determined by the legislative body.

(d) The ordinance of the legislative body authorizing the bonds must provide, either in the body of the ordinance or by incorporating another document by reference:

(1) the manner of their execution;
(2) their term or terms, which may not exceed forty (40) years;
(3) their interest rate;
(4) their denominations;
(5) their form;
(6) the medium of their payments;
(7) the place and manner of their payment;
(8) the terms of their redemption, if any; and
(9) any other provisions not inconsistent with this chapter.

(e) The bonds may be issued in an amount sufficient to pay all or any part of the cost of any public improvement authorized by this chapter including the funding of interest in an amount to be determined by the legislative body, the establishment of reserves to secure payment of such bonds, and the payment of all other costs or expenses incident to and necessary or convenient to carry out the purposes and powers authorized by this chapter.

(f) The bonds and their authorization, issuance, sale, and delivery are not subject to any general statute concerning bonds.

(g) An action to contest the validity of bonds issued under this

chapter may not be commenced more than fifteen (15) days after publication of notice of the adoption of the ordinance approving them. The bonds are conclusively presumed to be valid after that period has passed.

(h) Any bonds issued under this chapter are exempt from taxation as provided in IC 6-8-5.

(i) If the legislative body finds that a refunding of outstanding bonds issued under this chapter would be of benefit to the municipality, it may authorize the issuance of refunding bonds payable solely from revenues derived from notes or other secured or unsecured obligations of any person that has entered into a loan agreement with a municipality under this chapter, or from escrowed bond proceeds or other sources of principal and interest payments under this chapter. Refunding bonds shall be issued in the same manner as bonds issued under this chapter and are payable only from sources set forth in this chapter.

(j) Any bond issued under this chapter is exempt from any security registration requirements provided for in Indiana statutes.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-8

Trust indentures to secure bonds

Sec. 8. The legislative body may secure bonds issued under this chapter by a trust indenture between the municipality and a corporate trustee. The corporate trustee may be any trust company, national bank, or state bank that is in Indiana and has trust powers. A trust indenture entered into under this section may contain any provisions agreed upon by the municipality and the trustee that are not inconsistent with this chapter.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-9

Enforcement by owner of bonds or trustee

Sec. 9. Any owner of bonds issued under this chapter, and the trustee under any trust agreement entered into under this chapter, except to the extent that the trustee's rights are restricted by the trust agreement, may:

(1) either at law or in equity, by suit, action, or other proceeding, protect and enforce any and all rights of such owner of bonds or trustee under state law, or, to the extent permitted by law, under the trust agreement, or under any loan agreement entered into under this chapter; and

(2) enforce and compel the performance of all duties required by this chapter or by any trust agreement or loan agreement entered into under this chapter to be performed by any municipality or by any officer of any municipality.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-10

Impairment of rights and remedies of owners of bonds

Sec. 10. The state covenants and agrees with the owners of any bonds issued under this chapter that so long as any bonds of a municipality issued under this chapter are outstanding or unpaid, the state will not in any way impair the rights and remedies of the owners of the bonds, until the bonds, together with interest on them, interest on any unpaid installment of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the owners, are fully paid, met, and discharged.
As added by P.L.23-1984, SEC.18.

IC 36-9-32-11
Liability for property and special taxing district taxes

Sec. 11. Any person entering into a loan agreement with a municipality under this chapter is liable for property taxes, and special taxing district taxes for any public improvements, if special benefits are provided to that person together with other persons residing in the special taxing district. This section does not deny any tax exemption that such a person may have under other statutes because of the nature of that person's property or that person.
As added by P.L.23-1984, SEC.18.

IC 36-9-33

Chapter 33. Collection and Disposal of Waste Generally

IC 36-9-33-1

Application of chapter

Sec. 1. This chapter applies to all units (except townships and counties having a consolidated city) that adopt ordinances under section 3 of this chapter after March 31, 1987.

As added by P.L.353-1985, SEC.2.

IC 36-9-33-2

"Solid waste" defined

Sec. 2. As used in this chapter, "solid waste" has the meaning set forth in IC 36-9-30-2, except that the term does not include the following:

(1) Sludge, sewage, and other highly diluted water-carried materials or substances and those in gaseous forms.

(2) Metal, glass, paper, paperboard, or corrugated material that is stored, collected, or recovered for recycling.

(3) Waste regulated under IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14.

(4) Waste generated by any person that disposes of the person's own waste in:

(A) a fully permitted sanitary landfill owned or leased by the person; or

(B) a resource recovery facility owned by the person;

at the date of adoption of the ordinance by the unit.

(5) Waste generated by any agricultural activity.

(6) Waste generated by a new manufacturing or a commercial enterprise or by the expansion of an existing manufacturing or commercial enterprise.

(7) Other waste described in an ordinance adopted by the unit's legislative body.

As added by P.L.353-1985, SEC.2. Amended by P.L.1-1996, SEC.98.

IC 36-9-33-3

Power to provide for collection and disposal of solid waste

Sec. 3. A unit may by ordinance provide for and exclusively control the collection and disposal of solid waste under this chapter within the unit. However, a unit may exercise this power only upon the completion of construction or the acquisition of a facility for the processing or disposal of solid waste by incineration or similar methods.

As added by P.L.353-1985, SEC.2.

IC 36-9-33-4

Territorial limitations for municipalities

Sec. 4. (a) A municipality may not exercise a power granted by this chapter inside the boundaries of another municipality without the consent of that municipality's legislative body.

(b) A municipality may not exercise a power granted by this chapter in unincorporated territory without the consent of the executive of the county in which that territory is located.
As added by P.L.353-1985, SEC.2.

IC 36-9-33-5
Territorial limitation for counties

Sec. 5. A county may not exercise a power granted by this chapter inside the boundaries of any municipality in that county without the consent of that municipality's legislative body.
As added by P.L.353-1985, SEC.2.

IC 36-9-33-6
Joint exercise of power

Sec. 6. Notwithstanding sections 3 and 4 of this chapter, units may jointly exercise a power granted by this chapter in the manner provided by IC 36-1-7.
As added by P.L.353-1985, SEC.2.

IC 36-9-35

Chapter 35. Water Departments in Certain Cities

IC 36-9-35-1

Application of chapter

Sec. 1. This chapter applies to each city in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), in which the legislative body has, by ordinance, established a water department as a municipal utility or a department of waterworks.

As added by P.L.320-1989, SEC.3. Amended by P.L.12-1992, SEC.189.

IC 36-9-35-2

Boards of trustees; political affiliation of appointees

Sec. 2. Notwithstanding IC 36-1-8-10, whenever the city's ordinance establishing a water department requires that an appointment to the board of trustees of the water department be conditioned upon the political affiliation of the appointee, or that the membership of the board not exceed a stated number of members from the same political party, at the time of an appointment the appointee must:

(1) have voted in the two (2) most recent primary elections held by the party with which the appointee claims affiliation; or

(2) if the appointee did not vote in the two (2) most recent primary elections or only voted in one (1) of those elections, be certified as a member of the party with which the appointee claims affiliation by that party's county chairman for the county in which the appointee resides.

As added by P.L.320-1989, SEC.3.

IC 36-9-35-3

Boards of trustees; vacancies

Sec. 3. Notwithstanding IC 8-1.5, IC 36-9-23, IC 36-9-24, IC 36-9-25, or any other law, if a vacancy occurs on the board of trustees, the vacancy must be filled within thirty (30) days after the vacancy occurs.

As added by P.L.320-1989, SEC.3.

IC 36-9-35-4

Boards of trustees; removal from office; appeals

Sec. 4. (a) Notwithstanding IC 8-1.5, IC 36-9-23, IC 36-9-24, IC 36-9-25, or any other law, a board member may not be removed from office except upon charges preferred before the city executive and a hearing held on them. The only permissible reasons for removal are neglect of duty and incompetence. The board member must be given at least ten (10) days notice of the time and place of the hearing and the opportunity to produce evidence and examine and cross-examine witnesses. All testimony shall be given under oath. The city executive shall prepare written findings and file them with

the city clerk.

(b) If the charges are sustained and the board member removed, the board member may appeal the findings within ten (10) days after the date they are filed with the clerk to the circuit or superior court of the county in which the city is located. The board member must file the appeal against the executive stating the charges preferred and the findings made. The court shall hear the appeal de novo without a jury within thirty (30) days after the appeal is filed and shall either ratify or reverse the findings of the executive. The judgment of the court is final and an appeal may not be taken.

As added by P.L.320-1989, SEC.3.

IC 36-9-36

Chapter 36. Barrett Law Funding for Counties and Municipalities

IC 36-9-36-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-2

Authorized improvements

Sec. 2. (a) The following improvements may be made under this chapter by a county:

(1) Sanitary sewers and sanitary sewer tap-ins.
(2) Sidewalks.
(3) Curbs.
(4) Streets.
(5) Storm sewers.
(6) Lighting.
(7) Emergency warning systems.
(8) Any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, sewage, storm drainage, and other drainage of a municipality.

(b) The following improvements may be made under this chapter by a municipality:

(1) Sidewalks.
(2) Curbs.
(3) Streets.
(4) Alleys.
(5) Paved public places.
(6) Lighting.
(7) A water main extension for a municipality that owns and operates a water utility.
(8) Emergency warning systems.

As added by P.L.98-1993, SEC.7. Amended by P.L.31-2004, SEC.1; P.L.42-2006, SEC.1.

IC 36-9-36-3

Limitations on authorized improvements; location of improvement; water main extensions

Sec. 3. (a) The following apply to improvements made under this chapter by a county:

(1) An improvement may be made only in unincorporated areas that contain residential or business buildings.
(2) An improvement may not be made on a tract of land that:
(A) consists of at least ten (10) acres and contains only one (1) building that is used for residential purposes; or
(B) is used solely for agricultural purposes.

(b) A water main extension made under this chapter by a

municipality may be made only within the corporate boundaries of the municipality.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-4
Preliminary resolutions; cross-sections, plans, and specifications

Sec. 4. (a) If the works board of a unit wants to make an improvement under this chapter, the works board must first do the following:

(1) Adopt a preliminary resolution for the improvement.

(2) Adopt and place on file cross-sections, general plans, and specifications for the work at the time the preliminary resolution is adopted.

(b) This subsection does not apply to a county. The cross-sections, plans, and specifications filed under subsection (a) must conform to any paving standards adopted by the works board, unless engineering practice justifies a different design.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-5
Estimate of costs; incidental, inspection, and engineering costs

Sec. 5. (a) If an improvement is to be paid for in whole or in part by special assessments levied against the property to be benefited by the improvement, the works board must adopt and file an estimate of the cost of the public improvement.

(b) The estimate may include all incidental, inspection, and engineering costs caused by the proposed improvement. However, the estimate of the costs to be paid by special assessment may not include the following:

(1) Salaries and expenses of the necessary and regularly employed personnel of the engineering department of the unit.

(2) Ordinary operating costs of the department.

(c) If the works board finds that it is necessary to employ additional engineering services for a particular improvement, the cost of the additional service actually performed in connection with the improvement may be included in the estimate.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-6
Incidental, inspection, and engineering costs; inclusion on assessment roll

Sec. 6. (a) The incidental, inspection, and engineering costs that are authorized by the preliminary resolution and included in the estimate may be added to the cost of an improvement and included in the assessment roll in the aggregate amount to be apportioned and assessed against the benefited property.

(b) The amount of incidental, inspection, and engineering costs included in the assessment roll may not exceed the amount of the incidental, inspection, and engineering costs included in the estimate.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-7
Incidental, inspection, and engineering costs; inclusion in contracts; subrogation rights of contractor

Sec. 7. The following applies if the preliminary resolution provides for the inclusion and assessment of incidental, inspection, and engineering costs:

(1) The works board shall include in a contract for an improvement a provision that requires all incidental, inspection, and engineering costs to be advanced and paid by the contract or to the board, upon the final acceptance of the improvement, for payment by the board to persons entitled to the incidental, inspection, and engineering costs.

(2) The contractor is then subrogated to all rights of the unit and those persons to all the incidental, inspection, and engineering costs subsequently included in and assessed upon the assessment roll.

(3) The costs belong to the contractor as a part of the assessments.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-8
Notice of hearing on preliminary resolution; publication; mailing to property owners

Sec. 8. (a) Notice of a hearing on the preliminary resolution shall be published in accordance with IC 5-3-1. The notice must state that the works board has adopted the preliminary resolution and the time and place at which the works board will do the following:

(1) Hear all interested persons.

(2) Decide whether the benefits to the property liable to be assessed for the improvement will equal the estimated cost of the improvement.

(b) A notice containing the information required under subsection (a) shall be sent to each property owner affected by the proposed improvement. The mailing of the notice complies with this subsection if the mailing is to owners as the owners appear in the records of the assessor of the county in which the property is located.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-9
Estimate of maximum cost

Sec. 9. (a) At least ten (10) days before the date fixed for a hearing under section 8 of this chapter, the engineer of the unit shall file with the works board an estimate of the maximum cost of the improvement proposed by the works board.

(b) The estimate must include the following:

(1) The cost of the guarantee under section 25 of this chapter.

(2) The cost of the maintenance of the improvements for at least three (3) years.

(c) A unit may not enter into a contract under the preliminary resolution if the contract exceeds the engineer's estimate filed under

subsection (a).
As added by P.L.98-1993, SEC.7.

IC 36-9-36-9.5
Assessments; installment payments

Sec. 9.5. (a) With respect to assessments imposed after June 30, 2001, the works board shall establish a procedure to permit owners of real property in the unit to elect whether to pay assessments in:

(1) ten (10), twenty (20), or thirty (30) annual installments; or
(2) a number of monthly installments that corresponds to ten (10), twenty (20), or thirty (30) annual installments.

(b) The works board shall establish the timing of the election under subsection (a) to permit the works board to structure the maturities of the principal of the bonds in a number of annual series that is consistent with the installment periods elected by owners of real property under subsection (a).

(c) A person who elects to pay the person's assessment in installments under this section must, when directed by the works board, enter into a written agreement stating that in consideration of that privilege the person:

(1) will not make an objection to an illegality or irregularity regarding the assessment against the person's property; and
(2) will pay the assessment as required by law with specified interest.

(d) The agreement under subsection (c) shall be filed in the office of the disbursing officer.

(e) The interest rate specified for the installments of the assessment may be equal to or greater than the interest rate on bonds issued under section 44 of this chapter.

(f) An assessment of less than one hundred dollars ($100) may not be paid in installments.
As added by P.L.62-2001, SEC.1.

IC 36-9-36-10
Hearing on preliminary resolution; determination of special benefits accruing to property

Sec. 10. (a) At the hearing specified in the notice under section 8 of this chapter, the works board shall do the following:

(1) Hear interested persons.
(2) Decide whether the benefits that will accrue to the property liable to be assessed for the improvement will equal the maximum estimated cost of the improvement.

(b) If the works board finds that the benefits will not equal the maximum estimated cost of the improvement, the board shall determine the aggregate amount of special benefits that will accrue to the property liable to be assessed for the improvement.

(c) Except as provided in sections 13 and 14 of this chapter, the works board's determination concerning the aggregate amount of special benefits that will accrue to the property liable to be assessed for the improvement is final and conclusive.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-11
Levy of special assessments; improvement cost as maximum amount of assessment; improvement cost payable by unit

Sec. 11. (a) The works board shall levy special assessments for the amount determined under section 10 of this chapter if:

(1) the contract for the improvement is executed; and

(2) the improvement is made.

(b) The special assessments levied under this section may not exceed the cost of the improvement.

(c) If the amount determined under section 10 of this chapter is less than the contract price, the remainder of the cost of the improvement is payable by the unit.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-12
Allowances against assessment and contract price

Sec. 12. (a) The works board shall make an allowance to the owner of any property if:

(1) an improvement exists in front of the property before the improvement is ordered; and

(2) the improvement conforms to the general plan.

(b) An allowance under subsection (a) shall be made from the owner's assessment and from the total amount of the contract price.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-13
Confirmation, modification, or rescission of preliminary resolution

Sec. 13. (a) After the works board determines the amount of special benefits that will accrue to the property liable to be assessed for the improvement, the works board may do any of the following:

(1) Confirm the preliminary resolution.

(2) Modify the preliminary resolution.

(3) Rescind the preliminary resolution.

(b) Except as provided in section 14 of this chapter, the preliminary resolution is final and conclusive on all parties if:

(1) the preliminary resolution is modified or confirmed under this section; and

(2) the improvement is ordered.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-14
Remonstrances and appeals

Sec. 14. (a) A majority of the persons who own the property to be assessed for the improvement may remonstrate against the improvement or take an appeal. The remonstrance or appeal must be made not later than ten (10) days after the hearing under section 10 of this chapter.

(b) If there is a remonstrance, the improvement may not be made

unless specifically ordered by an ordinance passed by a two-thirds (2/3) vote of the unit's legislative body. An ordinance under this subsection must be passed not later than sixty (60) days after the remonstrance is made.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-15
Objections to final resolution; filing; bond; prior assessments

Sec. 15. (a) If the works board finally orders an improvement, forty percent (40%) of the persons who own property abutting the improvement and who are subject to assessment may file written objections with the board. The written objections must:

(1) state at least one (1) of the following:

(A) The improvement is not needed by the public.

(B) The cost of the proposed improvement would be excessive considering the character and value of the property to be assessed.

(C) The cost of the proposed improvement will exceed the benefits to the property to be assessed.

(D) The works board does not have the legal authority to order the improvement.

(2) be filed not later than five (5) days after the making of the final order.

(b) If the works board does not abandon the proposed improvement, the following shall, not later than five (5) days after the filing of the objections with the works board, file with the clerk of the circuit or superior court of the county a copy of the order of improvement and the objections:

(1) The auditor, in the case of a county.

(2) The clerk, in the case of a municipality.

(c) Objectors must file with their objections a bond with security to the satisfaction of the court. The following apply to a bond filed under this subsection:

(1) The bond shall be in a sum fixed by the court.

(2) The bond must be conditioned on the objectors paying all or any part of the costs of the hearing as the court may order.

(d) In considering an objection described in subsection (a)(1)(A), the court may at the hearing under section 16 of this chapter consider the amount of the assessments made against the property for public improvement during the preceding five (5) years.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-16
Court hearing on objections to final resolution

Sec. 16. (a) The court shall set a hearing as early as possible, but not later than twenty (20) days after the filing of the objections with the court. All interested parties shall appear in court without further notice. The unit may not hold further proceedings concerning the improvement until the matters presented by the objections are heard and determined by the court. The matters shall be heard and

determined by the court without a jury.

(b) The court shall hear the evidence on the date fixed under subsection (a). The court may confirm the order of the works board or sustain the objections. The order of the court is conclusive, and all subsequent proceedings concerning the improvement must conform to the order.

(c) A special judge may be appointed if for any reason the regular judge of the court cannot hear the objections within the twenty (20) day time limit established by subsection (a).

As added by P.L.98-1993, SEC.7.

IC 36-9-36-17

Construction or repair of sidewalks and curbs; notice to abutting property owner of order requiring construction or repair

Sec. 17. (a) The works board may require the owners of abutting property to construct or repair the owners' own sidewalks or curbs if the works board:

(1) desires to improve or repair any sidewalks or curbs in the unit; and

(2) adopts a final resolution to that effect.

(b) The works board must give notice of the order concerning the construction or repair to the abutting property owners in person or by mail. Mailing of notices to owners as the names of the owners appear on the assessor's books of the county in which the land is located complies with this requirement.

(c) A property owner has thirty (30) days from the date of the notice to construct the sidewalks or curbs or make the repairs as required by the notice.

(d) If a property owner fails to comply with the order, the works board may have the sidewalk or curb constructed or repaired by an independent contractor.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-18

Contracting by works board for construction or repair of sidewalk or curb

Sec. 18. (a) The works board may let a general contract for the making or repairing of all sidewalks or curbs of a specified material within the unit. The contract shall include an agreed price per square yard for the sidewalk construction.

(b) If the contract is for work in a municipality, the contract may also specify the following:

(1) The price per cubic yard for excavation and filling.

(2) The price per lineal foot for curb.

(c) The letting of a contract under this section is governed by the statutes regulating contractual authority of the unit.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-19

Levy and collection of assessments for construction or repair of

sidewalk or curb

Sec. 19. (a) Assessments for the construction or repair of sidewalks or curbs shall be levied and collected according to this chapter.

(b) The entire cost of the sidewalk or curb improvements or repairs that the board undertakes by one (1) resolution shall be assessed and apportioned against each lot or parcel of property abutting on the improvement in the proportion the improved lineal front footage of each lot or parcel of property bears to the entire length of the improvement.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-20

Improvements on streets occupied by railroad tracks; procedure

Sec. 20. (a) This section does not apply to a county.

(b) If the track of a railroad, an interurban, or an interurban street railroad occupies part of a street that is ordered improved under this chapter, the works board may, on petition of the railroad, provide in the plans and specifications for the improvement for a different material and plan of construction for the part of the street occupied by the railroad.

(c) If the railroad is bound by contract to improve or pay the cost of improving the part of the street occupied by the railroad, the railroad is entitled to construct all of that part of the improvement if the railroad does the following:

(1) Elects to do so by written notice filed as follows:

(A) With the works board or other department of the unit having power to order the improvement.

(B) At any time before the adoption of the final resolution or ordinance providing for the improvement.

(2) On request of the works board or other department of the unit, files with the board or other department a bond in the amount and with the surety required by the works board or other department. The bond must be conditioned on the railroad's improvement of that part of the street:

(A) according to the plans and specifications;

(B) within the required time; and

(C) to the satisfaction of the engineer of the unit in charge of the work.

(d) The works board may issue a written improvement order requiring a railroad, an interurban, or an interurban street railroad to comply with IC 8-6-12.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-21

Roadway grading; assessment

Sec. 21. (a) This section does not apply to a county.

(b) The works board may grade the roadway of a street and assess the cost of the grading against the property specially benefited.

(c) The works board may let the contract under the statutes

regulating contractual authority of units. The unit shall levy and collect the assessments for the grading according to this chapter.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-22
Advertisement for bids; opening and consideration of bids

Sec. 22. (a) If the works board finally orders an improvement, the works board shall advertise for bids for the work as required by IC 36-1-12.

(b) The advertisement must state the following:

(1) That on the date named, the unit will receive bids for the improvement according to the resolution as modified or confirmed.

(2) The part of the cost of the improvement, if any, that will be paid by the unit.

(c) On the date named, all bids shall be publicly opened and considered.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-23
Bid bond or deposit

Sec. 23. (a) If the works board finally orders an improvement and has advertised for bids, the works board shall require each bidder to deposit with the bidder's bid, at the bidder's option, either a bid bond or a certified check to ensure the execution of the contract.

(b) The bid bond or certified check must be equal to the greater of the following:

(1) An amount not less than two and one-half percent (2 1/2%) of the engineer's estimate of the cost of the improvement.

(2) One hundred dollars ($100).

(c) The following applies if a bidder elects to deposit a bid bond:

(1) The bond must be payable to the works board with sufficient sureties.

(2) The bond must be conditioned upon the bidder's execution of a contract in accordance with the bidder's bid if accepted by the works board.

(3) The bond must provide for forfeiture of the amount of the bond upon the bidder's failure to execute the contract in accordance with the bidder's bid.

(d) The works board shall do the following:

(1) Return all checks and bonds submitted by unsuccessful bidders.

(2) Return a successful bidder's check or bond when the bidder enters into a contract with the works board.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-24
Contracts; scope; actions to enjoin performance

Sec. 24. (a) The contract for an improvement must be for the entire improvement.

(b) After the execution of a contract for an improvement, the validity of the contract may be questioned only in an action to enjoin the performance of the contract. This action must be brought:

(1) before the actual commencement of work under the contract, for an improvement by a county; or

(2) before the later of the following, for an improvement by a municipality:

(A) The actual commencement of work under the contract.

(B) Not later than ten (10) days after the execution of the contract.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-25
Contractor's guarantee

Sec. 25. (a) A contractor for an improvement must guarantee the contractor's workmanship and all materials used in the work.

(b) The guarantee required under subsection (a) must be in the following form:

"The contractor warrants the contractor's workmanship and all materials used in the work and agrees that during the guarantee period specified the contractor will at the contractor's own expense make all repairs that may become necessary by reason of improper workmanship or defective materials. The maintenance obligation, however, does not include repair of any damage resulting from any force or circumstance beyond the control of the contractor, nor is the contractor a guarantor of the plans and specifications furnished by the (county, city, or town).".

As added by P.L.98-1993, SEC.7.

IC 36-9-36-26
Repairs by contractor

Sec. 26. (a) If repairs become necessary, the unit must give written notice to the contractor to make the repairs. If the contractor fails to begin the repairs not later than thirty (30) days after the notice is received, the unit may do the following:

(1) Make the repairs using the unit's own employees or an independent contractor.

(2) Recover from the contractor and the contractor's sureties the reasonable cost of the repairs and the cost of the supervision and inspection of the repairs.

(b) At the expiration of the guarantee period, the unit has sixty (60) days in which to notify the contractor of any necessary repairs.

(c) This subsection does not apply to a county. If the repairs necessary to be made at the expiration of the guarantee period amount to more than one-half (1/2) the surface of one (1) block, the entire pavement of the block shall be taken up and relaid in accordance with the original specifications.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-27
Monthly payments to contractor

Sec. 27. (a) A contractor for an improvement is entitled to monthly estimates of the work done during each month. The estimates shall be made by the engineer of the unit and approved by the works board.

(b) The works board shall issue to the contractor certificates for eighty-five percent (85%) of the amount due the contractor by the estimates. The contractor is entitled to receive the amounts named in the certificates in cash or improvement bonds to be collected or issued by the unit. The certificates are negotiable instruments.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-28
Completed improvements; acceptance; cost estimates

Sec. 28. (a) An improvement that is completed according to contract must be accepted by the works board.

(b) Upon the completion of an improvement according to contract, the cost of the improvement shall be estimated according to the entire length of the improvement.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-29
Assessments; abutting lands or lots; street and alley intersections

Sec. 29. (a) The total cost of an improvement as determined under section 28(b) of this chapter, except for one-half (1/2) of the cost of street and alley intersections, shall be assessed on the abutting land or lots in the manner prescribed by this chapter.

(b) The remaining one-half (1/2) of the cost of street and alley intersections shall be assessed on the land or lots abutting on the streets or alleys that intersect the improved street or alley.

(c) Land and lots may be assessed for the following distances:

(1) One (1) block in either direction along the intersecting street or alley if the intersecting street or alley crosses the improved street or alley.

(2) One (1) block along the intersecting street or alley if the intersecting street or alley enters but does not cross the improved street or alley.

(d) For purposes of this section, the distance from the intersection of:

(1) a street or an alley improved under this chapter; and

(2) another street or alley;

along the other street or alley to the street line of the next intersecting street or alley is considered one (1) block.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-30
Assessments; basis; back lots; platted subdivisions

Sec. 30. (a) Lots, parcels, and tracts of land bordering on an improvement shall be assessed on the basis set forth in this chapter,

without regard to the depth of the lots, parcels, or tracts back from the front line of the improvement.

(b) After the final hearing before the works board concerning the actual benefits to abutting and adjacent property, the works board may assess other property behind the first lot if the following conditions are met:

(1) The back lot is within one hundred fifty (150) feet of the line of the improvement.

(2) The works board finds at the hearing that properties behind the abutting lot and within one hundred fifty (150) feet of the improvement are specially benefited by the improvement.

(c) Land and lots assessed under subsection (b) shall be assessed only in the amount the lands or lots are specially benefited by the improvement.

(d) Lots or land adjacent to the improvement are liable for the payment of the assessment as set forth on the final assessment roll.

(e) This subsection applies only to counties. If an improvement is constructed within a platted subdivision, the works board may assess all or part of the lots in that subdivision or any other platted subdivision connected to that platted subdivision by the improvement.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-31

Preparation of assessment roll

Sec. 31. (a) As soon as a contract for an improvement has been completed, the works board shall have an assessment roll prepared for the property abutting on and adjacent to the improvement. The property abutting on and adjacent to the improvement is liable to assessment under this chapter.

(b) The assessment roll must include the following:

(1) The name of the owner of each parcel of property.

(2) A description of each parcel of property.

(3) The total assessment, if any, against each parcel of property. The total assessment must be listed opposite each name and description.

(c) A mistake in the name of the owner or the description of property does not void the assessment or lien against the property.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-32

Presumptive finality of assessments; publication of notice

Sec. 32. (a) The following apply to the assessment indicated against each lot, tract, or parcel of land on the assessment roll:

(1) The assessment is presumed to be the special benefit to the lot, parcel, or tract of land.

(2) The assessment is the final and conclusive assessment unless the assessment is changed under section 33 of this chapter.

(b) Immediately after the assessment roll is completed and filed,

the works board shall publish a notice according to IC 5-3-1. The notice must do the following:

(1) Describe the general character of the improvement.

(2) State that the assessment roll, with the names of owners and descriptions of property subject to assessment and the amounts of any presumptive assessments, is on file and may be inspected at the works board's office.

(3) Name a time and date after the date of the last publication on which the works board will do the following at the works board's office:

(A) Receive and hear remonstrances against the amounts assessed on the roll.

(B) Determine whether the lots or tracts of land have been or will be benefited by the improvement in the following amounts:

(i) The amounts listed on the assessment roll.

(ii) Amounts greater or lesser than the amounts listed on the assessment roll.

(iii) Any amount at all.

(c) This subsection applies only to counties. The notice must also describe the platted subdivision or the parts of the subdivision on which there is property that is benefited and liable for assessment.

(d) This subsection applies only to municipalities. The notice must also describe the following:

(1) The public way or public place on which the improvement has been made.

(2) The terminals of the improvement.

(3) The public ways:

(A) that:

(i) intersect the improvement; or

(ii) are parallel to the improvement and within one hundred fifty (150) feet of the improvement; and

(B) on which there is property that is benefited and liable for assessment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-33

Remonstrance hearings; final determination of assessments

Sec. 33. (a) On the date fixed under section 32 of this chapter, the works board shall receive and hear all remonstrances from the owners of property described in the notice or the representatives of the owners.

(b) After the hearing, the works board shall sustain or modify the presumptive assessment as indicated on the assessment roll by confirming, increasing, or reducing the presumptive assessment against all or part of the property described in the roll. The works board's decision must be based on the works board's findings concerning the special benefits that the property has received or will receive on account of the improvement.

(c) If any property liable for assessment is initially omitted from

the assessment roll or a presumptive assessment has not been made against the property, the works board may place on the assessment roll any special benefit that the omitted property has sustained or will sustain by the improvement.

(d) The aggregate amount of assessments approved by the works board under this section may not exceed the cost of the improvement and must be equal to the aggregate amount of special benefits determined by the board under section 10 of this chapter.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-34

Completion and delivery of assessment roll; appeals

Sec. 34. (a) The works board shall complete the assessment roll and render the works board's decision by modifying or confirming the roll. The assessment roll shall show the total amount of special benefits opposite each name and a description of the property on the roll. When completed, the assessment roll shall be delivered to the following:

(1) The county assessor, for an improvement by a county.

(2) The municipal fiscal officer, for an improvement by a municipality.

(b) The decision of the works board as to all benefits is final and conclusive on all parties. However, an owner of an assessed lot or parcel of land who has filed a written remonstrance with the board may appeal to the circuit or superior court for the county.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-35

Delivery of primary assessment roll; payment of assessments to disbursing officer

Sec. 35. (a) The works board shall deliver a certified copy of the assessment roll completed under section 34 of this chapter to the disbursing officer of the unit after the works board:

(1) approves and accepts the entire work under any contract; and

(2) allows a final estimate.

(b) The duplicate assessment roll, to be known as the primary assessment roll, must show the following:

(1) The amount due on each piece of property if paid in cash within the time limit.

(2) The amount of waivers filed.

(c) The primary assessment roll must also have an appropriate column in which payments may be properly credited by the disbursing officer.

(d) This subsection does not apply to a county. All assessments, regardless of whether the assessments are payable in installments, are payable to the disbursing officer. The disbursing officer shall receive the payments, give proper receipts, and enter the proper credit.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-36
Assessment installments; notice when due

Sec. 36. (a) Upon receipt of the primary assessment roll, the disbursing officer shall by mail notify each affected person of the amount of the assessment against the person's property.

(b) The notice must state when the assessment is due, or when the assessment installments are due.

As added by P.L.98-1993, SEC.7. Amended by P.L.62-2001, SEC.2.

IC 36-9-36-37
Cash payment of assessments; interest on delinquencies

Sec. 37. (a) Except as provided in section 38 of this chapter, the entire assessment is payable in cash without interest not later than thirty (30) days after the approval of the assessment roll by the works board if an agreement has not been signed and filed under section 36 of this chapter.

(b) If the assessment is not paid when due, the total assessment becomes delinquent and bears interest at the rate prescribed by IC 6-1.1-37-9(b) per year from the date of the final acceptance of the completed improvement by the works board.

As added by P.L.98-1993, SEC.7. Amended by P.L.172-1994, SEC.1; P.L.67-2006, SEC.14; P.L.113-2010, SEC.154.

IC 36-9-36-38
Appeal of assessment; payment by property owner following court certification

Sec. 38. (a) If a property owner appeals the assessment made against the owner's property to the circuit court or superior court, the clerk of the court shall certify the judgment of the court to the unit's disbursing officer. The disbursing officer shall immediately notify the property owner of the amount of the assessment fixed by the court.

(b) The property owner has thirty (30) days from the date the notice is sent to:

(1) pay the assessment in cash; or

(2) elect to pay the assessment in installments by entering into an agreement under section 36 of this chapter.

(c) The unit shall then issue bonds in the amount of the assessment fixed by the court. The bonds must bear the date of the final acceptance of the work.

(d) The assessment bears interest as follows:

(1) From the date of the final acceptance of the work.

(2) At a specified rate per year that is not less than the interest rate specified for installments under section 36 of this chapter.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-39
Appeal of assessment; payment of part ordered to be assessed against unit

Sec. 39. The following applies to any part of the assessment that

the court orders to be assessed against the unit:

(1) The assessment bears interest:

(A) from the date of the final acceptance of the work; and

(B) at a specified rate per year that is not less than the interest rate specified for installments under section 36 of this chapter.

(2) The assessment may be paid by the unit in any manner provided by law for paying other assessments against the unit for similar work.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-40

Assessment liens

Sec. 40. (a) The unit has a lien against each parcel of real property that is assessed for:

(1) the construction, maintenance, or repair of an improvement; or

(2) the taking of lands for any purpose of the unit.

(b) The lien is established when the assessments are certified to the disbursing officer for collection. The unit may bring a foreclosure action to enforce the lien against a person who defaults in payment of the assessment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-41

Installment payment procedure; proceeds constituting special fund for payment of improvement; diversion prohibited

Sec. 41. (a) The disbursing officer of the unit shall do the following:

(1) Receive the payment of assessment installments.

(2) Keep all accounts and give proper vouchers for the payment of assessment installments.

(b) Proceeds arising from assessments for the payment of a particular improvement may not be diverted to the payment of any other improvement.

(c) The proceeds from assessments for the payment of a particular improvement constitute a separate special fund for the following:

(1) The payment of contractors for the particular work, upon the allowance of estimates by the works board.

(2) The security and payment of any bonds issued in anticipation of the collection of the assessments for the improvement, including debt service reserves to secure the payment of the bonds.

(3) The payment of expenses incurred by the unit in performing the unit's duties under this chapter, IC 36-9-37, IC 36-9-38, and IC 36-9-39 (or under IC 36-9-18 through IC 36-9-21, before the repeal of those provisions in 1993), including expenses, duties, and costs associated with the issuance, sale, or payment of the bonds.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-42
Notice; payments to bond owner; process collectable by fiscal officer

Sec. 42. If a bond owner receives a payment of interest or principal, or both, that was to have been collected under this chapter (or under IC 36-9-18 before its repeal in 1993) by the fiscal officer of a unit, the bond owner shall notify the fiscal officer of the payment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-43
Delinquent installments; acceleration; foreclosure of lien; notice of delinquency

Sec. 43. (a) Failure to pay an installment of principal or interest when the installment is due makes all installments of principal yet unpaid due and payable immediately, unless the unpaid installment of principal or interest is paid within the grace period provided.

(b) If the unit fails to collect an unpaid assessment or installment when due, liability does not accrue against the unit. However, the owner of the bonds or the person to whom the amount of the unpaid assessment for the performance of the work is due and owing is entitled to proceed in court to do the following:

(1) Enforce the lien or the unpaid assessment.
(2) Recover interest, costs, and reasonable attorney's fees.
(3) Have the proceeds of sale applied to the owner's or person's claim.

(c) If a person defaults in the payment of an installment of principal or interest, the disbursing officer shall mail a notice of the delinquency to the person in accordance with IC 36-9-37 regardless of whether a waiver has been signed. A notice mailed to the person in whose name the lands are assessed, addressed to the person within the unit, is sufficient notice. The person is not liable for attorney's fees unless an action is actually brought on the assessment.

(d) An action to collect an unpaid assessment may not be brought until the notice required by subsection (c) has been given.

(e) An action for foreclosure must be commenced not more than five (5) years after the cause of action accrues.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-44
Bonds in anticipation of assessment proceeds; authorization

Sec. 44. (a) The works board may issue bonds in anticipation of the collection of the assessments for an improvement. Except as provided in subsections (b) and (c), the bonds shall be issued and sold in the manner prescribed for other bonds of the unit. A unit issuing bonds under this section is not required to attach coupons to the bonds.

(b) The works board may provide for the issuance of the bonds directly to the contractor in the works board's preliminary resolution for the improvement. If direct issuance is authorized by the

resolution, the disbursing officer shall issue the bonds directly to the contractor.

(c) The works board may by resolution choose to:

(1) sell the bonds by negotiated private sale to a financial institution; and

(2) remit the proceeds of the sale to the contractor.

(d) The following applies after the issuance of bonds:

(1) An action to enjoin the collection of an assessment or to challenge the validity of the bonds or the sale of the bonds may not be brought.

(2) The validity of the assessment may not be questioned.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-45

Bonds; date; tax exemption

Sec. 45. (a) This section applies only to municipalities.

(b) Bonds issued in anticipation of the collection of assessments for an improvement must bear the date of the completion of the improvement under the contract and the acceptance of the improvement by the works board. The bonds draw interest from that date.

(c) The bonds are exempt from taxation for all purposes.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-46

Bonds; maturation; interest rate

Sec. 46. (a) The works board may provide in the preliminary resolution that the bonds issued in anticipation of the collection of the assessments shall be issued so as to mature not less than ten (10) years and not more than thirty (30) years from the date of issuance.

(b) The interest on the bonds shall be payable semiannually from the date of issue. The works board shall fix the rate of interest on the bonds issued.

(c) Bonds issued in the manner described in subsection (a) shall mature serially, so that some bonds mature each year until the final maturity date of the issue is reached. The terms of the bonds may allow early redemption of the bonds in the event of and to the extent of prepayment of the assessments in anticipation of which the bonds were issued.

(d) The works board must issue the bonds to mature as provided under subsection (c) if a petition requesting the bonds to mature in that manner is filed by a majority of the resident property owners affected by the improvement not later than sixteen (16) days after the resolution is first published.

As added by P.L.98-1993, SEC.7. Amended by P.L.62-2001, SEC.3.

IC 36-9-36-47

Transfer of assessment liens to bond owners

Sec. 47. (a) Bonds issued in anticipation of the collection of assessments convey and transfer to the owner of the bonds all

interests in the assessments and liens upon the respective lots or parcels of land.

(b) The liens stand as security for the bonds and interest until the bonds and interest are paid. A bond owner has full power to enforce the lien by foreclosure in court as provided in this chapter if the bond or interest is not paid when presented to the disbursing officer.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-48

Bond owners; foreclosure actions; procedure

Sec. 48. (a) Except as provided in subsection (b), sales to satisfy the bonds and interest shall be made as provided in this chapter for sales upon judgments or decrees foreclosing liens for assessments levied for improvements.

(b) The first bondholder who brings a foreclosure action against the property or any part of the property is entitled to have the proceeds of the action applied pro rata to the payment of that bondholder's own bonds and of bonds held by others.

(c) Only one (1) foreclosure action may be brought against one (1) lot or parcel of land. However, all lots or parcels of land against which the assessments are in default may be joined in one (1) proceeding.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-49

Sale of property following foreclosure action; amount

Sec. 49. (a) The property upon which the assessment is placed may not be sold for less than the amount of the assessment, attorney's fees, and costs. The proceeds of the sale shall be distributed as provided in this chapter.

(b) If the property sells for an amount greater than the amount necessary to pay the principal, interest, attorney's fees, and costs, the excess amount shall be paid to the property owner or party lawfully entitled to that excess amount.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-50

Negotiability of bonds

Sec. 50. (a) The bonds issued in anticipation of the collection of assessments are negotiable instruments and are free from all defenses by property owners.

(b) It is not necessary that the bonds include language describing the actions taken in ordering the improvement or directing the assessment. The bonds may instead include a general reference to this chapter.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-51

Foreclosure actions by contractors

Sec. 51. (a) This section applies to a contractor that is entitled to

enforce liens or assessments.

(b) The contractor or the contractor's assignee may bring an action against a person who has defaulted in payment of an assessment to foreclose the lien established by the assessment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-52

Foreclosure actions; complaint; proof

Sec. 52. (a) The complaint for a foreclosure action under this chapter need not set forth the specific proceedings leading to the final assessment. However, the complaint must include the following information:

(1) The date on which the contract for the improvement was finally let.

(2) The name of the improvement.

(3) The amount and date of the assessment.

(4) A statement that the assessment is unpaid.

(5) A description of the property on which the assessment was levied.

(b) At the trial of a foreclosure action, the plaintiff is not required to introduce proof of the proceedings before the works board leading to the final assessment. However, the plaintiff must introduce the final assessment roll or a copy of the final assessment roll. The final assessment roll or the copy of the final assessment roll must be properly certified.

(c) The final assessment roll or the copy is presumptive evidence that the works board took all actions required to be taken in making the final assessment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-53

Foreclosure actions; defenses

Sec. 53. (a) A defense to a foreclosure action may not be based on any of the following:

(1) Any irregularity in the proceedings making, ordering, or directing the assessment.

(2) The propriety or expediency of any improvement.

(b) A property owner may not raise any defense to a foreclosure action if the owner has done the following:

(1) Exercised the option to pay the owner's assessment in installments.

(2) Signed a waiver.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-54

Foreclosure actions; amount of recovery; sale procedure

Sec. 54. (a) In a foreclosure action brought under this chapter, the plaintiff is entitled to recover the amount of the assessment, principal and interest, and reasonable attorney's fees. The court shall order the sale to be made without relief from valuation or appraisement law.

(b) The county sheriff shall sell the property in the same way that lands are sold on execution. The sheriff shall, not later than five (5) days after the sale, execute a certificate of sale to the purchaser. The certificate of sale vests title in the purchaser when the certificate of sale is delivered. Title vested by a certificate of sale is subject only to the right to redeem under section 55 of this chapter.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-55
Foreclosure sales; irregularities; redemption

Sec. 55. (a) An irregularity or error in making a foreclosure sale under this chapter does not make the sale ineffective, unless the irregularity or error substantially prejudiced the property owner.

(b) A property owner has two (2) years from the date of sale in which to redeem the owner's property. The property owner may redeem the owner's property by paying the principal, interest, and costs of the judgment, plus interest on the principal, interest, and costs at the rate prescribed by IC 6-1.1-37-9(b).

(c) If the property is not redeemed, the sheriff shall execute a deed to the purchaser. The deed relates back to the final letting of the contract for the improvement and is superior to all liens, claims, and interests, except liens for taxes.
As added by P.L.98-1993, SEC.7. Amended by P.L.67-2006, SEC.15; P.L.113-2010, SEC.155.

IC 36-9-36-56
Foreclosure actions; parties; appearances; disposition of proceeds

Sec. 56. (a) In a foreclosure action under this chapter, other than a foreclosure action in which the unit is the plaintiff, the plaintiff must do the following:

(1) Name the officer who has custody of the improvement funds of the unit as a party defendant.

(2) Name that officer as custodian of the improvement assessment fund of the unit.

(b) The officer described in subsection (a) shall then notify the attorney of the unit to appear in the action.

(c) The fiscal officer of the unit shall do the following:

(1) Trace the proceeds of the foreclosure so that proceeds arising from assessments for the improvement of a particular project are not diverted to the payment of any other improvement.

(2) Ensure that in each case the judgment proceeds constitute a special fund for the payment of contractors or bondholders for the particular work.

(d) The judgment proceeds shall be allocated to the proper public improvement fund for pro rata distribution to the bondholders or contractors who are entitled to those proceeds.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-57

Foreclosure actions; payment of judgment; costs and attorney's fees; decree

Sec. 57. (a) The court costs and the attorney's fees allowed in foreclosure actions shall be paid directly to the clerk of the court to satisfy that part of a judgment. The remainder of the judgment shall be paid directly to the disbursing officer for the benefit of the special improvement fund of the department that is entitled to the foreclosure proceeds.

(b) The disbursing officer shall do the following:

(1) Enter the payment under subsection (a) on the records and duplicates.

(2) Satisfy the judgment docket as to the payment of the judgment.

(c) The court decree of foreclosure must assign the duties described in subsection (b) to the disbursing officer.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-58

Foreclosure actions; copy of complaint forwarded to disbursing officer; certification to disbursing officer of dismissals and sheriff's sales

Sec. 58. (a) In every foreclosure action under this chapter, other than a foreclosure action in which the unit is the plaintiff, the plaintiff must forward to the disbursing officer a copy of the complaint that sets out, among other allegations, the following:

(1) The name of the owner or owners being sued.

(2) The description of the property.

(3) The name of the improvement.

(4) The number of the assessment roll.

(b) The disbursing officer shall enter the facts upon the duplicate involving the litigated assessment while the action is pending.

(c) All dismissals of foreclosure litigation and all proceedings of sheriff's sales in foreclosures of assessment liens shall be certified to the disbursing officer.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-59

Foreclosure actions; suspension of collection of assessments

Sec. 59. The following apply while a foreclosure action is pending:

(1) The assessment may not be certified for collection.

(2) Bills or statements for payments may not be given to anyone except the plaintiff or the plaintiff's attorney of record.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-60

Reduction of installments

Sec. 60. (a) A statement showing the amount of the reduction of the installments shall be certified to the disbursing officer if:

(1) the property is sold by the sheriff under this chapter and the

money collected is insufficient to pay the principal and interest in full; or

(2) a court orders a reduction of principal and interest as assessed.

(b) Upon the receipt of the statement, the disbursing officer shall do the following:

(1) Calculate the reduction that applies to each installment.

(2) Enter on the bonds the amount of the reduction when the bonds are presented for payment.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-61

Disposition of foreclosure proceeds contrary to chapter

Sec. 61. (a) A person who disposes of the proceeds of foreclosure litigation in a way other than as provided by this chapter is considered to be a receiver for those entitled to the proceeds.

(b) In such instances the statute of limitations does not apply.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-62

Improvement costs to be paid by unit; bonds and certificates of indebtedness

Sec. 62. (a) A difference between the total assessments for an improvement and the contract price of the improvement shall be paid by the unit.

(b) The unit's part of the cost of an improvement shall, if possible, be paid from the general fund of the unit. If payment from the unit's general fund is not possible, the unit may issue bonds or certificates of indebtedness to the contractor for the amount of the unit's part of the cost. The unit's fiscal officer shall issue the bonds or certificates and shall fix the denominations of the bonds or certificates at the time of the approval of the final assessment roll and at the time of a subsequent reduction of assessments on appeal.

(c) The certificates of indebtedness issued under this section (or under IC 36-9-18 before its repeal in 1993) entitle the contractor to the amounts the certificates specify when a fund for redemption of the certificates has been provided.

(d) The certificates of indebtedness are negotiable instruments and bear interest from the date of the final acceptance of the work.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-63

Certificates of indebtedness issued under IC 36-9-36-62; authorization; interest; payment; maturity date

Sec. 63. (a) The certificates of indebtedness issued under section 62 of this chapter must be authorized by a resolution adopted by the works board and shall be signed by the following:

(1) The county auditor, for an improvement by a county.

(2) The municipal executive and fiscal officer, for an improvement by a municipality.

(b) The rate of interest on the certificates of indebtedness shall be fixed in the resolution of the works board. The rate may not be less than the current rate being paid on bonds then being issued in anticipation of the collection of special assessments.

(c) The certificates of indebtedness are payable out of the proceeds of the special tax levy or sale of bonds under section 64 of this chapter (or under IC 36-9-18 before its repeal in 1993). This fact must be recited on the face of the certificates.

(d) All of the certificates mature on December 31 of the year in which the special levy to pay the certificates is collected unless the resolution authorizing the issuance of the certificates of indebtedness provides the following:

(1) That not more than one-half (1/2) of the certificates are payable on June 30 of the year in which the special levy to pay the certificates is collected if a levy has been made in place of the sale of bonds.

(2) That the balance is payable on December 31 of the same year.

(e) The certificates of indebtedness do not draw interest after the maturity date named in the certificates unless the certificates are presented for payment on that date and stamped "not paid for want of funds". If not paid for want of funds, the certificates may be presented for payment again at six (6) month intervals after the maturity date, until the certificates are paid.

(f) If a sufficient levy or sale of bonds is not made in any year for the payment of the certificates of indebtedness, the certificates shall be paid when money becomes available for that purpose out of taxes collected from any subsequent levy of the special tax or sale of bonds.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-64

Funding for payment of certificates of indebtedness; special tax levy

Sec. 64. (a) For the purpose of raising money for the payment of certificates of indebtedness issued under section 62 of this chapter (or under IC 36-9-18 before its repeal in 1993) the fiscal body of the unit may do any of the following:

(1) Levy a special tax on all property in the unit each year.

(2) Issue and sell the bonds of the unit.

(3) Appropriate money from the general fund of the unit or from any other source.

(b) A special tax levied under this section shall be fixed at a rate on each one hundred dollars ($100) of assessed valuation of taxable property in the unit sufficient for the payment of the certificates, together with interest, that were or will be issued between July 1 of the preceding year and July 1 of the year in which the levy of taxes is made.

(c) A special tax levied under this section shall be:

(1) levied, certified to the county auditor, and collected in the

same manner as other taxes are levied, certified, and collected; and

(2) deposited in a separate fund known as the county (or municipal) improvement certificate fund for application to the payment of the certificates.

(d) The balance of the improvement certificate fund does not revert to the unit's general fund at the end of the unit's fiscal year, but remains in the fund for the next fiscal year.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-65

Special assessments to pay improvement costs; issuance of anticipatory certificates

Sec. 65. (a) This section applies only to municipalities.

(b) In addition to issuing bonds and certificates of indebtedness under section 62 of this chapter, a unit may pay the unit's part of the cost of an improvement from a fund raised by special assessments against all of the lands and lots in the unit. The unit comprises a special assessment district for that purpose.

(c) The following apply to special assessments under this section:

(1) The special assessments shall be levied in proportion to the value of the land or lots, excluding the value of improvements on the land or lots, as the land or lots are assessed for general taxation.

(2) The special assessments shall be levied annually at the time of the levy of general taxes. The levy must be for the amount necessary to pay the cost, with interest, of all work done during the year for which the special assessments are levied.

(3) The special assessments are payable at the time of payment of general taxes.

(d) The fund raised under this section is a specific fund to be held and used only for the purpose prescribed by this section.

(e) In anticipation of the collection of the special assessments, certificates in denominations not exceeding five hundred dollars ($500) shall be issued under a resolution adopted by the works board in the name of the unit. The fiscal officer shall sell the certificates or deliver the certificates to the contractor, as directed by the works board.

(f) The certificates entitle the holder to the amounts named in the certificates when a fund for redemption of the certificates has been collected. The certificates are negotiable instruments. One-half (1/2) of the certificates are payable on June 30 of the year after the special assessments for payment of the certificates have been made, and the remaining one-half (1/2) are payable on December 31 of that year. The certificates must be dated as of the date of the final acceptance of the improvement and may bear interest at any rate.

As added by P.L.98-1993, SEC.7.

IC 36-9-36-66

Correction of defects and irregularities

Sec. 66. If a defect or an irregularity results in the invalidity of a contract, an assessment, or a lien under this chapter, the defect or irregularity shall be corrected by supplementary proceedings that substantially comply with this chapter.
As added by P.L.98-1993, SEC.7.

IC 36-9-36-67
Surface improvements on public ways; performance by municipality; procedure

Sec. 67. (a) This section applies only to municipalities.

(b) As an additional method of making surface improvements on public ways, the works board may do the following:

(1) Make the improvements with the municipality's materials and employees.

(2) Assess the cost of the improvements against the abutting property owners.

(c) An improvement under this section must be at least one (1) city block long.

(d) A works board acting under this section shall determine a feasible cost for labor and materials per square yard for nonpermanent and permanent types of street surfaces. The works board shall, on the works board's own motion or on the petition of an owner of property abutting on any residential street, then do the following:

(1) Name certain public ways, including those petitioned for, for which an improvement is proposed.

(2) Give notice of the proposed improvement, in person or by mail, to the owners of property abutting on and affected by the proposed improvement.

(3) Hold a public hearing at the time and place set out in the notice.

(e) Notice of the hearing shall be given by publication in accordance with IC 5-3-1. At the hearing, the works board shall do the following:

(1) Inform the abutting owners of each owner's individual cost for each type of surface improvement.

(2) Inform the owners that the board shall order the improvement if, within the time fixed at the hearing, the owners do the following:

(A) Determine by a majority vote the type of improvement the owners want.

(B) Tender the cost of the improvement to the municipality.

(f) After the hearing, the works board shall order the improvement unless:

(1) the works board finds that the improvements should not be made; or

(2) the abutting owners do not comply with the conditions listed in subsection (e)(2).

(g) A municipality acting under this chapter may establish a revolving fund and may appropriate an amount of not more than ten

thousand dollars ($10,000) for the fund. Payments made by property owners under this section shall be paid into the fund, and the cost of material and labor for the improvements shall be paid out of the fund. The fund, which may be used only for the purposes of this section, does not revert to the municipality's general fund until the municipality ceases to act under this section.

As added by P.L.98-1993, SEC.7.

IC 36-9-37

Chapter 37. Barrett Law Funding for Municipalities

IC 36-9-37-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-2

Repealed

(*Repealed by P.L.97-2004, SEC.133.)*

IC 36-9-37-3

Municipalities owning and operating water utilities; water main extensions

Sec. 3. For municipalities that own and operate a water utility, water main extensions from the water utility may be made under this chapter only within the corporate boundaries of the municipality.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-4

Prerequisites for enforcement and collection of special assessments

Sec. 4. If a municipality levies special assessments against specific parcels of property under the Barrett Law, the municipal fiscal officer shall collect and enforce the special assessments and pay the bonds issued in anticipation of the collections of the special assessments if the following conditions are met:

(1) The municipal legislative body has by ordinance declared that the proposed improvement will be:

(A) a general benefit to the municipality and the citizens of the municipality; and

(B) a special benefit to the property owners in the area where the improvement is to be located.

(2) The ordinance has established the following:

(A) The general and special benefits described in subdivision (1).

(B) The proportions of the general and special benefits described in subdivision (1).

(3) The provisions of the Barrett Law have been followed.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-5

Assumption by municipality of responsibility for payment of bonds

Sec. 5. (a) A municipality may assume primary responsibility for the full payment of principal and interest of all bonds issued under this chapter (or under IC 36-9-19 before its repeal in 1993) for the improvement.

(b) The following apply if the municipality assumes the responsibility under subsection (a) for the full payment of principal and interest:

(1) All payments of principal and interest shall be made by the municipal fiscal officer out of appropriations for the project.

(2) The municipality shall be reimbursed by the collection of special assessments under the Barrett Law.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-6

Responsibility for payment of bonds; election to pay assessment in installments; collection

Sec. 6. If a property owner elects to pay the property owner's assessments in installments, the assessment shall be entered for collection on the improvement duplicate and shall be collected in the same manner as other taxes.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-7

Municipal fiscal officers; surety bonds; personal liability

Sec. 7. (a) A municipal fiscal officer acting under this chapter shall, in the manner prescribed by IC 5-4-1, obtain, execute, and file a bond conditioned upon the following:

(1) The faithful compliance of the municipal fiscal officer with this chapter.

(2) The faithful accounting for all money coming into the municipal fiscal officer's possession under the Barrett Law.

(b) A municipal fiscal officer who does any of the following is personally liable to a person suffering loss due to that action and may be removed from office by proper action filed under IC 5-8-1-35:

(1) Fails to collect the interest or penalties provided for by this chapter on delinquent assessments and installments of assessments.

(2) Fails to enforce the collection of the assessments by the sale of the property. However, this subdivision does not apply to a municipal fiscal officer of a municipality that has adopted an ordinance under section 24(a) of this chapter.

(3) Otherwise fails to comply with this chapter.

(c) The surety on the municipal fiscal officer's bond is also liable to the extent of the bond.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-8

Payment of expenses

Sec. 8. (a) Each year the municipal legislative body shall include in the municipal legislative body's annual budget and tax levy the necessary expense of any of the following that will enable the municipal fiscal officer to perform the duties prescribed by this chapter:

(1) Employing additional clerks.

(2) Furnishing suitable quarters.

(3) Obtaining necessary records, books, forms, and other supplies.

(b) If money for the purposes described in subsection (a) is needed before the collection of the tax levy, the money shall be:

(1) supplied by appropriation from the general fund of the municipality; or

(2) obtained from temporary loans in anticipation of the taxes levied.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-8.5

Assessments; installment payments

Sec. 8.5. (a) With respect to assessments imposed after June 30, 2001, the municipal works board shall establish a procedure to permit owners of real property in the unit to elect whether to pay assessments in:

(1) ten (10), twenty (20), or thirty (30) annual installments; or

(2) a number of monthly installments that corresponds to ten (10), twenty (20), or thirty (30) annual installments.

(b) The municipal works board shall establish the timing of the election under subsection (a) to permit the municipal works board to structure the maturities of the principal of the bonds in a number of annual series that is consistent with the installment periods elected by owners of real property under subsection (a).

(c) A person who elects to pay the person's assessment in installments under this section must, when directed by the municipal works board, enter into a written agreement stating that in consideration of that privilege the person:

(1) will not make an objection to an illegality or irregularity regarding the assessment against the person's property; and

(2) will pay the assessment as required by law with specified interest.

(d) The agreement under subsection (c) shall be filed in the office of the disbursing officer.

(e) The interest rate specified for the installments of the assessment may be equal to or greater than the interest rate on bonds issued under section 28 of this chapter.

(f) An assessment of less than one hundred dollars ($100) may not be paid in installments.

(g) If the property owner is not an individual, the election under subsection (a) must be made in the following manner:

(1) For a partnership, at least one (1) of the partners must sign the waiver and other instruments required for the election.

(2) For a corporation, the president or vice president must do all of the following:

(A) Sign the waiver and other instruments required for the election.

(B) File a certified copy of the resolution of the board of directors or trustees authorizing the president or vice president to execute those instruments on behalf of the corporation.

(3) For a church, a lodge, a charitable institution, or other

organization, the person or persons acting on behalf of the organization must sign the waiver and other instruments required for the election, but only after being instructed to do so by a resolution adopted at a meeting of the organization called for that purpose.

As added by P.L.62-2001, SEC.4.

IC 36-9-37-9

Certification of assessment roll; liens

Sec. 9. (a) When the assessment roll for an improvement ordered by the works board of a municipality is finally approved, the assessment roll shall be certified to the municipal fiscal officer. The fiscal officer shall then collect the special assessments listed on the assessment roll.

(b) Each special assessment constitutes a lien against the property on which the special assessment is levied.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-10

Liability of municipalities for assessments for public improvements

Sec. 10. (a) A political subdivision has the same powers and is subject to the same duties and liability in respect to municipal assessments for the cost of public improvements affecting the political subdivision's real property as private owners of real property.

(b) The real property of a political subdivision is subject to liens for the assessments if the real property would have been subject if owned by a private owner at the time the lien attached. However, a penalty or attorney's fees arising from such an assessment may not be collected from a political subdivision.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-11

Assessment installments; interest

Sec. 11. If a municipal works board orders any of the following improvements and assessments are imposed after June 30, 2001, to pay for the improvements or to repay bonds issued under this chapter after June 30, 2001, each owner of property assessed for that improvement may elect to pay the owner's assessment in installments with interest as described in section 8.5(a) of this chapter:

(1) Streets.

(2) Alleys.

(3) Other paved public places.

(4) Lighting.

(5) For municipalities that own and operate a water utility, water main extensions from the water utility.

(6) Sanitary sewers.

(7) Emergency warning systems.

As added by P.L.98-1993, SEC.8. Amended by P.L.62-2001, SEC.5; P.L.45-2004, SEC.1; P.L.42-2006, SEC.2.

IC 36-9-37-12
Payment of assessment in deferred installments; time for making payments

Sec. 12. (a) If a property owner has elected to pay the property owner's assessment in installments and the assessment roll for the cost of the improvement was finally approved before July 1 of a year, the first installment of the principal of the assessment, together with accrued interest, is payable on November 10 of that year.

(b) If a property owner has elected to pay the property owner's assessment in installments and the assessment roll for the cost of the improvement was finally approved after June 30 of a year, the first installment of the principal of the assessment, together with accrued interest, is payable on May 10 of the following year.

(c) Subsequent installments of principal and interest are payable at:

(1) one (1) year intervals after the date of payment of the first installment under subsection (a) or (b) if the property owner elected annual payments; or

(2) one (1) month intervals after the date of payment of the first installment under subsection (a) or (b) if the property owner elected monthly payments.

(d) This subsection applies if the property owner elected annual installment payments. With the first installment of principal, and interest to the first bond maturity date, an amount sufficient to cover six (6) months interest in advance on the assessment shall also be collected. With each succeeding installment of principal, except the last installment, six (6) months interest shall be collected in advance, so that only one (1) annual payment is made by the property owner on the assessment.

(e) This subsection applies if the property owner elected monthly installment payments. With each of the first six (6) installments of principal, and interest to the first bond maturity date, an amount sufficient to cover one (1) additional month's interest in advance on the assessment shall also be collected. With each succeeding installment of principal, except the last six (6) installments, one (1) month's interest shall be collected in advance.

As added by P.L.98-1993, SEC.8. Amended by P.L.62-2001, SEC.6.

IC 36-9-37-13
Payment of assessment in installments; proceeds; special fund

Sec. 13. Proceeds from assessments for the payment of a particular improvement may not be used for the payment of other improvements. The proceeds from assessments for the payment of a particular improvement constitute a special fund for the following:

(1) Payment of contractors for the particular improvement if allowance of the estimates has been made by the works board of the municipality.

(2) Security and payment of bonds issued in anticipation of the collection of the assessments for the improvements, including debt service reserves to secure the payment of the bonds.

(3) Payment of expenses incurred by the municipal fiscal officer in performing the municipality's duties under this chapter, IC 36-9-36, IC 36-9-38, or IC 36-9-39 (or under IC 36-9-18 through IC 36-9-21, before the repeal of those provisions in 1993), including any expenses, duties, and costs associated with the issuance, sale, or payment of the bonds.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-14

Prepayment of assessment installments

Sec. 14. (a) A property owner who has secured the right to pay the property owner's assessments in deferred installments by the filing of a waiver may, at any time after the expiration of the first year after the filing, pay the entire balance of the assessment and be relieved of the lien on the property owner's property. A property owner may not pay the property owner's entire balance under this subsection unless at the same time the property owner pays all interest due at the next interest paying period.

(b) If a person who exercises the right to prepay the person's assessment fully pays the assessment and interest, all interest and liability as to the assessed property ceases.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-15

Prepaid assessments; proceeds; special fund; investment; redemption of outstanding bonds

Sec. 15. (a) Prepaid assessments constitute a special fund to be held in trust by the municipality for the owner or owners of the bonds upon which the prepayments have been made.

(b) The municipal fiscal officer shall promptly invest and reinvest the special fund in securities of the federal government so that the principal will be available to pay the bonds upon which prepayments were collected as the bonds become due. The interest collected on these securities shall be applied to the payment of the interest lost on account of the prepayment of the assessments. The difference between the interest lost on account of the prepayment of assessments and the amount of interest earned by the investment in federal securities shall be paid by the municipal corporation that issued the improvement bonds.

(c) If the terms of the bonds allow early redemption for and to the extent of prepayments of the assessments in anticipation of which the bonds were issued, the municipality may use prepaid assessments to redeem outstanding bonds. However, if the bonds are issued on each parcel of real property covering the assessment against the real property, the municipality shall pay the prepayment to the holder of the bonds and cancel the bonds.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-16

Negligent investment of special fund money; liability of

municipality

Sec. 16. If a municipality negligently fails to invest or reinvest the special fund in the manner prescribed by section 15 of this chapter, the municipality is liable to the special fund for interest on the fund, calculated at the rate of interest of the bonds issued on account of the assessments. A holder of bonds upon which prepayments have been made may compel compliance with section 15 of this chapter by mandamus or other appropriate remedy. However, the failure of a bondholder to compel compliance does not relieve the municipality or any of the municipality's officers from liability under this chapter.
As added by P.L.98-1993, SEC.8.

IC 36-9-37-17
Special fund created under IC 36-9-37-15; warrants for disbursements

Sec. 17. Warrants for disbursements from the special fund established under section 15 of this chapter shall be drawn and issued in the manner provided by statute for disbursements from municipal funds. The officer having custody of the special fund shall honor and pay those warrants.
As added by P.L.98-1993, SEC.8.

IC 36-9-37-18
Notice; payments to bond owner; proceeds collectable by fiscal officer

Sec. 18. If a bond owner receives a payment of interest or principal, or both, that was to have been collected by the fiscal officer of a municipality under this chapter (or under IC 36-9-19 before its repeal in 1993), the bond owner shall notify the fiscal officer of the payment.
As added by P.L.98-1993, SEC.8.

IC 36-9-37-19
Notice of default on installment payments

Sec. 19. (a) If a person defaults in the payment of a waivered installment of principal or interest of an assessment, the municipal fiscal officer shall mail notice of the default to the person. The notice must meet the following conditions:

(1) Be mailed not more than sixty (60) days after the default.

(2) Show the amount of the default, plus interest on that amount for the number of months the person is in default at one-half (1/2) the rate prescribed by IC 6-1.1-37-9(b).

(3) State that the amount of the default, plus interest, is due by the date determined as follows:

(A) If the person selected monthly installments under section 8.5(a)(2) of this chapter, within sixty (60) days after the date the notice is mailed.

(B) If the person selected annual installments under section 8.5(a)(1) of this chapter, within six (6) months after the date the notice is mailed.

(b) A notice that is mailed to the person in whose name the property is assessed and addressed to the person within the municipality is sufficient notice. However, the fiscal officer shall also attempt to determine the name and address of the current owner of the property and send a similar notice to the current owner.

(c) Failure to send the notice required by this section does not preclude or otherwise affect the following:

(1) The sale of the property for delinquency as prescribed by IC 6-1.1-24.

(2) The foreclosure of the assessment lien by the bondholder.

(3) The preservation of the assessment lien under section 22.5 of this chapter.

As added by P.L.98-1993, SEC.8. Amended by P.L.172-1994, SEC.2; P.L.45-2004, SEC.2; P.L.67-2006, SEC.16; P.L.113-2010, SEC.156.

IC 36-9-37-20

Collection of delinquent assessments; interest penalties

Sec. 20. (a) If any principal and interest, or an installment of principal and interest, is not paid in full when due, the municipal fiscal officer shall enforce payment of the following:

(1) The unpaid amount of principal and interest.

(2) A penalty of interest at the rate prescribed by subsection (b).

(b) If payment is made after a default, the municipal fiscal officer shall also collect a penalty of interest on the delinquent amount at one-half (1/2) the rate prescribed by IC 6-1.1-37-9(b) for each six (6) month period, or fraction of a six (6) month period, from the date when payment should have been made.

As added by P.L.98-1993, SEC.8. Amended by P.L.67-2006, SEC.17; P.L.113-2010, SEC.157.

IC 36-9-37-21

Interest penalty collections; surplus Barrett Law account; use of funds

Sec. 21. (a) Interest penalties collected under section 20(b) of this chapter shall be credited to an account to be known as the surplus Barrett Law account. The amount credited shall be a part of the waivered municipal improvement funds. The money in the surplus Barrett Law account may be used as follows:

(1) To pay the interest on improvement assessments that is lost or forgiven due to the prepayment of installments of assessments.

(2) If the amount of money in the account exceeds five (5) times the average annual amount of lost or forgiven interest paid under subdivision (1) during the preceding three (3) years, that excess may be used for any of the following:

(A) The purchase of equipment for or pay expenses incurred by the municipal fiscal officer in performing the municipal fiscal officer's duties under the Barrett Law.

(B) Providing debt service reserves or other security for bonds issued by the municipality under this chapter,

IC 36-9-36, IC 36-9-38, or IC 36-9-39 (or under IC 36-9-18 through IC 36-9-21 before the repeal of those provisions in 1993).

(b) If payments of delinquent principal, delinquent interest, and interest penalties that are collected during any six (6) month period ending on May 10 or November 10 are sufficient to pay one percent (1%) of the face value of the bonds, all payments during that six (6) month period shall be applied to the payment of bonds after the next February 1 or August 1. However, if there are no more delinquent collections to be made, payment of the amounts collected shall be made in full.

(c) The fact that collections during a six (6) month period are insufficient to pay one percent (1%) of the face value of the bonds does not require the bonds to be marked "not paid for want of funds".

As added by P.L.98-1993, SEC.8.

IC 36-9-37-22

Default on single installment

Sec. 22. Except as provided in section 22.5 of this chapter, the following apply if at least one (1) installment of an assessment is in default:

(1) The total amount of the assessment that remains unpaid is considered to be in default.

(2) The assessed property is subject to sale under sections 23 through 24 of this chapter to pay that amount.

(3) The assessment is subject to the:

(A) requirements and duties imposed;

(B) rights and remedies provided; and

(C) procedures available to the county treasurer;

for the collection of delinquent property taxes.

As added by P.L.98-1993, SEC.8. Amended by P.L.45-2004, SEC.3.

IC 36-9-37-22.5

Preservation of assessment in default as a lien

Sec. 22.5. (a) The municipal fiscal officer and the municipal works board may jointly establish procedures allowing a municipality to avoid a sale, on property that is not delinquent for property taxes, penalties, and other special assessments, that:

(1) is required under section 22 of this chapter; and

(2) would be conducted under IC 6-1.1-24;

by preserving an assessment that is in default as a lien against the property on which the assessment was imposed. A lien created under this section applies to the total assessment principal, interest, and penalties owed by the property owner on the date on which the municipality determines that the assessment is in default.

(b) Except as provided in subsection (c), an assessment preserved as a lien under this section shall be paid by the person liable for the assessment when ownership of the property is transferred.

(c) The following apply to an assessment preserved as a lien under this section:

(1) Additional penalties do not accrue to the lien after the date described in subsection (a).

(2) The procedures established under subsection (a) must specify when additional interest shall accrue to the lien after the date described in subsection (a).

(3) The lien must be recorded.

(4) The amount owed by the property owner must be paid by the person liable for the assessment before the final bond maturity date.

(d) When the person liable pays an assessment preserved as a lien under this section, the proceeds of the collection are subject to the same requirements as the proceeds of a sale conducted under section 24 of this chapter.

As added by P.L.45-2004, SEC.4.

IC 36-9-37-23

Certification of delinquent assessments

Sec. 23. (a) This section does not apply to a municipality if the legislative body of the municipality adopts an ordinance providing that this section does not apply to the municipality.

(b) Except as provided in subsection (d), before June 1 of each year the municipal fiscal officer shall certify to the county auditor a list of all delinquent waivered and nonwaivered assessments. The list must include the following:

(1) The name or names of the owner or owners of each piece of real property on which the assessments for principal and interest are in default.

(2) The description of each of those pieces of property as shown by the records of the county auditor.

(3) The total amount of principal, interest, and penalty due on each of those pieces of property.

(c) The county auditor shall immediately enter the list in a special duplicate and transmit the list to the county treasurer for collection.

(d) After the county treasurer receives the list, payments on the delinquent assessments shall be made only to the county treasurer and may not be accepted by the municipal fiscal officer. However, this subsection does not apply to payments from the county under section 24 of this chapter.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-24

Delinquent assessments; sale of property

Sec. 24. (a) This section does not apply to a municipality if the legislative body of the municipality adopts an ordinance providing that this section does not apply to the municipality.

(b) After the county auditor receives the list of delinquencies from the municipal fiscal officer under section 23 of this chapter, the real property on the list is subject to collection by the county treasurer in the same way that delinquent property taxes are collected and may be sold in the manner that property is sold for taxes. The owners and

purchasers of the property have the same rights and remedies as the owners and purchasers would have at a tax sale.

(c) The county auditor shall issue a county warrant for the principal, interest, and penalty to the municipal fiscal officer originally charged with the collection of the principal, interest, and penalty after the following:

(1) The collection of the principal, interest, and penalty.

(2) Settlement for principal, interest, and penalty by the county treasurer.

(d) This section does not require a county or any of the county's officers to include the amount of delinquent principal, interest, or penalty in a certificate of sale to the county.

(e) If a county or municipal officer fails to perform the officer's duties under this section or section 20(a) of this chapter, a person aggrieved by the failure may bring an action against the officer to compel performance.

As added by P.L.98-1993, SEC.8. Amended by P.L.172-1994, SEC.3.

IC 36-9-37-25

Procedures to avoid a foreclosure action

Sec. 25. (a) To avoid a foreclosure action on a special assessment, a municipality may:

(1) defer collection of the assessment under section 22.5 of this chapter; or

(2) accept a conveyance in satisfaction of the assessment from the owner of the assessed property.

(b) If there are bondholders other than the municipality holding bonds on the improvement for which the assessment was made, the municipality may do any of the following:

(1) Join with the other bondholders in accepting a conveyance of an undivided interest in the property.

(2) Cause a conveyance of the property to be made to a bank or trust company in the municipality and held under a trust agreement by the bank or trust company for the use and benefit of the municipality and the other bondholders.

(c) A conveyance under this section may be accepted by the municipality only if the head of the municipal legal department makes a written recommendation to the city executive or town legislative body that the conveyance be accepted.

As added by P.L.98-1993, SEC.8. Amended by P.L.45-2004, SEC.5.

IC 36-9-37-26

Disposition of property acquired by foreclosure or conveyance; procedure

Sec. 26. (a) If a municipality acquires an undivided interest in real property by foreclosure of a special assessment or by a voluntary conveyance under section 25(a) of this chapter, the municipality may dispose of the municipality's interest in the manner prescribed by this section.

(b) The municipality must have the municipality's interest in the

property appraised by two (2) disinterested appraisers residing in the municipality. After appraisal, the city executive or town legislative body may sell the property interest for not less than the full appraised value of the property interest. Before selling the property interest, the city executive or the town legislative body must first provide notice of the proposed sale by publication in accordance with IC 5-3-1.

(c) This subsection applies if the municipality sells the property by acceptance of bids. A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify all of the following:

(1) Each beneficiary of the trust.

(2) Each settlor empowered to revoke or modify the trust.

(d) A conveyance under this section must be executed by the municipal executive and attested by the municipal clerk.

(e) The municipality shall return all money received from sales under this section to the fund for the use and benefit of which the property interest is held. Any money in excess of the amount necessary to provide full compensation to the fund for the obligations of the person liable for the assessment shall be returned to that person.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-27

Disposition of property held by bank or trust company

Sec. 27. (a) If property is held by a bank or trust company under section 25(b)(2) of this chapter, the trust agreement between the municipality and the bank or trust company may provide for the sale or conveyance of the property by the bank or trust company. The sale may not be made for less than the full appraised value of the property.

(b) The municipality may, in case of a sale, join in the conveyance of the property.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-28

Bonds; contents; issuance; denominations

Sec. 28. (a) When property owners have elected to pay special assessments for a public improvement in installments, the bonds issued in anticipation of the collection of those assessments must bear the date of the final acceptance of the improvement by the municipal works board. The bonds begin to bear interest on this date at a rate determined by the works board.

(b) Except as provided in subsection (d), the bonds may be issued in any denomination.

(c) Except as provided in subsection (d), the municipal fiscal officer shall choose the denomination that the municipal fiscal officer finds appropriate for the following:

(1) The circumstances of the particular improvement project.

(2) The efficient administration of the municipal fiscal officer's office.

(d) The last bond in a series need not be issued in a denomination

of a multiple of one hundred dollars ($100) if the total cost of the particular improvement project for which the series is issued is not an exact multiple of one hundred dollars ($100).
As added by P.L.98-1993, SEC.8.

IC 36-9-37-29
Bonds; series; redemption; time for payment; computation of interest; actions challenging validity

Sec. 29. (a) The municipal legislative body shall provide in the preliminary resolution that the bonds issued in anticipation of the collection of the assessments shall be issued so as to mature not less than ten (10) years and not more than thirty (30) years from the date of issuance.

(b) The terms of the bonds may allow early redemption of the bonds for and to the extent of prepayment of the assessments in anticipation of which the bonds were issued.

(c) If the assessment roll for the cost of an improvement was finally approved before July 1 of a year, the first of the series of bonds issued for the payment of the improvement is payable on February 1 of the following year, and the interest on the bonds shall be computed accordingly.

(d) If the assessment roll for the cost of an improvement was finally approved after June 30 of a year, the first of the series of bonds issued for the payment of the improvement is payable on August 1 of the following year, and the interest on the bonds shall be computed accordingly.

(e) Interest on the bonds is payable semiannually, beginning on the date prescribed by subsection (c) or (d).

(f) The municipal works board may by ordinance or resolution choose to:

(1) sell the bonds by negotiated private sale to a financial institution; and

(2) remit the proceeds of the bonds to the contractor for the public improvement.

(g) An action to challenge the validity of the bonds or the sale of the bonds may not be brought after issuance of the bonds.
As added by P.L.98-1993, SEC.8. Amended by P.L.62-2001, SEC.7.

IC 36-9-37-30
Payment of bonds at maturity

Sec. 30. (a) Bonds issued in anticipation of the collection of special assessments bear interest until the date of maturity if sufficient money is available to pay the principal of and interest on the bonds at that date.

(b) If sufficient money is not available to pay the principal of and interest on the bonds, any available money that was assessed to pay the bonds shall be paid to the holders of the bonds on a pro rata basis. The unpaid balances of the principal of and interest on the bonds bear interest until the delinquent assessments have been collected. The rate of interest on the unpaid balances must be the

same as the rate paid by the bonds before their maturity.

(c) If the principal of and interest on the bonds are not paid in full at their maturity, the bonds must be marked with the following:

(1) The date of payment.

(2) The amount of principal and interest paid.

(3) The balance unpaid.

(d) At every six (6) month period after the maturity of the bonds, the delinquent collections for the payment of the principal of and interest on the bonds and interest on the unpaid balances of the bonds shall be paid on a pro rata basis. Each bond shall be marked with the following:

(1) The amount of principal and interest paid.

(2) The balance unpaid.

(3) The amount of interest paid on unpaid balances.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-31

Bonds; presentation for payment; receipts

Sec. 31. (a) A person who holds bonds issued in anticipation of the collection of special assessments shall present the bonds for payment and arrange for the payment of interest with sufficient time before the maturity date or due date of the delinquencies so that the municipal fiscal officer has time to process the payment.

(b) The bondholder shall file with the bonds a list setting forth the following for the bonds:

(1) The roll numbers.

(2) The series numbers.

(3) The face values or unpaid balances.

(4) The total presented for payment.

(c) The municipal fiscal officer shall give a receipt to a bondholder presenting bonds for payment or receiving a payment of interest. The receipt holds the municipality responsible to the bondholders for the following:

(1) The unpaid principal of and interest on the bonds that were presented for payment.

(2) The unpaid balances of principal of and interest on those bonds.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-32

Schedule of amounts paid on bonds

Sec. 32. (a) If payment is made of principal or interest on bonds issued in anticipation of the collection of special assessments, the municipal fiscal officer shall prepare a schedule showing the following:

(1) All bonds on which payment of principal or interest is made, with the amount paid on each. If payment is not made in full, the fiscal officer shall specify the balance of principal and interest unpaid on each bond.

(2) The total of all principal of and interest on bonds on which

no payment is made.

(3) Interest paid on delinquency.

(4) The total amount of principal of and interest on bonds for which a receipt was issued.

(5) The total amount of principal and interest paid on bonds.

(6) The total amount of interest on delinquency paid.

(7) The total balance of principal of and interest on bonds unpaid.

(b) The fiscal officer shall give a copy of the schedule to the bondholder on the surrender of the bondholder's receipt.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-33

Matured bonds; notice to holder of money available for payment

Sec. 33. Upon request of the holder of any bond on which principal or interest has become due, the municipal fiscal officer shall do the following:

(1) Make a record of the following:

(A) The maturity of the principal of the bond or interest on the bond.

(B) The name and address of the holder.

(2) Notify the holder by mail immediately when money is available to pay the principal or interest.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-34

Bonds; tax exemption

Sec. 34. Bonds issued in anticipation of the collection of special assessments for public improvements are exempt from taxation for all purposes.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-35

Bonds; insufficient funds for payment; issuance of certificates of indebtedness

Sec. 35. (a) When the principal of or interest on bonds issued in anticipation of the collection of special assessments is due for payment, the municipal fiscal officer shall issue certificates of indebtedness to the owner of the bonds if:

(1) there is not enough money in the municipal improvement fund to pay the principal of or interest on the bonds in full; and

(2) at least one (1) of the conditions listed in subsection (b) is met.

(b) The municipal fiscal officer shall issue certificates of indebtedness for the amounts unpaid if the principal of or interest on the bonds cannot be paid because of any of the following:

(1) The stoppage of interest due to the prepayment of assessments.

(2) The failure to collect interest to the due date of the prepaid installments.

(3) The failure to reinvest prepaid assessments in the manner prescribed by this chapter.

(4) The diversion of money paid on one (1) assessment roll and account to the payment of the principal of or interest on bonds to another assessment roll and account.

(5) The loss of improvement money due to the closing and insolvency of a bank or trust company in which the money was on deposit.

(6) Any other diversion or misapplication of money collected for payment of the principal of or interest on bonds for which the municipality is liable.

(c) The amounts of certificates of indebtedness issued under this section shall be computed in the following manner:

(1) If the certificates are issued for a deficiency resulting from prepayment of assessments, the amount:

(A) is limited to the amount of interest that would have been payable at the respective due dates of the installments of assessments if the assessments had not been prepaid; and

(B) does not include interest between the time of the due dates and the issuance of the certificates.

(2) If the certificates are issued for a deficiency resulting from a diversion of money, the amount:

(A) is limited to the amount that would have been due if the diversion had not occurred; and

(B) does not include any interest after the date on which payment of the principal of or interest on the bonds is due.

(3) If the certificates are issued for a deficiency resulting from the loss of improvement money due to the closing and insolvency of a bank or trust company in which the money was on deposit, the amount is limited to:

(A) the actual amount deposited, plus interest at the depository rate up to the time of the closing of the bank or trust company; less

(B) any amounts that are recovered from any source by reason of the deposits and loss.

(d) No part of any delinquent assessments or installments, or of any interest on the delinquent assessments after the due date of the assessments, may be included in a certificate of indebtedness.

(e) The deficiency and diversion remedial provisions of this section do not make a municipality liable in any manner for any of the following:

(1) Assessments or installments of assessments not paid by the owner of the property assessed.

(2) Interest on any unpaid assessment or installment.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-36

Bonds; certificates of indebtedness; payment

Sec. 36. (a) Upon the delivery of certificates of indebtedness in payment of part of the principal of or interest on any bonds because

of a deficiency, the municipality shall, by proper endorsement of the bonds:

(1) reduce the face value of the bonds or the interest payable on the bonds by a corresponding amount; or

(2) cancel the bonds if the principal of and interest on the bonds are paid in full.

(b) The certificates of indebtedness shall be authorized, issued, and paid in the same manner as certificates of indebtedness issued under IC 36-9-36-62 and IC 36-9-36-64. However, the certificates draw interest only from the date of issue and the rate of interest shall be fixed by the resolution authorizing the issuance of the certificates.

(c) A municipality is not required to provide for or pay upon the certificates of indebtedness issued under section 35 of this chapter (or under IC 36-9-19 before its repeal in 1993) a total amount in any one (1) year in excess of the following:

(1) Fifty thousand dollars ($50,000) for a municipality having a population of at least thirty-five thousand (35,000).

(2) Twenty-five thousand dollars ($25,000) for a municipality having a population of at least ten thousand (10,000) but less than thirty-five thousand (35,000).

(3) Ten thousand dollars ($10,000) for a municipality having a population of less than ten thousand (10,000).

(d) A municipality shall make payments on the certificates of indebtedness issued under section 35 of this chapter (or under IC 36-9-19 before its repeal in 1993) in the order of the tender and demand for payment of outstanding certificates in each year. The municipality is not required to prorate the payments among all the outstanding certificates. The municipal fiscal officer is the sole judge of the order of tender and priorities of the certificates of indebtedness.

(e) Before issuing payment on a certificate, the fiscal officer shall, by audit and other investigation of the facts, determine the right to payment and the proper amount of the payment. The fiscal officer's determination is final and conclusive upon all the parties involved.
As added by P.L.98-1993, SEC.8.

IC 36-9-37-37
Refunding bonds

Sec. 37. (a) Instead of issuing certificates of indebtedness under section 35 of this chapter, the municipal legislative body may by ordinance issue refunding bonds to meet a deficiency arising in the municipal improvement fund if the following conditions are met:

(1) At least one (1) of the conditions listed in section 35(b) of this chapter is met.

(2) The amount of the deficiency is clearly established.

(3) The liability of the municipality for the deficiency is established. However, this subdivision does not require the liability of the municipality to be established by a judgment against the municipality.

(b) Refunding bonds issued under this section shall be issued in

the manner prescribed by IC 5-1-9. The proceeds of the bonds may be used only to discharge the liability of the municipality for the deficiency.
As added by P.L.98-1993, SEC.8.

IC 36-9-37-38
Overpayment of special assessments; refunds

Sec. 38. (a) If excess payments have been made and collected on special assessments for public improvements, the municipal fiscal officer shall, not later than thirty (30) days after the discovery of the overpayment, give notice of the amount of the overpayment by mail to the owner of record of the property on which the payment was made.

(b) When the municipal fiscal officer determines the amount of the overpayment and the person or persons to whom the reimbursement should be made, the fiscal officer shall issue a refund of the overpayment to the proper person or persons.
As added by P.L.98-1993, SEC.8.

IC 36-9-37-39
Overpayments; annual statement; notice; disposition

Sec. 39. (a) During January of each year, the municipal fiscal officer shall determine all amounts of overpayments on the special assessment rolls for public improvements that have been unclaimed for at least five (5) years. The fiscal officer shall prepare a detailed statement showing the following information for each overpayment:

(1) The date.
(2) The number of the receipt.
(3) The amount overpaid.
(4) The book and page where the overpayment is recorded.
(5) The owner of record of the property on which the overpayment was made.

(b) After preparing the statement described in subsection (a), the municipal fiscal officer shall give notice by publication in accordance with IC 5-3-1. The notice must do all of the following:

(1) Contain the names of the owners of record of the property affected by the assessment.
(2) State the amounts of the respective overpayments.
(3) State that the overpayments will be transferred to the general fund of the municipality unless the owners or the owners' legal successors or assigns appear and provide proof of their claims to the overpayments not later than thirty (30) days after the date of the first publication of the notice.

(c) At the expiration of the thirty (30) day redemption period under subsection (b), the municipal fiscal officer shall transfer and pay the unclaimed overpayments into the general fund of the municipality. The amounts transferred shall be used and expended in the same manner as other money in the general fund.
As added by P.L.98-1993, SEC.8.

IC 36-9-37-40
Money collected as special assessments; disposition after five years

Sec. 40. (a) If:

(1) all or part of any money collected as nonwaivered special assessments for public improvements has been in the possession of the municipal fiscal officer for at least five (5) years; and

(2) a demand for the money has not been made by a party entitled to the money within one (1) year preceding the end of the five (5) year period;

the municipal fiscal officer shall prepare a detailed list of the unclaimed money.

(b) The fiscal officer shall then give notice of the list by publication in the manner prescribed by section 39 of this chapter.

(c) At the expiration of the thirty (30) day redemption period provided by section 39 of this chapter, the municipal fiscal officer shall transfer and pay all of the unclaimed money into the general fund of the municipality. Money transferred under this subsection may be used and expended in the same manner as other money in the general fund is used and expended.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-41
Money deposited in general fund; claims

Sec. 41. (a) A person who is legally entitled to any money paid into the municipal general fund under sections 39 and 40 of this chapter may file a claim for the money with the municipal fiscal officer.

(b) A claim under subsection (a) must be filed as follows:

(1) In the same manner as other claims are filed against the municipality.

(2) Not later than five (5) years after the money is paid into the general fund.

(c) The fiscal officer shall pay the claim out of the general fund of the municipality if, upon investigation and proper proof of the claim, the municipal officials charged with the duty of making payments from Barrett Law funds do the following:

(1) Determine that the claimant is legally entitled to the money.

(2) Approve the refund of the money.

(d) The payment of the claim by the fiscal officer under subsection (c) shall be made without an appropriation.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-42
Transfer of unclaimed money to surplus Barrett Law account

Sec. 42. Balances of money may be transferred to the surplus Barrett Law account established under section 21 of this chapter (or under IC 36-9-19 before its repeal in 1993) if the following conditions are met:

(1) The balances have been on hand for at least ten (10) years.

(2) The balances were collected as waivered assessments for the

payment of bonds.

(3) At least one (1) of the following conditions is met:

(A) Bonds have not been presented for payment.

(B) Bonds have:

(i) been presented for payment;

(ii) been withdrawn; and

(iii) have not been not presented for payment again for at least ten (10) years.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-43

Unpaid warrants or checks; cancellation

Sec. 43. (a) A warrant or check shall be canceled on December 31 of a year if the warrant or check:

(1) is for:

(A) the payment of principal or interest on bonds;

(B) the payment of nonwaivered funds to contractors for public improvements; or

(C) damages sustained by a property owner on account of the operation of the public improvement assessment laws; and

(2) has been written and not cashed for a period of at least two (2) years.

(b) The proceeds of the canceled warrants or checks shall be credited to the funds on which the warrants or checks were originally drawn. If the funds on which the checks or warrants were originally drawn cannot be determined, the proceeds shall be credited to the following:

(1) The surplus Barrett Law account if the warrants or checks were drawn on waivered accounts.

(2) The nonwaivered account if the proceeds were drawn on the nonwaivered account.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-44

Prepaid interest; reimbursement

Sec. 44. (a) If:

(1) a municipality purchased under threat of condemnation real property upon which there were any unpaid Barrett Law assessments; and

(2) because of the purchase the vendor paid, under protest, the interest on the Barrett Law assessment for a period of ten (10) years in advance;

the vendor is entitled to a reimbursement for the interest paid in advance, less the interest for one (1) year.

(b) The vendor must present and prove a claim for the interest to the municipal fiscal officer. The reimbursement under this section shall be paid out of the surplus Barrett Law account of the municipality.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-45
Municipalities no longer using Barrett Law; transfer of surplus money

Sec. 45. Notwithstanding any other statute, a municipality may by ordinance transfer the surplus Barrett Law account money to the general fund or general improvement fund of the municipality if the following conditions are met:

(1) The municipality:

(A) has money in the surplus Barrett Law account;

(B) has established a general improvement fund under IC 36-9-17 or a similar statute; and

(C) no longer uses the Barrett Law for public improvements.

(2) There are no obligations or potential obligations arising out of the operation of the Barrett Law for which the surplus Barrett Law account money was accumulated or may be used.

(3) Notice of intention to transfer the surplus Barrett Law account money to the general fund or general improvement fund has been published in accordance with IC 5-3-1.

As added by P.L.98-1993, SEC.8.

IC 36-9-37-46
Barrett Law revolving improvement fund

Sec. 46. (a) A Barrett Law revolving improvement fund may be established under the municipal fiscal officer. This fund shall be initially funded by transferring to the fund from the surplus Barrett Law account any amount approved by the municipal legislative body.

(b) If the legislative body decides that payment from the Barrett Law revolving improvement fund will increase the probability that competent contractors will bid on the project, the fiscal officer may pay all or part of the cost of the project from the Barrett Law revolving improvement fund to the contractor who is to do the work or has done the work.

(c) The municipality shall levy a special assessment against property that benefits from the improvement project. The provisions of this chapter concerning special assessments to repay bonds also apply to special assessments for projects paid for from the Barrett Law revolving improvement fund.

(d) When the cost of an improvement is paid from the Barrett Law revolving improvement fund, collections from the special assessment for the improvement shall be deposited in the surplus Barrett Law account.

(e) If the municipal works board determines that to do so will facilitate the initiation, progress, or completion of a public improvement project, the works board may ask the municipal legislative body to do the following:

(1) Approve the amount of money the works board will advance from the Barrett Law revolving improvement fund for the project.

(2) Decide upon what terms the works board will make the advancement.

(f) The municipal fiscal officer may invest the money in the Barrett Law revolving improvement fund in the same manner that money in the surplus Barrett Law account is invested.
As added by P.L.98-1993, SEC.8.

IC 36-9-38

Chapter 38. Barrett Law Funding for Municipal Improvement Districts

IC 36-9-38-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-2

Permissible improvements

Sec. 2. The following improvements may be made under this chapter:

(1) Sidewalks.

(2) Streets.

(3) Pedestrian ways or malls that are set aside entirely or partly, or during restricted hours, for pedestrian rather than vehicular traffic.

(4) Parking facilities.

(5) Lighting.

(6) Electric signals.

(7) Landscaping, including trees, shrubbery, flowers, grass, fountains, benches, statues, floodlighting, gaslighting, and structures of a decorative, an educational, or a historical nature.

(8) Emergency warning systems.

As added by P.L.98-1993, SEC.9. Amended by P.L.42-2006, SEC.3.

IC 36-9-38-3

Improvement to be owned, maintained, and operated by municipality

Sec. 3. An improvement constructed under this chapter shall be owned, maintained, and operated by the municipality under the direction of the municipal works board.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-4

Application of statutes relating to planning and zoning, building codes, and restrictions on use of property

Sec. 4. The statutes relating to planning and zoning, building codes, and restrictions on the use of property apply to an improvement under this chapter.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-5

Application of IC 36-9-36 and IC 36-9-37

Sec. 5. To the extent they are not in conflict with this chapter, all the provisions of IC 36-9-36 and IC 36-9-37 apply to proceedings under this chapter.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-6
Persons having the same rights and powers as the owner of fee simple title

Sec. 6. For purposes of this chapter, the following persons have the same rights and powers as the owner of the fee simple title to a parcel of real property:

(1) The legal or authorized representative of the owner.

(2) A person obligated under a written instrument to pay an assessment against the property under this chapter.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-7
Petition to establish district

Sec. 7. (a) A petition for the establishment of an improvement district under this chapter may be filed with the works board of a municipality by any of the following:

(1) An association established under section 8 of this chapter.

(2) The owners of at least twenty-five percent (25%) of the parcels of real property in the proposed improvement district if an association has not been formed under section 8 of this chapter.

(b) A petition filed under this section by an association must be signed by a majority of the association's directors.

(c) A petition filed under this section must set forth all of the following:

(1) The boundaries of the proposed improvement district, including all of the real property that the petitioners believe will be specially benefited or damaged by the proposed improvement.

(2) The location and a general description of the proposed improvement.

(3) The estimated cost of the proposed improvement.

(4) As part of the petition or as an accompanying exhibit, the names and addresses of all the owners of real property within the boundaries of the proposed improvement district as the names and addresses are listed on the tax duplicates in the records of the county auditor.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-8
Association of owners of property affected by proposed improvement; requirements for establishment

Sec. 8. At least fifteen (15) persons may establish an association for purposes of this chapter if the persons are the owners of the following:

(1) At least fifteen (15) separate parcels of real property.

(2) At least twenty percent (20%) of the surface area of the real property affected by a proposed improvement under this chapter.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-9
Association established under IC 36-9-38-8; articles of association; filing and recording; powers

Sec. 9. (a) The persons establishing an association under section 8 of this chapter must sign and acknowledge written articles of association specifying the following:

(1) The name of the association.
(2) The purposes of the association, which must be limited to the purposes of this chapter.
(3) The names and addresses of the initial members.
(4) The principal office of the association.
(5) The name of the agent for purposes of communications and service of process.
(6) The term of existence of the association, which may be perpetual.
(7) The number of directors, which may not be less than three (3) or more than eleven (11).
(8) The amount of any membership fee and any annual dues.
(9) The area affected by any proposed improvements included within the purposes of the association.
(10) The square footage of the area affected by the proposed improvement.
(11) The square footage of the area affected by the proposed improvement included within the association.
(12) Any other provisions that the initial members consider desirable and that are not inconsistent with this chapter.

(b) The association shall file a copy of the articles of association, signed and acknowledged by all of the initial members, with the works board of the municipality in which the affected area is located. A copy of the articles of association shall be recorded in the office of the recorder of the county within which the area is located.

(c) An association formed under this chapter (or under IC 36-9-20 before its repeal in 1993) is a nonprofit corporate body and may do the following:

(1) Enter into contracts.
(2) Hold, convey, and transfer property.
(3) Sue and be sued.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-10
Association established under IC 36-9-38-8; notice; meeting

Sec. 10. (a) Not later than ninety (90) days after the filing and recording of the articles of association, the association shall hold a meeting of all owners of real property in the area described in the articles for the purpose of electing directors of the association.

(b) At least twenty (20) days before the meeting, notice of the meeting shall be mailed, first class postage prepaid, to all owners of real property in the area described in the articles of association. The notice must set forth the following:

(1) The time and place of the meeting.

(2) The purpose of the meeting.
(3) A general description of the nature and object of the association.
(4) The amount of any membership fee and any annual dues.
(5) Notice that an owner of real property may become a member of the association and be eligible to vote in the meeting, either in person or by authorized agent or attorney, by doing the following:
(A) Signing a copy of the articles of association at any time before the commencement of the meeting.
(B) Paying the membership fee, if any, and the dues for the first year, if any.

(c) The notice under subsection (b) may be mailed to the owners of real property at the owners' addresses appearing upon the tax duplicates in the records of the county auditor.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-11
Association established under IC 36-9-38-8; directors; bylaws

Sec. 11. (a) The directors of the association must be:
(1) members of the association; and
(2) owners of real property in the affected area.

(b) The directors elected under section 10 of this chapter serve until the next annual meeting and until the directors' successors are elected and qualified.

(c) The directors shall approve bylaws of the association. The following apply to the bylaws of the association:
(1) The bylaws may be amended.
(2) The bylaws may provide for officers of the association to be elected annually by the directors.
(3) The bylaws may contain any other provisions that are desirable for the conduct of the affairs of the association.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-12
Association established under IC 36-9-38-8; articles; amendment; property owners subsequently becoming members

Sec. 12. (a) The articles of association may be amended upon the recommendation of the directors and the approval of two-thirds (2/3) of all members of the association at a meeting called for that purpose. Amended articles must be signed and acknowledged by a majority of the directors. A copy of all amendments shall be filed with the municipal works board and recorded in the office of the county recorder.

(b) A copy of the articles of association, with any amendments, shall be kept available at the office of the agent of the association during regular business hours for signature by an owner of real property who desires to become a member of the association by signing the copy and by paying any membership fee and any annual dues.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-13
Notice of hearing on establishment of district

Sec. 13. (a) Upon the filing of a petition under section 7 of this chapter, the municipal works board shall fix a date for a hearing on the establishment of the proposed improvement district. At least twenty-one (21) days before the date fixed for the hearing, the petitioners shall have a notice mailed to all owners of real property within the proposed improvement district. The notice may be mailed to the owners of real property at the owners' addresses appearing upon the tax duplicates in the records of the county auditor.

(b) The petitioners shall publish a notice of the hearing and the date, place, and time of the hearing in accordance with IC 5-3-1.

(c) The notice to be published and mailed must do the following:

(1) Contain a general description of the contents of the petition.

(2) Specifically set forth the boundaries of the proposed district.

(3) State that all of the property in the proposed district will be assessed benefits or damages under this chapter for the proposed improvement.

(4) State that at the hearing all owners of real property within the proposed improvement district or the owners' representatives may be heard upon the question of the establishment of the district.

(d) Proof of service shall be made by affidavit of the person or persons causing service to be made.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-14
Petition in opposition to district; termination of proceedings

Sec. 14. (a) The owners of real property located in a proposed improvement district may remonstrate against the establishment of that district by filing a petition with the municipal works board. The county auditor shall verify the signatures on the petition.

(b) If the number of valid signatures equals or exceeds fifty-one percent (51%) of the owners of real property in the proposed improvement district, the works board shall cease the works board's proceedings to establish the improvement district.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-15
Conduct of hearing; resolution

Sec. 15. (a) At the hearing fixed under section 13 of this chapter, the municipal works board shall hear all owners of real property in the proposed improvement district who appear and request to be heard upon the following questions:

(1) The sufficiency of the petition and notice.

(2) Whether the proposed improvement is of public utility and benefit.

(3) Whether all of the probable benefits of the proposed

improvement, including the benefits to the municipality generally, will equal or exceed the estimated cost of the improvement.

(4) Whether the improvement district contains all, more than all, or less than all of the property specially benefited or damaged by the proposed improvement.

(b) The hearing under subsection (a) may be adjourned periodically without further notice. After the completion of the hearing, the works board shall adopt a resolution determining whether the following conditions have been met:

(1) The petition is sufficient.

(2) The required notice was given.

(3) The proposed improvements are of public utility and benefit.

(4) All of the probable benefits of the proposed improvement will equal or exceed the estimated cost of the proposed improvement.

(5) The proposed improvement district contains all, more than all, or less than all of the property specially benefited or damaged by the proposed improvement.

(c) The works board shall establish the improvement district with the boundaries described in the petition if the works board does the following:

(1) Answers the questions in subsection (b)(1) through (b)(4) affirmatively.

(2) Determines that the proposed improvement district contains all of the property specially benefited or damaged.

(d) If the works board answers any of the first four (4) questions negatively, the works board may:

(1) allow amendments and the issuance of additional notice and may hold further proceedings; or

(2) dismiss the petition without prejudice to the right to file a new petition.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-16

Hearing; determination that petition includes property not specially benefited; further proceedings

Sec. 16. (a) If the works board determines that property not specially benefited or damaged has been included within boundaries described in the petition, the works board shall do the following:

(1) Redefine the boundaries of the district and include in the works board's resolution only the property that is specially benefited or damaged.

(2) Establish the district with the boundaries as redefined.

(b) The works board shall fix a date for a further hearing if the works board determines that:

(1) less than all of the property specially benefited or damaged has been included within the boundaries described in the petition; or

(2) less than all of the property specially benefited or damaged has been included within the boundaries described in the petition and some property that is not specially benefited or damaged has been included.

(c) Notice of the further hearing, describing the proposed revised boundaries, shall be given in the manner prescribed by section 13 of this chapter. However, notice by mail shall be given only to the owners of real property in an area that is proposed to be added to the district and that was not included in the initial petition.

(d) At the further hearing, all owners of real property within the proposed district boundaries or the owners' representatives are entitled to be heard. The works board shall then adopt a resolution on the establishment of the district.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-17

Resolution establishing improvement district; recitations; notice to property owners; finality; recording; appeal

Sec. 17. (a) A resolution establishing an improvement district must also recite the following:

(1) That all real property within the district is subject to assessment of special benefits and damages by appraisers to be appointed by the municipal works board.

(2) That the assessments are subject to review in a hearing before the works board.

(b) The works board's resolution is considered notice to all property owners who have appeared or who have been notified of the proceedings that the owners' property is subject to an assessment of special benefits and damages under this chapter. Further notice or hearing is not required, except as provided by section 26 of this chapter.

(c) The resolution of the works board:

(1) is final and conclusive; and

(2) may not be challenged unless an appeal is made under subsection (e).

(d) A copy of the resolution establishing an improvement district, certified by the municipal clerk, shall be recorded in the miscellaneous records in the office of the recorder of the county in which the municipality is located.

(e) A person aggrieved by the adoption of a resolution establishing an improvement district may appeal in the manner prescribed by IC 34-13-6.

As added by P.L.98-1993, SEC.9. Amended by P.L.1-1998, SEC.217.

IC 36-9-38-18

Plans, specifications, and cost estimates

Sec. 18. (a) Upon adoption of a resolution establishing an improvement district, the petitioners for the district shall submit any plans, specifications, and estimates of the cost of the proposed improvement that the petitioners have prepared to the municipal

works board for review and approval.

(b) If the petitioners have not prepared plans and specifications, the works board shall have plans, specifications, and estimates of the cost of the proposed improvement prepared. For the purpose of preparing plans, specifications, and estimates of cost, the works board may employ architects, engineers, and other necessary consultants without an appropriation. The petitioners may advance money for this employment, subject to reimbursement, or the municipality may advance money on the approval of the municipal legislative body from unappropriated funds without an appropriation, also subject to reimbursement.

(c) Estimates of costs prepared under this section must include the following:

(1) Architectural, appraisal, consultant, engineering, legal, supervision, and other professional fees.

(2) The cost of plans and specifications, including amounts to be reimbursed under subsection (b).

(3) Construction costs, including the cost of land, material, and labor.

(4) All other related and incidental expenses.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-19

Eminent domain; vacation of streets and alleys; property owned by government entities

Sec. 19. (a) If:

(1) an improvement under this chapter requires the acquisition of property or property rights; and

(2) the acquisition cannot be made through the assessment proceedings established by this chapter;

the municipality may proceed by eminent domain.

(b) The eminent domain proceeding shall be conducted in the manner provided by the statutes applicable to acquisition of property by the municipality for public purposes. Any property or property rights acquired belong to the municipality.

(c) If it is necessary to vacate streets or alleys, the vacation shall be made in the manner provided by statute.

(d) Any property owned by the municipality or another governmental entity may be made available for any public improvement under this chapter, without charge.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-20

Letting of construction contracts; actions to enjoin performance; limitations

Sec. 20. (a) All contracts for construction of an improvement under this chapter shall be let by the municipal works board after advertisement as required for other contracts.

(b) All statutes applicable to the letting and performance of other contracts apply to contracts under this chapter.

(c) The validity of a contract entered into under this chapter may not be questioned, except in an action to enjoin performance. The action must be brought not later than fifteen (15) days from the execution of the contract. If the action is not brought within the fifteen (15) day period, the contract is valid, conclusive, and binding upon all persons.
As added by P.L.98-1993, SEC.9.

IC 36-9-38-21
Appointment of appraisers to assess benefits and costs

Sec. 21. (a) After the municipal works board approves plans and specifications for an improvement under this chapter, the works board shall appoint three (3) disinterested persons as appraisers to examine the following:

(1) The plans, specifications, and estimates of the cost of the proposed improvement.

(2) The real property within the improvement district.

(b) Upon request from the appraisers or the petitioners, the works board may do the following:

(1) Retain or employ qualified personnel to provide necessary technical or consulting assistance.

(2) Supply the appraisers with information that will assist the appraisers in making the assessment under section 22 of this chapter.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-22
Appointment of appraisers; assessment of benefits and costs; filing of roll

Sec. 22. (a) The appraisers shall make an assessment of the following:

(1) The special benefits and damages, if any, that will accrue to each parcel of real property from the construction of the proposed improvement.

(2) The benefits, if any, that will accrue to the municipality generally from the construction of the proposed improvement.

(b) The appraisers shall file with the municipal works board a copy of the roll of all owners of real property and of the municipality generally. The copy must:

(1) be signed by all three (3) appraisers;

(2) show the assessment of benefits and damages; and

(3) be filed by the appraisers with the works board not later than thirty (30) days after appointment of the appraisers, unless the board extends the time.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-23
Costs exceeding benefits; postponement of improvement; reappraisement; deficiency supplied; bond

Sec. 23. (a) If the total of the assessed benefits, after deducting

assessed damages, does not equal or exceed the total estimated cost of the improvement, further action may not be taken on the proposed improvement until:

(1) a second assessment of benefits and damages has been completed; or

(2) the petitioners, the municipality, or another source, separately or jointly, undertakes to provide the deficiency.

(b) The municipal works board may request the original appraisers to make the second assessment or may appoint three (3) other qualified, disinterested appraisers to make the second assessment. The second assessment shall be completed in the same manner as the first assessment.

(c) If a second assessment of benefits, after deducting the damages, does not equal or exceed the estimated cost of the improvement, further action may not be taken on the proposed improvement, unless the petitioners, the municipality, or another source, separately or jointly, undertakes to provide the deficiency. If the petitioners elect to provide the deficiency, further action may not be taken upon the improvement until the petitioners file with the works board a bond with adequate surety. The bond must be conditioned on payment of the net balance of the actual cost of the improvement over the total of the assessments after deducting damages.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-23.5

Assessments; installment payments

Sec. 23.5. (a) With respect to assessments imposed after June 30, 2001, the works board shall establish a procedure to permit owners of real property in the improvement district to elect whether to pay assessments in:

(1) one (1), five (5), ten (10), fifteen (15), or twenty (20) annual installments; or

(2) a number of monthly installments that corresponds to one (1), five (5), ten (10), fifteen (15), or twenty (20) installments.

(b) The works board shall establish the timing of the election under subsection (a) to permit the works board to structure the maturities of the principal of the bonds in a number of annual series that is consistent with the installment periods elected by owners of real property under subsection (a).

As added by P.L.62-2001, SEC.8.

IC 36-9-38-24

Final determination of costs; revised assessment

Sec. 24. (a) The municipal works board may, with the approval of the municipal legislative body, determine all of the following:

(1) Whether the benefits assessed against the municipality are proper and should be paid.

(2) Whether the municipality should pay a part of the cost of the improvement regardless of benefits assessed.

(b) An amount of benefits or costs to be paid by the municipality may be paid:

(1) out of the money of the municipality appropriated to the use of the works board for such an improvement; or

(2) through the issuance of bonds of the municipality.

(c) The notice of hearing required by section 26 of this chapter shall be given after the cost of the improvement has been finally determined by the works board through firm bids or contracts and firm estimates for other costs.

(d) If the finally determined cost of the improvement exceeds the total of:

(1) the benefits assessed, less damages assessed; and

(2) the contributions of the petitioners, the municipality, and other sources;

the works board shall direct the appraisers to review the assessments and submit a revised assessment list.

(e) The notice of hearing shall be given only after the works board determines that the money available from all sources is adequate to cover the total cost of the improvement, including all costs that are to be reimbursed under section 18(c) of this chapter.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-25

Appraisers; qualification for appointment

Sec. 25. A person appointed as an appraiser under this chapter must be:

(1) a disinterested licensed real estate broker; or

(2) a disinterested licensed appraiser under IC 25-34.1.

As added by P.L.98-1993, SEC.9. Amended by P.L.113-2006, SEC.22.

IC 36-9-38-26

Notice of proposed assessments to property owners; contents

Sec. 26. (a) Promptly after completion of all of the following, the municipal works board shall mail a notice, first class postage prepaid, to each owner of real property to be assessed:

(1) The filing of an adequate assessment.

(2) The determination of the cost of the improvement.

(3) The determination that adequate money will be available.

(b) The notices shall be mailed not later than twenty-one (21) days before the hearing date and must do all of the following:

(1) Set forth the amount of the proposed assessment.

(2) State that the proposed assessment on each parcel of real property in the district is on file and can be seen in the office of the works board.

(3) Set forth the date and time the works board will, at the works board's office, do the following:

(A) Receive written remonstrances against the assessments.

(B) Hear all owners of assessed real property who have filed written remonstrances before the date fixed for the hearing.

(c) The notices to the owners may be mailed to the owners' names and addresses appearing on the tax duplicates in the records of the county auditor.
As added by P.L.98-1993, SEC.9.

IC 36-9-38-27
Proposed assessments; written remonstrances; hearings; assessment roll; deficiency of funds

Sec. 27. (a) At the hearing fixed under section 26 of this chapter, the municipal works board shall hear all owners of assessed real property who have filed written remonstrances before the date of the hearing. The hearing may be continued from time to time without further notice, as necessary to hear the owners.

(b) The works board shall make a determination increasing, decreasing, or confirming each assessment by setting opposite each name, parcel, and appraisers' assessment on the assessment roll the amount of the assessment as determined by the works board. If the total of the assessments exceeds the amount needed, the works board shall make a pro rata reduction in each assessment.

(c) The signing of the assessment roll by a majority of the members of the works board and the delivery of the roll to the municipal fiscal officer constitute a final and conclusive determination of the benefits or damages assessed. However, a person may appeal the determination if:

(1) the person had previously filed a written remonstrance under this section; or

(2) the person's assessment was increased above the amount fixed by the appraisers.

(d) An appeal must be made in the manner prescribed by IC 34-13-6.

(e) If the final determination of the works board causes the total of the money available to be inadequate to cover the cost of the improvement, the deficiency may be supplied in the manner provided by section 24 of this chapter.
As added by P.L.98-1993, SEC.9. Amended by P.L.1-1998, SEC.218.

IC 36-9-38-28
Lien of assessment

Sec. 28. Each assessment levied under this chapter (or under IC 36-9-20 before its repeal in 1993) is a lien on the real property assessed. This lien is second in priority only to taxes levied on the property.
As added by P.L.98-1993, SEC.9.

IC 36-9-38-29
Municipal assessment; manner of payment; other assessments; payment in installments; interest

Sec. 29. (a) At the time the municipal works board determines the amount of the assessments, the municipal works board shall also determine the following:

(1) The manner in which the municipality shall pay the municipality's assessment, if any.

(2) The number of monthly or annual installments over which the other assessments will be paid.

(3) The maximum rate of interest on the installments, which may be equal to or greater than the interest rate on bonds issued under section 30 of this chapter.

(b) The works board shall certify the determination under subsection (a) to the municipal fiscal officer. This certification must accompany the assessment roll.

As added by P.L.98-1993, SEC.9. Amended by P.L.62-2001, SEC.9.

IC 36-9-38-30

Bonds

Sec. 30. (a) For the purposes of anticipating the collection of assessments under this chapter, the municipality shall issue bonds payable out of the assessments. However, a consolidated city is not required to issue bonds under this section.

(b) The terms of the bonds may allow early retirement of the bonds for and to the extent of prepayment of assessments in anticipation of which the bonds were issued.

(c) The bonds bear interest at a rate or rates determined by the legislative body of the municipality and shall be executed, sold, and delivered in denominations determined to be appropriate by the municipal fiscal officer as bonds of a municipality are executed, sold, and delivered.

(d) If the bonds are sold at a public sale, the advertisement of the sale of the bonds shall be published in accordance with IC 5-3-1. The municipality may also sell the bonds by negotiated private sale to a financial institution.

(e) Unless the municipality chooses to sell the bonds by a negotiated private sale to a financial institution, the sale shall be made to the highest and best bidder, as provided in IC 36-9-36. However, the sale may not be for less than the face value of the bonds, plus interest from the date of the bonds to the date of delivery.

(f) The bonds and interest on the bonds are exempt from taxation to the extent provided by IC 6-8-5-1.

(g) The bonds are not a corporate obligation or an indebtedness of the municipality and are payable only out of money actually paid and collected under this chapter (or under IC 36-9-20 before its repeal in 1993). The bonds must state this fact on the bonds' face.

As added by P.L.98-1993, SEC.9. Amended by P.L.62-2001, SEC.10.

IC 36-9-38-31

Fees for use of improvement; changes; hearing upon petition in cases of certain changes

Sec. 31. (a) At or before the completion of the assessment roll, the municipal works board may do either of the following:

(1) Adopt a schedule of fees for the use of an improvement.

(2) Determine that the use of the improvement will be free.

(b) Fees established under subsection (a) may be reduced, eliminated, increased, or added to by the works board without a hearing, but only to reflect increased or decreased costs of operation and maintenance.

(c) Any other changes in the fees established shall be made only after a hearing for that purpose is petitioned for by the owners of property originally assessed for at least ten percent (10%) of the cost of the improvement.

(d) If a petition is filed with the works board under subsection (c), notice of a hearing shall be given to all owners of property in the improvement district. The notice may be mailed to the owners at the owners' names and addresses appearing in the records of the official charged with the duty of collecting the assessments. The notice must:

(1) state the date, time, place, and purpose of the hearing; and

(2) be addressed and mailed at least ten (10) days before the date of the hearing.

(e) The works board may not alter the fees at the hearing if the owners of property originally assessed for more than fifty percent (50%) of the total assessments object to the proposed change.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-32

Fees for use of improvement; excess revenues; payment of bonds

Sec. 32. If the fees established under section 31 of this chapter produce net revenue in excess of reasonable costs of operation and maintenance, the excess revenue shall be used to pay part of the principal and interest on the bonds issued as the bonds mature. To the extent that principal and interest is paid from the excess revenue, the assessments shall be reduced and canceled on a pro rata basis.

As added by P.L.98-1993, SEC.9.

IC 36-9-38-33

Fees for use of improvement; amount limitation following retirement of bonds

Sec. 33. After the bonds are retired, the fees established under section 31 of this chapter may not be greater than is necessary to pay for the reasonable costs of operation and maintenance of the improvement.

As added by P.L.98-1993, SEC.9.

IC 36-9-39

Chapter 39. Barrett Law Funding for Municipal Sewers

IC 36-9-39-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-1.3

"Construction" defined

Sec. 1.3. As used in this chapter, "construction" includes repair, remodeling, renovation, or betterment, but only in instances when:

(1) a municipality acquires a sewage works that is in need of repair, remodeling, renovation, or betterment; and

(2) before the acquisition of the sewage works, the municipality was not responsible for the maintenance of the sewage works.

As added by P.L.1-1994, SEC.184.

IC 36-9-39-2

Transfer of powers and duties of municipal works board to utility service board; authorization

Sec. 2. If a municipality has a utility service board that operates at least one (1) municipally owned utility, the municipal legislative body may by ordinance transfer the powers and duties of the municipal works board under this chapter to the utility service board.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-3

Adoption of resolution; contents

Sec. 3. (a) The municipal works board shall adopt a resolution containing the information required under subsection (b) if:

(1) the municipal works board orders the construction of any sewage works in the municipality; and

(2) the cost of that construction is to be assessed against property under this chapter.

(b) A resolution adopted under subsection (a) must include all of the following:

(1) A description of the works to be constructed.

(2) Full detail drawings and specifications for the works.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-4

Notice of resolution and hearing; cost estimate

Sec. 4. (a) Notice of the resolution required under section 3 of this chapter shall be published in accordance with IC 5-3-1. The notice must state the date, time, and place of a hearing at which the municipal works board will hear all interested persons, including persons whose property is affected or will be affected by the proposed sewage works, on the question of whether the special benefits that will accrue to the property to be assessed will be equal

to the estimated cost of the works.

(b) On or before the date specified in the notice, the engineer shall file with the works board the engineer's estimate of the total cost of the work, including any amount determined under IC 36-9-22-5.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-5

Conduct of hearing; findings

Sec. 5. (a) At the hearing specified in the notice given under section 4 of this chapter, the municipal works board shall hear all interested persons on the question of special benefits and on any other matter related to the proposed sewage works.

(b) If after the hearing the works board finds that the special benefits accruing to the abutting property are equal to the estimated cost of the sewage works, the finding shall be entered of record. The finding is final and conclusive on all parties.

(c) If after the hearing the works board finds that the special benefits accruing to the abutting property are not equal to the estimated cost of the sewage works, the works board may not proceed with the construction of the sewage works under any resolution for one (1) year. However, the works board may proceed with the sewage works if the works board finds that the municipality is benefited in an amount sufficient to cover the deficiency.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-6

Confirmation or modification of resolution; subsequent proceedings under alternative sections depending on nature of sewage works

Sec. 6. (a) After the hearing under section 5 of this chapter, the original resolution may be rescinded, confirmed, or modified.

(b) If the resolution is confirmed or modified, the municipal works board shall do the following:

(1) Proceed under section 7 of this chapter if the resolution is for sewage works intended only for use by owners of abutting property.

(2) Proceed under section 8 of this chapter if the resolution is for sewage works intended to receive sewage from collateral drains.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-7

Sewage works for use by owners of abutting property; bidding procedure

Sec. 7. If the proposed sewage works are intended only for use by owners of abutting property, the municipal works board shall in accordance with IC 5-3-1 publish a notice that does the following:

(1) Informs the public and contractors of the following:

(A) The general nature of the works.

(B) The fact that drawings and specifications of the works

are on file in the office of the works board.

(2) Requests sealed proposals for the works by a specified date.

(3) Specifies the date the proposals shall be opened and considered.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-8

Sewage works adapted for receiving sewage from collateral sewers; map, profiles, drawings, and specifications; filing

Sec. 8. (a) The municipal works board shall prepare the information described in subsection (b) if, from the size and character of the proposed sewage works, the proposed sewage works are intended and adapted as follows:

(1) For use by owners of abutting property along the line of the works.

(2) For receiving sewage from collateral sewers that have been or may be constructed.

(b) If the conditions of subsection (a) are satisfied, the municipal works board shall prepare the following:

(1) A map showing the following:

(A) The exact course of the proposed works.

(B) Any appurtenances and branches of the works.

(C) The boundary lines of the district to be beneficially affected by and assessed for the construction of the works.

(2) All necessary profiles, drawings, and specifications for the works.

(c) The map, profiles, drawings, and specifications prepared under subsection (b) shall be placed on file in the office of the works board.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-9

Sewage works adapted for receiving sewage from collateral sewers; resolution; notice

Sec. 9. (a) After the material prepared under section 8 of this chapter is filed, the municipal works board shall do the following:

(1) Adopt a resolution ordering the construction of the sewage works.

(2) Publish a notice of the adoption of the resolution, in accordance with IC 5-3-1.

(b) The resolution and notice must describe the following:

(1) The general character of the sewage works.

(2) The termini and general course of the sewage works.

(3) The boundary lines of the district or area to be drained by and assessed for the sewage works.

(c) The notice must state the date, time, and place of a hearing at which the board will do the following:

(1) Receive and hear remonstrances from persons interested in or affected by the construction of the works.

(2) Hear and determine the following questions:

(A) Whether the district is properly bounded for the purpose

of the drainage.

(B) Whether other territory not included in the boundaries should be added to the district.

(C) Whether any of the territory included should be excluded from the district.

(D) Whether the special benefits accruing to the land within the district and to the municipality from the proposed improvement will be equal to the estimated cost of the improvement.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-10

Sewage works adapted for receiving sewage from collateral sewers; estimate of costs; hearing

Sec. 10. (a) On or before the day the notice is first published under section 9 of this chapter, the engineer shall file with the municipal works board the engineer's estimate of the total cost of the sewage works. A contract that exceeds this estimate may not be let under the resolution.

(b) At the hearing specified in the notice, the works board shall hear and receive evidence on the questions listed in section 9(c) of this chapter from all persons owning property within the district who appear before the board.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-11

Sewage works adapted for receiving sewage from collateral sewers; hearing; findings

Sec. 11. (a) If after a hearing under section 10 of this chapter the municipal works board finds that:

(1) the district to be drained is properly bounded; and

(2) the special benefits to the property within the district and to the municipality will be equal to the estimated cost of the sewage works;

the findings shall be entered of record and the resolution shall be confirmed or modified. The findings of the works board under this subsection are final and conclusive as to all parties.

(b) If after the hearing under section 10 of this chapter the works board finds that the benefits will not equal the estimated cost, the board may not proceed with the construction of the sewage works under the resolution.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-12

Sewage works adapted for receiving sewage from collateral sewers; enlargement of district; resolution; notice; hearing

Sec. 12. (a) If after a hearing under section 10 of this chapter the municipal works board finds that the district described in the resolution and notice should be enlarged by adding to the district other lots and lands that, at the hearing, were shown to be benefited

by the sewage works, the board may do the following:

(1) Adopt a supplementary resolution reciting this finding.

(2) Proceed under that supplementary resolution.

(b) The works board shall give notice to the property owners in the added territory by publishing in accordance with IC 5-3-1 a notice that does the following:

(1) Describes the proposed works.

(2) Sets forth the boundaries of the original district.

(3) Describes the boundaries of the territory proposed to be added.

(4) Fixes a date when the owners of property in the added territory may be heard on the question of whether the new territory or any part of the new territory should be incorporated into the original district.

(c) At the hearing specified in the notice, any of the owners of the lots or lands situated in the territory proposed to be added to the district may appear before and be heard by the works board on the question of whether the territory should be added. The decision of the works board is final and conclusive as to all parties in the territory.

(d) If the original resolution is confirmed or modified, the works board shall do the following:

(1) Proceed to advertise for proposals.

(2) Open and consider the proposals in the same manner as other proposals under this chapter.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-13

Payment of costs; appropriations; assessments; contracts

Sec. 13. (a) The municipal legislative body may by ordinance appropriate money from the general fund or from the sanitary district funds of the municipality to pay all or part of the cost of constructing sewage works under this chapter.

(b) Any costs not paid by appropriation shall be paid by at least one (1) of the following:

(1) By assessment under sections 15 through 27 of this chapter.

(2) By contract under IC 36-9-22.

(c) A second class city may not make an appropriation under this section unless the following conditions exist:

(1) The city works board makes a request for the appropriation to the city fiscal officer.

(2) The city fiscal officer prepares and submits to the city legislative body an ordinance for the appropriation.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-14

Payment of costs; application of statutes concerning public bond issues, construction, appropriations, and tax levies

Sec. 14. Construction of sewage works from a municipal general fund must comply with the statutes concerning public bond issues,

construction, appropriations, and tax levies.
As added by P.L.98-1993, SEC.10.

IC 36-9-39-15
Sewage works for use by property owners along street, alley, or other public place; requirements

Sec. 15. (a) The requirements listed in subsection (b) apply only if the municipal works board finds that the sewage works to be constructed:

(1) are intended and adapted only for local use by property owners along the line of the street, alley, or other public place on which the sewage works are constructed; and

(2) are not intended or adapted for receiving sewage from collateral sewers.

(b) The following requirements apply to the sewage works if the conditions of subsection (a) are satisfied:

(1) The abutting lots, parcels, and tracts of land shall be assessed primarily for the cost of the sewage works.

(2) The cost of the sewage works shall be primarily estimated according to the total number of lots abutting on the line of the works and served by the sewage works.

(3) The costs shall be primarily apportioned equally among all abutting lands or lots. However, adjustments shall be made as provided by section 16 of this chapter.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-16
Sewage works for use by property owners along street, alley, or other public place; assessments; computation

Sec. 16. (a) The primary assessment for each lot abutting on and served by the sewage works shall be determined by dividing the estimated total cost of the sewage works by the total number of lots.

(b) The total number of lots shall be computed as follows:

(1) If all or any part of the sewage works is located within an area platted or to be platted, each lot abutting on and served by the sewage works as shown in the plat shall be included in the total number of lots.

(2) If all or any part of the sewage works is located within an area that:

(A) is unplatted;

(B) contains a residence on each parcel of land; and

(C) is subject to zoning restrictions that prevent an increase in the number of residences;

each parcel of land that is abutting on or served by the sewage works and that contains a residence shall be included in the total number of lots as if the parcel was a platted lot.

(3) Except as provided in subdivision (2), if all or any part of the sewage works is located in an unplatted area, the number of lots to be included in the total number of lots shall be determined by dividing:

(A) the total front footage of the property abutting on and served by the sewage works within the unplatted area on either or both sides of the street, alley, or right-of-way in which the sewage works are located; by

(B) one hundred twenty-five (125) feet.

The result determined under clauses (A) and (B) shall be rounded to the nearest whole number.

(4) The front footage of property may not be used to determine the number of lots included in an unplatted area if the front footage:

(A) is not available for future development; or

(B) is restricted against usage because of:

(i) limited access; or

(ii) any other reasons.

(5) The total number of lots for a particular sewage works is the sum of the number of platted and unplatted lots as determined under subdivisions (1) through (4).

As added by P.L.98-1993, SEC.10.

IC 36-9-39-17

Sewage works for use by property owners along street, alley, or other public place; property abutting on two streets or one street and one alley; assessments; computation

Sec. 17. (a) If a platted lot or parcel of land:

(1) abuts on:

(A) at least two (2) streets or alleys; or

(B) one (1) street and one (1) alley; and

(2) has already been assessed for sewage works constructed for local use in any street or alley;

the works board shall take the previous assessment into account in making a subsequent assessment against the land under this section and sections 15 through 16 of this chapter.

(b) If the works board finds that:

(1) a lot, parcel, or tract of land included in a district, subdistrict, or zone cannot be reasonably connected with or served by the sewage works either directly or by collateral branches or extensions;

(2) the sewage works does not confer benefit on the property; or

(3) the benefit that may be conferred by the sewage works is less than the amount computed in the manner provided in this section and sections 15 through 16 of this chapter;

the works board may enter upon the primary assessment roll the actual amount, if any, found by the works board as the special benefit to the property.

(c) An amount credited, eliminated, or reduced shall be primarily apportioned over all the other property assessable for the sewage works, as the works board may find the other property to be benefited in addition to the amounts estimated and apportioned under section 16 of this chapter. If all of the amounts credited, eliminated,

or reduced are not reapportioned upon the other property, a deficiency shall be assessed against the municipality.
As added by P.L.98-1993, SEC.10.

IC 36-9-39-18
Sewage works adapted for receiving sewage from collateral sewers; assessments

Sec. 18. (a) The municipal works board shall make a division of the costs of the sewage works under subsection (b) if the municipal works board finds that a sewage works to be constructed or an enlargement of sewage works already constructed, is intended and adapted for the following:

(1) Use by abutting property owners along the line of the works.

(2) Receiving sewage from collateral sewers that have been or may be constructed.

(b) If the conditions of subsection (a) are satisfied, the works board shall make a division of the costs of the sewage works in the following manner:

(1) That part of the cost that is equivalent to the cost of construction of adequate local sewage works not adapted to receive sewage from collateral sewers shall be primarily assessed against the abutting property owners. The assessment shall be in the same manner and to the same extent as assessments are primarily made against property owners for local sewage works under sections 15 through 17 of this chapter.

(2) The excess of cost above the cost described in subdivision (1) shall be primarily assessed against each lot or parcel of land in the district to be drained. The assessment shall be in the proportion that the area of each lot or parcel bears to the total area of the district, including abutting property owners and the owners not situated on the line of the works.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-19
Sewage works adapted for receiving sewage from collateral sewers; assessments; hearing; review

Sec. 19. All primary or preliminary assessments made under section 18 of this chapter are subject to review and revision by the works board after a hearing under section 23 of this chapter.
As added by P.L.98-1993, SEC.10.

IC 36-9-39-20
Assessments; inclusion of amount determined under IC 36-9-22-5

Sec. 20. An assessment made under sections 15 through 19 of this chapter must include any amount determined under IC 36-9-22-5.
As added by P.L.98-1993, SEC.10.

IC 36-9-39-21
Assessment roll; formulation; contents

Sec. 21. (a) After the contract for the construction of sewage works has been completed, the municipal works board shall make out an assessment roll for the property that is primarily assessed for the sewage works.

(b) The assessment roll prepared under subsection (a) must include the following:

(1) The name of the owner of each lot or parcel of land.

(2) A description of each lot or parcel of land.

(3) The total primary assessment against each lot or parcel of land, as determined under sections 15 through 19 of this chapter. The amount of the total primary assessment shall be listed opposite each name and description.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-22

Assessment roll; finality of primary or preliminary assessments; notice of works, assessment roll, and hearing on assessments

Sec. 22. (a) The primary or preliminary assessments indicated on the assessment roll are considered the special benefits accruing to the land assessed and are final and absolute unless changed under sections 23 and 24 of this chapter.

(b) Immediately after the assessment roll is completed and filed, the municipal works board shall publish a notice in accordance with IC 5-3-1. The notice must do the following:

(1) Describe the general character of the sewage works.

(2) Describe the street, alley, or other public place on or in which the sewage works have been constructed.

(3) Describe the terminals of the sewage works.

(4) If the sewage works are intended to serve a district, describe the boundaries of the district benefited and to be assessed.

(5) State that the assessment roll, with:

(A) the names of the owners;

(B) descriptions of property to be assessed; and

(C) amounts of the preliminary or primary assessments;

is on file and may be inspected in the office of the works board.

(6) Establish the date and time for a hearing at which the works board will, at the works board's office, do the following:

(A) Receive and hear remonstrances against the amounts assessed on the assessment roll.

(B) Determine whether the lots and parcels of land have been or will be specially benefited by the sewage works in the amounts listed on the assessment roll.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-23

Hearing on assessments; findings; modification of preliminary or primary assessments

Sec. 23. (a) At the hearing fixed under section 22 of this chapter, owners of assessed property may appear before the municipal works board and file remonstrances against the assessments. The works

board may continue proceedings from day to day, as necessary to hear the evidence concerning the assessments.

(b) The works board shall determine at the hearing whether the several lots and parcels of land primarily assessed are specially benefited in the amounts respectively assessed against the lots and parcels of land in the preliminary or primary assessment.

(c) The works board shall sustain or modify, in whole or in part, the preliminary assessment as indicated on the assessment roll, by confirming, increasing, or reducing the preliminary or primary assessment against all or part of the property described in the assessment roll. The decision of the works board must be based on the works board's findings concerning the special benefits received on account of the sewage works.

(d) The works board shall also determine at the hearing what part, if any, of the benefits resulting from the sewage works accrue to the municipality and shall be assessed against the municipality on the assessment roll.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-24

Hearing on assessments; modification of assessment roll; delivery to fiscal officer

Sec. 24. The works board shall do the following:

(1) Complete the assessment roll and make a decision by modifying or confirming the assessment roll.

(2) Show the amount of special benefits opposite each name and description. The works board shall show the amount of special benefit against the municipality if the works board finds that the municipality is specially benefited.

(3) Deliver the completed assessment roll to the municipal fiscal officer.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-25

Hearing on assessments; finality of decision; appeals; effect of defective procedures

Sec. 25. (a) Except as provided in subsection (b), the decision of the works board concerning all benefits is final and conclusive on all parties.

(b) An owner of an assessed lot or parcel of land who has filed a written remonstrance with the board may appeal in the manner prescribed by IC 34-13-6. The appeal does not delay the delivery of the assessment roll to the municipal fiscal officer and does not affect the rights of any other property owner.

(c) If an assessment is reduced on appeal, the works board shall certify the correction to the municipal fiscal officer. The municipal fiscal officer shall then enter the proper amount of the assessment on the roll.

(d) The following applies if there is a defect in the assessment proceedings with respect to at least one (1) interested person:

(1) The defect affects the proceedings only to the extent that the defect affects the interest or property of the person or persons.
(2) Supplementary proceedings of the same general character as those described by this chapter may be had to correct or supply the defect.

As added by P.L.98-1993, SEC.10. Amended by P.L.1-1998, SEC.219.

IC 36-9-39-26
Duties of fiscal officer

Sec. 26. When the assessment roll has been delivered to the municipal fiscal officer, the municipal fiscal officer shall discharge the same duties in respect to the assessments as are prescribed by the statutes concerning street, alley, and other improvement assessments in the municipality.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-27
Assessments against municipality; payment; property not liable for assessments; subrogation rights of municipality

Sec. 27. (a) The municipal works board shall pay assessments made against the municipality under section 23(d) of this chapter from money appropriated to the use of the municipal works board for that purpose. The payment shall be made upon the completion and acceptance of the sewage works.

(b) Unless an ordinance expressly appropriates a greater amount for the specific sewage works, a payment under subsection (a) is limited to the following:

(1) Not more than five thousand dollars ($5,000) in a city.
(2) Not more than five hundred dollars ($500) in a town.

(c) The municipality shall also pay the part of the cost of the sewage works that would be assessable against property not liable for assessment if the property was liable for assessment. The payment shall be made from the municipal general fund upon the completion and acceptance of the sewage works.

(d) A municipality that pays assessments under this section is subrogated to the rights and remedies of the contractor constructing the sewage works.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-28
Enforcement of assessments and bonds; statutes applicable

Sec. 28. (a) The statutes described in subsection (b) apply to the enforcement of assessments made and bonds issued for the construction of sewage works or levees for the following:

(1) The drainage of a parcel, lot, or tract of land.
(2) A change in a stream or watercourse.

(b) Statutes concerning the following are subject to subsection (a):

(1) Liens for street, alley, and other improvements.
(2) The payment of street, alley, and other improvement

assessments by installments.

(3) The interest rates on the assessments.

(4) The deposit of the proceeds of the assessments into a separate special fund for a particular improvement.

(5) The application of the proceeds of the assessments under a separate special fund for a particular improvement.

(6) The issuance, sale, and redemption of bonds to anticipate the assessments.

(7) The duties of the municipal fiscal officer.

(8) The enforcement of assessment liens for street, alley, and other improvements.

(9) Actions foreclosing liens, attorney's fees in those foreclosure actions, and the procedure in those foreclosure actions.

(10) The conduct of sales by the sheriff under any decree of foreclosure issued in a foreclosure action.

(11) The execution of certificates and deeds.

(12) All matters of a similar nature regarding any of the following:

(A) The enforcement and collection of assessments for street, alley, and other improvements.

(B) The rights of contractors, assignees, and bondholders under the assessments.

As added by P.L.98-1993, SEC.10.

IC 36-9-39-29

Contractors; submission of monthly estimates of work done; issuance of certificates in payment; negotiability; interest; retainage

Sec. 29. (a) A contractor for construction under this chapter is entitled to monthly estimates of the work done during each month. The estimates shall be made by the engineer and approved by the municipal works board.

(b) The works board shall issue to the contractor certificates for sixty-five percent (65%) of the amount shown by the estimates to be due to the contractor. The contractor is entitled to receive the amounts named in the certificates in cash or sewer improvement bonds to be collected or issued by the municipality, as is provided for in the construction of street, alley, and other improvements.

(c) Certificates issued under this section (or under IC 36-9-21 before its repeal in 1993) are negotiable instruments.

(d) Interest on the certificates is payable out of the contract price and the special fund collected from the special assessments against the benefited property.

(e) If the municipality in issuing a contract for construction has required and obtained performance and payment bonds covering one hundred percent (100%) of the cost of construction, retainage shall be withheld as follows:

(1) This subdivision applies until the public work is fifty percent (50%) complete. The works board shall, on approval of

contractor monthly payment estimates, issue to the contractor certificates for ninety percent (90%) of the amount shown to be due to the contractor.

(2) This subdivision applies after the public work is fifty percent (50%) complete. If the works board determines that the contractor is being responsive and responsible in carrying out the construction, the works board may, on approval of contractor monthly payment estimates, issue to the contractor certificates for one hundred percent (100%) of the amount shown to be due to the contractor.

As added by P.L.98-1993, SEC.10. Amended by P.L.1-1994, SEC.183.

IC 36-9-39-30

Sewage works through cemeteries; purchase or condemnation of rights-of-way; assessments prohibited; removal of bodies; record

Sec. 30. (a) Except as provided in subsection (b), if the municipal works board finds it necessary to extend any sewage works through or adjacent to a lot or parcel of land held or used for cemetery purposes, the municipality may purchase or condemn all rights-of-way necessary for the extension.

(b) A lot or parcel of land held or used for cemetery purposes may not be assessed for the construction of the sewage works. The cost of the sewage works that would otherwise be assessable against the lot or parcel of land shall be assessed against and paid by the municipality.

(c) If the municipality acquires a right-of-way under this section by condemnation, an owner of property or valuable interests sought to be taken or to be injuriously affected who is unknown may be designated as unknown upon the list required by the statute governing municipal condemnation proceedings and in all subsequent steps in the proceedings, including notice by publication.

(d) If a body remains buried within the limits of a right-of-way acquired under this section, the friends or relatives of the decedent shall promptly remove the body. If the friends or relatives fail to remove the body, the works board shall have the body removed and decently buried in a public cemetery before proceeding with construction in the right-of-way. The works board shall do the following:

(1) Plainly mark in an appropriate manner the place of burial and the names of the persons buried, if known.

(2) Enter the place of burial in the records of the works board.

As added by P.L.98-1993, SEC.10.

IC 36-9-39.1

Chapter 39.1. Alternative Assessment Financing for Municipal Sewage Works

IC 36-9-39.1-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by P.L.169-2006, SEC.82.

IC 36-9-39.1-2

"Board"

Sec. 2. As used in this chapter, "board" means the following:

(1) A board described in IC 36-9-23-5.

(2) A board described in IC 36-9-25-2.

As added by P.L.169-2006, SEC.82.

IC 36-9-39.1-3

"Fund"

Sec. 3. As used in this chapter, "fund" refers to a sewer improvement and extension fund established under section 5 of this chapter.

As added by P.L.169-2006, SEC.82.

IC 36-9-39.1-4

Adoption of resolution

Sec. 4. If a board wants to construct, repair, extend, or improve a sewage works, the board may adopt a resolution providing that the construction, repair, extension, or improvement will be financed under this chapter.

As added by P.L.169-2006, SEC.82.

IC 36-9-39.1-5

Ordinance establishing fund

Sec. 5. (a) A municipality may adopt an ordinance establishing a sewer improvement and extension fund to finance the construction, repair, extension, or improvement of a sewage works.

(b) A fund consists of the following:

(1) A special assessment imposed and collected under section 7 of this chapter. However, a special assessment imposed and collected under any other statute may not be deposited in the fund.

(2) An appropriation to the fund, including an appropriation made from taxes levied by a municipal legislative body for the construction, repair, extension, or improvement of a sewage works.

As added by P.L.169-2006, SEC.82.

IC 36-9-39.1-6

Transfer of money to fund

Sec. 6. (a) The legislative body of a municipality that establishes

a fund may appropriate money from the municipal general fund and transfer the money to the fund.

(b) During the fiscal year in which a municipality establishes a fund, the legislative body of the municipality may make an emergency appropriation from the municipal general fund and transfer the money to the fund.

As added by P.L.169-2006, SEC.82.

IC 36-9-39.1-7

Appropriation of money for sewage works

Sec. 7. (a) A board may adopt an ordinance or a resolution to appropriate money from funds under the board's control to pay for all or part of the cost of the construction, repair, extension, or improvement of a sewage works.

(b) Any costs not paid under subsection (a) must be paid by:

(1) an assessment imposed under subsection (c) against the benefited properties; or

(2) a contract under IC 36-9-22.

Any interest or penalties attributable to an assessment under this section must be deposited in the fund.

(c) The board may adopt a resolution to impose an assessment to finance the construction, repair, extension, or improvement of a sewage works. The assessment must be imposed and collected as provided by the street and sewer improvement statutes.

As added by P.L.169-2006, SEC.82.

IC 36-9-39.1-8

Contracts for sewage works

Sec. 8. (a) A contract for the construction, repair, extension, or improvement of a sewage works is subject to the statutes authorizing municipalities to make and finance public improvements.

(b) Upon awarding a contract for the construction, repair, extension, or improvement of a sewage works under this chapter, a board shall:

(1) carefully compute the entire cost of the construction, repair, extension, or improvement, including payments to the contractor and all incidental costs, expenses, and damages paid and incurred according to law; and

(2) prepare and make out an assessment roll listing the assessments against the properties benefited.

In determining and fixing the amount of assessments, the giving of notice of assessments, the holding of public hearings, and the making of final determinations, subject to the right of appeal from those determinations, the board is governed by the street and sewer improvement statutes.

(c) An assessment under this chapter is a lien against the benefited property from the time of the letting of the contract and shall be collected in the manner provided for collection of Barrett Law assessments.

(d) The board shall fix a period of not more than twenty (20) years

within which the assessments shall be paid.

(e) A property owner liable for an assessment may execute a waiver in the manner provided by the street and sewer improvement statutes to pay the assessment in annual installments over a period fixed by the board.

(f) All payments under this chapter are deposited into the fund.

As added by P.L.169-2006, SEC.82.

IC 36-9-40

Chapter 40. County Funding of Sewage Disposal Systems

IC 36-9-40-1

Application of chapter

Sec. 1. This chapter applies to counties.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-2

Definitions

Sec. 2. For purposes of this chapter:

(1) "Sewage disposal system" has the meaning set forth in IC 13-11-2-201.

(2) "System" refers to a sewage disposal system.

(3) "Works board" refers to the works board of a county.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-3

Installation

Sec. 3. A county may install private sewage disposal systems under this chapter.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-4

Construction of system on private land

Sec. 4. A works board may construct a private system on land owned by a private entity if:

(1) the owner of the land has applied to the works board for construction of a system that the works board determines is appropriate for the sewage disposal needs of the location for which the application is made;

(2) the owner of the land has supplied in the application to the works board sufficient information to prepare a preliminary resolution to approve construction of the system;

(3) the works board has adopted a preliminary resolution approving construction of the system; and

(4) with respect to the system, the works board has, at the time the preliminary resolution is adopted, adopted and placed on file:

(A) cross-sections;

(B) general plans;

(C) specifications; and

(D) an estimate of the cost.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-5

Estimate of cost of system

Sec. 5. (a) The estimate of cost of the system required under section 4(4)(D) of this chapter may include all incidental, inspection, and engineering costs caused by the proposed construction. However,

the estimate of the costs to be paid by special assessment may not include the following:

(1) Salaries and expenses of the necessary and regularly employed personnel of the engineering department of the county.

(2) Ordinary operating costs of the works board.

(b) If the works board determines that it is necessary to employ additional engineering services for construction of a particular system, the works board may include in the estimate of cost of the system required under section 4(4)(D) of this chapter the cost of the additional service actually performed in connection with the system.
As added by P.L.7-2002, SEC.1.

IC 36-9-40-6
Incidental, inspection, and engineering costs as part of cost of construction

Sec. 6. (a) The works board may add to the cost of construction of a system under this chapter and may include in the assessment against the property on which the system is constructed the incidental, inspection, and engineering costs that are authorized by the preliminary resolution and included in the estimate.

(b) The amount of incidental, inspection, and engineering costs included in the assessment may not exceed the amount of the incidental, inspection, and engineering costs included in the estimate.
As added by P.L.7-2002, SEC.1.

IC 36-9-40-7
Notice of hearing

Sec. 7. (a) Notice of a hearing on the preliminary resolution approving construction of the system shall be published in accordance with IC 5-3-1. The notice must state:

(1) that the works board has adopted the preliminary resolution; and

(2) the time and place at which the works board will do the following:

(A) Hear all interested persons.

(B) Decide whether the benefits to the property liable to be assessed for construction of the system will equal the estimated cost of construction of the system.

(b) The works board shall send a notice containing the information required under subsection (a) to the property owner that applied for construction of the system.
As added by P.L.7-2002, SEC.1.

IC 36-9-40-8
Filing of cost estimate by county engineer; limitation on entry into contract

Sec. 8. (a) At least ten (10) days before the date fixed for a hearing under section 7 of this chapter, the engineer of the county shall file with the works board an estimate of the maximum cost of

construction of the system proposed by the works board.

(b) A county may not enter into a contract under the preliminary resolution if the contract exceeds the engineer's estimate filed under subsection (a).

As added by P.L.7-2002, SEC.1.

IC 36-9-40-9

Works board conduct of hearing; limitation on further action

Sec. 9. (a) At the hearing specified in the notice under section 7 of this chapter, the works board shall do the following:

(1) Hear interested persons.

(2) Decide whether the benefits that will accrue to the property liable to be assessed for construction of the system will equal the maximum estimated cost of construction of the system.

(3) Determine the assessment against the property on which the system is constructed in an amount that does not exceed the engineer's estimate under section 8 of this chapter.

(b) If the works board finds that the benefits will not equal the maximum estimated cost of construction of the system, the board shall take no further action.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-10

Special assessment levy; limitation on amount

Sec. 10. (a) The works board shall levy special assessments for the amount determined under section 9 of this chapter if:

(1) the contract for construction of the system is executed; and

(2) the system is constructed.

(b) The special assessments levied under this section may not exceed the cost of construction of the system.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-11

Works board action on preliminary resolution; effect of modified or confirmed resolution

Sec. 11. (a) After the works board determines the amount of special benefits that will accrue to the property liable to be assessed for construction of the system, the works board may do any of the following:

(1) Confirm the preliminary resolution.

(2) Modify the preliminary resolution.

(3) Rescind the preliminary resolution.

(b) The preliminary resolution is final and conclusive on all parties if:

(1) the preliminary resolution is modified or confirmed under this section; and

(2) construction of the system is ordered.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-12

Works board advertisement for bids and performance of work

Sec. 12. If the works board finally orders construction of a system, the works board shall advertise for bids and perform the work under IC 36-1-12.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-13

Construction contract for entire system; challenge to contract

Sec. 13. (a) The contract for construction of a system must be for construction of the entire system.

(b) After the execution of a contract for construction of a system, the validity of the contract may be questioned only in an action to enjoin the performance of the contract. This action must be brought before the actual commencement of work under the contract.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-14

Contractor guarantee of workmanship and materials

Sec. 14. (a) A contractor for construction of a system must guarantee the contractor's workmanship and all materials used in the work.

(b) The guarantee required under subsection (a) must be in the following form:

> "The contractor warrants the contractor's workmanship and all materials used in the work and agrees that during the guarantee period specified, the contractor will, at the contractor's own expense, make all repairs that may become necessary by reason of improper workmanship or defective materials. The maintenance obligation, however, does not include repair of any damage resulting from any force or circumstance beyond the control of the contractor, nor is the contractor a guarantor of the plans and specifications furnished by the county.".

As added by P.L.7-2002, SEC.1.

IC 36-9-40-15

County and contractor responsibilities for system repairs

Sec. 15. (a) If repairs to a system become necessary, the county must give written notice to the contractor to make the repairs. If the contractor fails to begin the repairs not later than thirty (30) days after the notice is received, the county may do the following:

> (1) Make the repairs using the county's own employees or an independent contractor.
>
> (2) Recover from the contractor and the contractor's sureties the reasonable cost of the repairs and the cost of the supervision and inspection of the repairs.

(b) At the expiration of the guarantee period, the county has sixty (60) days in which to notify the contractor of any necessary repairs.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-16

Acceptance of system by works board

Sec. 16. A system that is completed according to contract must be accepted by the works board.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-17

Assessment of property on which system is constructed; effect of mistake in name of owner

Sec. 17. (a) As soon as a contract for construction of a system has been completed, the works board shall have an assessment prepared for the property on which the system is constructed. The property on which the system is constructed is liable for assessment under this chapter.

(b) The assessment must include the following:

(1) The name of the owner of the property on which the system is constructed.

(2) A description of the property, or the key number or parcel number of the property.

(3) The total assessment, if any, against the property.

(c) A mistake in the name of the owner or the description of property does not void the assessment or lien against the property.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-18

Presumptions with respect to assessment; assessment notice to property owner

Sec. 18. (a) The following apply to the assessment indicated against each lot, tract, or parcel of land:

(1) The assessment is presumed to be the special benefit to the lot, parcel, or tract of land.

(2) The assessment is the final and conclusive assessment unless the assessment:

(A) exceeds the engineer's estimate under section 8 of this chapter; and

(B) is challenged under section 19 of this chapter.

(b) Immediately after the assessment roll is completed and filed, the works board shall notify in writing the owner of the property on which the system is constructed:

(1) of the assessment amount;

(2) that the basis of the assessment amount is on file and may be inspected at the works board's office; and

(3) of the time and date before which an objection must be filed with the works board.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-19

Works board hearing and decision on objection to assessment

Sec. 19. (a) If an objection is filed before the time prescribed in section 18 of this chapter, the works board shall set a hearing.

(b) After the hearing, the works board shall sustain or modify the

assessment by confirming, increasing, or reducing the presumptive assessment. The works board's decision must be based on the works board's findings concerning the special benefits that the property has received or will receive on account of construction of the system.
As added by P.L.7-2002, SEC.1.

IC 36-9-40-20
Delivery of assessment to county assessor

Sec. 20. When the assessment is completed, the works board shall deliver the assessment to the county assessor.
As added by P.L.7-2002, SEC.1.

IC 36-9-40-21
Delivery of completed assessment to county auditor; assessment to show amount due

Sec. 21. (a) The works board shall deliver a certified copy of the completed assessment to the county auditor after the works board:

(1) approves and accepts the entire work under any contract; and

(2) allows a final estimate.

(b) The duplicate assessment, to be known as the primary assessment, must show the amount due if paid in cash within the time limit.
As added by P.L.7-2002, SEC.1.

IC 36-9-40-22
County auditor notice of assessment to affected person; installment payments

Sec. 22. (a) Upon receipt of the primary assessment, the county auditor shall by mail notify the affected person of the amount of the assessment against the person's property.

(b) The notice must state the following:

(1) That the amount is due not later than thirty (30) days after the approval of the assessment by the works board.

(2) That a person who desires to pay the person's assessment by installments must enter into a written agreement under subsection (c) before the due date.

(c) A person who desires to pay the person's assessment in twenty (20) equal semiannual installments must before the due date enter into a written agreement stating that in consideration of that privilege the person:

(1) will not make an objection to an illegality or irregularity regarding the assessment against the person's property; and

(2) will pay the assessment as required by law with specified interest.

(d) The agreement under subsection (c) shall be filed in the office of the county auditor. If a property owner elects to pay the property owner's assessments in installments, the assessment shall be entered for collection on the duplicate, shall have the same priority and rights, and shall be collected in the same manner as other taxes.

(e) The interest rate for the installments of the assessment is the interest rate established in IC 6-1.1-37-9.

(f) An assessment of less than one hundred dollars ($100) may not be paid in installments.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-23

Assessment due date; interest on delinquent assessment

Sec. 23. (a) The entire assessment is payable in cash without interest not later than thirty (30) days after the approval of the assessment by the works board if an agreement has not been signed and filed under section 22 of this chapter.

(b) If the assessment is not paid when due, the total assessment becomes delinquent and bears interest at the rate prescribed by IC 6-1.1-37-9 per year from the date of the final acceptance of the completed system by the works board.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-24

County auditor receipt and accounting for assessment payments; use of proceeds; special fund

Sec. 24. (a) The county auditor shall do the following:

(1) Receive the payment of assessment installments.

(2) Keep all accounts and give proper vouchers for the payment of assessment installments.

(b) Proceeds arising from assessments for the payment of a particular system may not be diverted to the payment of any other system.

(c) The proceeds from assessments for the payment of a particular system constitute a separate special fund.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-25

Assessment installment payments due upon delinquency; collection of delinquent installments

Sec. 25. Failure to pay an installment of principal or interest when the installment is due makes all installments of principal yet unpaid due and payable immediately, unless the unpaid installment of principal or interest is paid within the grace period provided. The county shall proceed to collect delinquent installments as delinquent taxes are collected.

As added by P.L.7-2002, SEC.1.

IC 36-9-40-26

Supplementary proceedings to correct defect or irregularity in contract

Sec. 26. If a defect or an irregularity results in the invalidity of a contract, an assessment, or a lien under this chapter, the defect or irregularity shall be corrected by supplementary proceedings that substantially comply with this chapter.

As added by P.L.7-2002, SEC.1.

IC 36-9-41

Chapter 41. Financing of Public Work Projects by Political Subdivisions

IC 36-9-41-1

Application

Sec. 1. This chapter applies to the following:

(1) A public work project that will cost the political subdivision not more than two million dollars ($2,000,000).

(2) An eligible efficiency project that will cost not more than three million dollars ($3,000,000).

As added by P.L.81-2004, SEC.47. Amended by P.L.88-2009, SEC.16.

IC 36-9-41-1.5

"Eligible efficiency project"

Sec. 1.5. As used in this chapter, "eligible efficiency project" means:

(1) a project necessary or useful to carrying out an interlocal cooperation agreement entered into by two (2) or more political subdivisions or governmental entities under IC 36-1-7; or

(2) a project necessary or useful to the consolidation of local government services.

As added by P.L.88-2009, SEC.17.

IC 36-9-41-2

"Public work"

Sec. 2. As used in this chapter, "public work" means a project for the construction of any public building, highway, street, alley, bridge, sewer, drain, or any other public facility that is paid for out of public funds.

As added by P.L.81-2004, SEC.47.

IC 36-9-41-3

Borrowing by political subdivision to finance public work project or eligible efficiency project; notice; constitutional debt limitation

Sec. 3. Notwithstanding any other statute, a political subdivision may borrow the money necessary to finance:

(1) a public work project; or

(2) an eligible efficiency project;

from a financial institution in Indiana by executing a negotiable note under section 4 of this chapter. The political subdivision shall provide notice of its determination to issue the note under IC 5-3-1. Money borrowed under this chapter is chargeable against the political subdivision's constitutional debt limitation.

As added by P.L.81-2004, SEC.47. Amended by P.L.88-2009, SEC.18.

IC 36-9-41-4

Terms of the note

Sec. 4. A political subdivision borrowing money under section 3 of this chapter shall execute and deliver to the financial institution the negotiable note of the political subdivision for the sum borrowed. The note must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding ten (10) years.
As added by P.L.81-2004, SEC.47. Amended by P.L.182-2009(ss), SEC.453.

IC 36-9-41-5
Payments

Sec. 5. (a) The first installment of principal and interest on a note executed under this chapter is due on the next January 1 or July 1 following the first tax collection for which it is possible for the political subdivision to levy a tax under subsection (b).

(b) The political subdivision shall appropriate an amount for and levy a tax each year sufficient to pay the political subdivision's obligation under the note according to its terms.

(c) An obligation of a political subdivision under a note executed under this chapter is a valid and binding obligation of the political subdivision, notwithstanding any tax limitation, debt limitation, bonding limitation, borrowing limitation, or other statute to the contrary.
As added by P.L.81-2004, SEC.47.

IC 36-9-41-6
Taxpayer objections

Sec. 6. If a political subdivision gives notice under section 3 of this chapter of its determination that money should be borrowed under this chapter, not less than ten (10) taxpayers in the political subdivision who disagree with the determination may file a petition in the office of the county auditor not more than thirty (30) days after notice of the determination is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the borrowing to be unnecessary or unwise.
As added by P.L.81-2004, SEC.47.

IC 36-9-41-7
Department of local government finance proceedings

Sec. 7. (a) Upon receiving a petition under section 6 of this chapter, the county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for a hearing on the matter.

(b) The hearing shall be held not less than five (5) and not more than thirty (30) days after the department's receipt of the certified petition, and shall be held in the county where the petition arose.

(c) The department of local government finance shall give notice

of the hearing by letter to the political subdivision and to the first ten (10) taxpayer petitioners listed on the petition. A copy of the letter shall be sent to each of the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing. In addition, public notice shall be published at least five (5) days before the date of the hearing under IC 5-3-1.

(d) After the hearing under subsection (c), the department of local government shall issue a final determination concerning the petition.
As added by P.L.81-2004, SEC.47.

IC 36-9-41-8
Judicial review

Sec. 8. A:

(1) taxpayer who signed a petition filed under section 6 of this chapter; or

(2) political subdivision against which a petition is filed under section 6 of this chapter;

may petition the tax court established by IC 33-3-5-1 for judicial review of the final determination of the department of local government finance on the taxpayers' petition. The petition for judicial review must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.
As added by P.L.81-2004, SEC.47.

IC 36-10

ARTICLE 10. RECREATION, CULTURE, AND COMMUNITY FACILITIES

IC 36-10-1

Chapter 1. Definitions

IC 36-10-1-1

Application of chapter

Sec. 1. The definitions in IC 36-1-2 and in this chapter apply throughout this article.

As added by Acts 1980, P.L.211, SEC.5. Amended by Acts 1981, P.L.309, SEC.107.

IC 36-10-1-2

"Park purposes"

Sec. 2. "Park purposes" include the establishment, equipment, and operation of parks, boulevards, pleasure drives, parkways, wheelways, park boulevards, bridlepaths, playgrounds, playfields, bathhouses, comfort stations, swimming pools, community centers, recreation centers, other recreational facilities, and recreational programs.

As added by Acts 1981, P.L.309, SEC.108.

IC 36-10-1-3

"Public way"

Sec. 3. "Public way" includes highway, street, avenue, boulevard, road, lane, or alley.

As added by Acts 1981, P.L.309, SEC.109.

IC 36-10-1-4

"Capital improvement"

Sec. 4. "Capital improvement" means the building, facilities, or improvements that a capital improvement board determines will be of general public benefit or welfare and will promote the cultural, recreational, public, or civic well-being of the community, including a convention center. This includes the land comprising the site, equipment, heating and air-conditioning facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that are necessary to make any building, facility, or improvement suitable for the use for which it was constructed.

As added by Acts 1982, P.L.218, SEC.1. Amended by P.L.82-1985, SEC.8.

IC 36-10-1-5

"Convention center"

Sec. 5. "Convention center" means a building or buildings containing facilities for meetings, conventions, commencements, convocations, sporting events, entertainment spectaculars, product

displays, or other displays of industrial or cultural value, which facilities may be used for cultural, governmental, educational, recreational, exhibition, or civic purposes. The term also includes the site, landscaping, parking, site improvement, and provision of related services incidental to these purposes.

As added by Acts 1982, P.L.218, SEC.2.

IC 36-10-2

Chapter 2. General Powers Concerning Recreation, Culture, and Community Facilities

IC 36-10-2-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by Acts 1980, P.L.211, SEC.5.

IC 36-10-2-2

Recreation facilities and programs

Sec. 2. A unit may establish, aid, maintain, and operate public parks, playgrounds, and recreation facilities and programs.

As added by Acts 1980, P.L.211, SEC.5.

IC 36-10-2-3

Recreational use of watercourse

Sec. 3. A unit may regulate any recreational use of a watercourse.

As added by Acts 1980, P.L.211, SEC.5.

IC 36-10-2-4

Libraries, museums, and other facilities and programs

Sec. 4. A unit may establish, aid, maintain, and operate libraries and museums, cultural, historical, and scientific facilities and programs, and community restitution or service facilities and programs.

As added by Acts 1980, P.L.211, SEC.5. Amended by P.L.32-2000, SEC.26.

IC 36-10-2-5

Neighborhood centers, arenas, and stadiums

Sec. 5. A unit may establish, aid, maintain, and operate neighborhood centers, community centers, civic centers, convention centers, auditoriums, arenas, and stadiums.

As added by Acts 1980, P.L.211, SEC.5.

IC 36-10-2-6

Extraterritorial powers

Sec. 6. A municipality may exercise powers granted by sections 2, 4, and 5 of this chapter in areas within four (4) miles outside its corporate boundaries.

As added by Acts 1980, P.L.211, SEC.5.

IC 36-10-3

Chapter 3. General Park and Recreation Law

IC 36-10-3-1

Application of chapter

Sec. 1. This chapter applies to the following units:

(1) All counties.

(2) All municipalities.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.319, SEC.1; P.L.354-1985, SEC.1; P.L.227-1986, SEC.1; P.L.157-1991, SEC.2.

IC 36-10-3-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to a park and recreation board.

"Department" refers to a department of parks and recreation.

"District" means the area within the jurisdiction of a department.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-3

Department of parks and recreation; creation; transfer of property to park and recreation board

Sec. 3. (a) The fiscal body of a unit may adopt an ordinance creating a department of parks and recreation and repealing in the ordinance or resolution prior ordinances or resolutions creating separate park and recreation authorities. The department consists of a park and recreation board, a superintendent, and other personnel that the board determines.

(b) After a board has been created, all books, papers, documents, and other property of former park and recreation authorities shall be transferred to and become the property of the board.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.354-1985, SEC.2; P.L.11-1987, SEC.34; P.L.157-1991, SEC.3.

IC 36-10-3-4

Municipal board; membership; ex officio members; additional members

Sec. 4. (a) A city board consists of four (4) members to be appointed by the city executive. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than two (2) members may be affiliated with the same political party. In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being:

(1) a member of the governing body of the school corporation selected by that body;

(2) a member of the governing body of the library district selected by that body; or

(3) both subdivisions (1) and (2).

(b) A town board consists of four (4) members to be appointed by

the town legislative body. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation. Except as provided in section 4.1 of this chapter, not more than two (2) members may be affiliated with the same political party. Members of the board must be residents of the district. In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being:

(1) a member:

(A) of the governing body of the school corporation selected by that body; or

(B) designated by the governing body of the school corporation;

(2) a member of the governing body of the library district selected by that body; or

(3) both subdivisions (1) and (2).

(c) A county board shall be appointed as follows:

(1) Two (2) members shall be appointed by the judge of the circuit court.

(2) One (1) member shall be appointed by the county executive.

(3) Two (2) members shall be appointed by the county fiscal body.

The members appointed under subdivisions (1), (2), and (3) shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than one (1) member appointed under subdivisions (1) and (3) may be affiliated with the same political party. In a county having at least one (1) first or second class city, the creating ordinance must provide for one (1) ex officio board member to be appointed by the executive of that city. The member appointed by the city executive must be affiliated with a different political party than the member appointed by the county executive. However, if a county has more than one (1) such city, the executives of those cities shall agree on the member. The member serves for a term coterminous with the term of the appointing executive or executives.

(d) Ex officio members have all the rights of regular members, including the right to vote. A vacancy in an ex officio position shall be filled by the appointing authority.

(e) Neither a municipal executive nor a member of a county fiscal body, county executive, or municipal fiscal body may serve on a board.

(f) The creating ordinance in any county may provide for:

(1) the county cooperative extension coordinator;

(2) the county extension educator; or

(3) a member of the county extension committee selected by the committee;

to serve as an ex officio member of the county board, in addition to the members provided for under subsection (c).

(g) The creating ordinance in a county having no first or second class cities may provide for a member of the county board to be selected by the board of supervisors of a soil and water conservation district in which a facility of the county board is located. The

member selected under this subsection is in addition to the members provided for under subsections (c) and (f).
As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.1; P.L.207-1984, SEC.1; P.L.157-1991, SEC.4; P.L.40-1993, SEC.68; P.L.271-1993, SEC.1; P.L.2-1995, SEC.138; P.L.64-1998, SEC.3; P.L.128-2007, SEC.1.

IC 36-10-3-4.1
Town board; waiver of requirements

Sec. 4.1. A town legislative body may, by a majority vote, waive any or all of the following requirements of a town board member under section 4(b) of this chapter:

(1) The requirement that a member of the town board be affiliated with a political party.

(2) The requirement that not more than two (2) of the four (4) members of the town board be affiliated with the same political party.

A town legislative body may vote for a waiver only if the waiver is necessary due to the absence of persons who are willing to serve on the town board and who satisfy any or all of the requirements.
As added by P.L.128-2007, SEC.2.

IC 36-10-3-5
Board of park and recreation; initial appointments; vacancy

Sec. 5. (a) Initial appointments to a municipal board are as follows:

(1) One (1) member for a term of one (1) year.

(2) One (1) member for a term of two (2) years.

(3) One (1) member for a term of three (3) years.

(4) One (1) member for a term of four (4) years.

As a term expires, each new appointment is for a four (4) year term. All terms expire on the first Monday in January, but a member continues in office until his successor is appointed.

(b) Initial appointments to a county board are as follows:

(1) The circuit court judge's appointments are for one (1) and three (3) year terms, respectively.

(2) The county executive's appointment is for a two (2) year term.

(3) The county fiscal body's appointments are for two (2) and four (4) year terms, respectively.

As a term expires, each new appointment is for a four (4) year term. All terms expire on the first Monday in January, but a member continues in office until his successor is appointed.

(c) An appointing authority shall make initial appointments within ninety (90) days after the creation of the department.

(d) If an appointment for any new term is not made by the first Monday in April, the incumbent shall serve another term.

(e) In making initial appointments under subsections (a) or (b), an appointing authority, in order to provide continuity of experience and programs, shall give special consideration to the appointment of

members from previous park or recreation boards.

(f) If a vacancy on the board occurs, the appointing authority shall appoint a person to serve for the remainder of the unexpired term.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.2.

IC 36-10-3-6

Board of park and recreation; removal; procedure

Sec. 6. A member may be removed only for cause, upon specific written charges filed against him. The charges shall be filed with and heard by the appointing authority, unless the appointing authority is bringing the charges. If the appointing authority is bringing the charges, the unit's fiscal body shall appoint a hearing officer. The person to hear the charges shall fix a date for a public hearing and give public notice at least ten (10) days in advance of the hearing. At the hearing the member is entitled to present evidence and argument and to be represented by counsel.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.3.

IC 36-10-3-7

Board of park and recreation; advisory member

Sec. 7. If a municipality is located in a county having a county board, the municipal and county boards may each designate a member to sit with the other board in an advisory capacity.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.4.

IC 36-10-3-8

Board of park and recreation; regular and special meetings; election of officers; quorum

Sec. 8. (a) All meetings of the board are open to the public. The board shall fix the time and place of its regular meetings, but it shall meet at least quarterly.

(b) Special meetings of the board may be called by the president or by any two (2) members by written request to the secretary. The secretary shall send to each member, at least two (2) days before a special meeting, a written notice fixing the time, place, and purpose of the meeting. Written notice of a special meeting is not required if the time of the special meeting is fixed at a regular meeting or if all members are present at the special meeting.

(c) At its first regular meeting each year the board shall elect a president and a vice president. The vice president may act as president during the absence or disability of the president. The board may select a secretary either from within or outside its membership.

(d) A majority of the members constitutes a quorum. Action of the board is not official unless it is authorized by at least three (3) members present and acting.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-9
Board of park and recreation; compensation

Sec. 9. (a) The members of the board may receive a salary in an amount fixed by the fiscal body.

(b) If the board determines that members or employees should attend a state, regional, or national conference dealing with park and recreation problems, the board may authorize the payment of the actual expenses involved in attending the conference. However, the amount must be available as part of the board's appropriation.

(c) A fiscal body may appropriate and approve a per diem allowance to a member of a board for attending a meeting of the board.

(d) The unit shall provide suitable quarters for holding meetings and conducting the work of the board.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.5; P.L.238-1997, SEC.1.

IC 36-10-3-10
Board of park and recreation; duties

Sec. 10. (a) The board shall:

(1) exercise general supervision of and make rules for the department;

(2) establish rules governing the use of the park and recreation facilities by the public;

(3) provide police protection for its property and activities, either by requesting assistance from state, municipal, or county police authorities, or by having specified employees deputized as police officers; the deputized employees, however, are not eligible for police pension benefits or other emoluments of police officers;

(4) appoint the necessary administrative officers of the department and fix their duties;

(5) establish standards and qualifications for the appointment of all personnel and approve their appointments without regard to politics;

(6) make recommendations and an annual report to the executive and fiscal body of the unit concerning the operation of the board and the status of park and recreation programs in the district;

(7) prepare and submit an annual budget in the same manner as other executive departments of the unit; and

(8) appoint a member of the board to serve on another kind of board or commission, whenever a statute allows a park or recreation board to do this.

(b) In a municipality, the board shall fix the compensation of officers and personnel appointed under subsections (a)(4) and (a)(5), subject to IC 36-4-7-5 and IC 36-4-7-6.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-11

Board of park and recreation; powers

Sec. 11. (a) The board may:

(1) enter into contracts and leases for facilities and services;

(2) contract with persons for joint use of facilities for the operation of park and recreation programs and related services;

(3) contract with another board, a unit, or a school corporation for the use of park and recreation facilities or services, and a township or school corporation may contract with the board for the use of park and recreation facilities or services;

(4) acquire and dispose of real and personal property, either within or outside Indiana;

(5) exercise the power of eminent domain under statutes available to municipalities;

(6) sell, lease, or enter into a royalty contract for the natural or mineral resources of land that it owns, the money received to be deposited in a nonreverting capital fund of the board;

(7) engage in self-supporting activities as prescribed by section 22 of this chapter;

(8) contract for special and temporary services and for professional assistance;

(9) delegate authority to perform ministerial acts in all cases except where final action of the board is necessary;

(10) prepare, publish, and distribute reports and other materials relating to activities authorized by this chapter;

(11) sue and be sued collectively by its legal name, as the "_____ (unit's name) Park and Recreation Board", with service of process being had upon the president of the board, but costs may not be taxed against the board or its members in any action;

(12) invoke any legal, equitable, or special remedy for the enforcement of this chapter, a park or recreation ordinance, or the board's own action taken under either; and

(13) release and transfer, by resolution, a part of the area over which it has jurisdiction for park and recreational purposes to park authorities of another unit for park and recreational purposes upon petition of the park or recreation board of the acquiring unit.

(b) The board may also lease any buildings or grounds belonging to the unit and located within a park to a person for a period not to exceed fifty (50) years. The lease may authorize the lessee to provide upon the premises educational, research, veterinary, or other proper facilities for the exhibition of wild or domestic animals in wildlife parks, dining facilities, swimming facilities, golf courses, skating facilities, dancing facilities, amusement rides generally found in amusement parks, or other recreational facilities. A lease may be made for more than one (1) year only to the highest and best bidder, after notice that the lease will be made has been given by publication in accordance with IC 5-3-1.

(c) Notwithstanding subsection (b), the board may lease buildings or grounds belonging to the unit for a period of more than one (1)

year without soliciting the highest and best bidder or providing notice under IC 5-3-1 if:

(1) the buildings or grounds are leased to an Indiana nonprofit corporation;

(2) the buildings or grounds are operated as a public golf course; and

(3) the golf course remains subject to rules and regulations promulgated by the board.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.6; P.L.228-1986, SEC.1; P.L.35-1990, SEC.72; P.L.328-1995, SEC.1.

IC 36-10-3-11.5

Legalization of operation of City of New Albany property by nonprofit corporation without a lease before July 1, 1995

Sec. 11.5. (a) This section applies to the city of New Albany.

(b) The operation of city owned buildings or grounds operated as a golf course by a nonprofit corporation before July 1, 1995, without a lease from the city, or under a lease that was not open to public bid to lease the buildings or grounds, is legalized and validated.

As added by P.L.220-2011, SEC.684. Amended by P.L.119-2012, SEC.235.

IC 36-10-3-12

Board of park and recreation; public or private sale of personal property declared to be surplus

Sec. 12. The board may sell, or order sold through a designated representative, by public or private sale, any personal property that the board has declared to be surplus at a regular or special meeting and has declared to have an aggregate appraised value of five thousand dollars ($5,000) or less. Whenever the board decides to sell at a private sale, the board must employ a qualified appraiser to determine a reasonable selling price for each kind of surplus item and must publish, in the manner provided in IC 5-3-1:

(1) the fact that a private sale will be held;

(2) the location of the sale;

(3) the dates of the beginning and end of the sale;

(4) the time of day during which the sale will take place;

(5) the kinds of items to be sold at the sale; and

(6) the price of each kind of item, which may not be less than the reasonable selling price determined by the qualified appraiser.

If the board decides to sell at a public sale, the board shall conduct the sale in the manner provided by law for the unit.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-13

Superintendent of parks and recreation; appointment; qualifications; incumbents

Sec. 13. (a) This subsection applies to counties and towns. The

board may appoint a superintendent of parks and recreation. The board may not consider political affiliation in the selection of the superintendent.

(b) This subsection applies to cities. If a superintendent of parks and recreation is appointed, the superintendent shall be appointed under IC 36-4-9-2 without considering political affiliation.

(c) If there is more than one (1) superintendent of any park or recreation department involved at the time the creating ordinance is adopted, the board may appoint only one (1) superintendent for the new department.

(d) The superintendent must:

(1) be qualified by training or experience in the field of parks and recreation; or

(2) have a certification or an advanced degree in the field of parks and recreation.

(e) An incumbent performing park and recreation functions in a supervisory capacity at the time a unit adopts a creating ordinance under this chapter is eligible for appointment as superintendent or as an assistant, but he must have the required training, experience, or certification.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.7; P.L.157-1991, SEC.5.

IC 36-10-3-14

Superintendent of parks and recreation; duties

Sec. 14. Under the direction of the board, the superintendent shall:

(1) propose annually a plan for the operation of the department;

(2) administer the plan as approved by the board;

(3) supervise the general administration of the department;

(4) keep the records of the department and preserve all papers and documents of the department;

(5) recommend persons for appointment as assistants if the board determines there is a need;

(6) appoint the employees of the department, subject to the approval of the board, according to the standards and qualifications fixed by the board and without regard to political affiliation;

(7) prepare and present to the board an annual report; and

(8) perform other duties that the board directs.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-15

Assistant superintendent of parks and recreation; appointment; qualifications; duties

Sec. 15. (a) If the board determines that the size of the department's operation requires assistants for the superintendent, the board may appoint, upon the recommendation of the superintendent, one (1) or more assistants. The board shall determine their qualifications on a basis similar to that prescribed for the superintendent.

(b) Assistants are directly responsible to the superintendent and shall perform the duties specified by the superintendent.
As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-16
Officers' and employees' bonds and crime policies

Sec. 16. (a) Every officer and employee who handles money in the performance of duties as prescribed by this chapter shall execute an official bond for the term of office or employment before entering upon the duties of the office or employment.

(b) The fiscal body of the unit may under IC 5-4-1-18 authorize the purchase of a blanket bond or crime insurance policy endorsed to include faithful performance to cover all officers' and employees' faithful performance of duties. The amount of the bond or crime insurance policy shall be fixed by the fiscal body and, in the case of a municipality, must be approved by the executive.

(c) All official bonds shall be filed and recorded in the office of the county recorder of the county in which the department is located.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.
As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.201-1988, SEC.1; P.L.49-1995, SEC.12.

IC 36-10-3-17
Advisory council and special committees; composition; selection; duties; reports

Sec. 17. (a) The board may create an advisory council and special committees composed of citizens interested in parks and recreation.

(b) In selecting an advisory council or special committees, the board shall give consideration to the groups in the community particularly interested in parks and recreation. In a resolution creating an advisory council or a special committee, the board shall specify the terms of its members and the purposes for which it is created.

(c) The advisory council or a special committee shall:

(1) study the subjects and problems specified by the board and recommend to the board additional problems in need of study;
(2) advise the board concerning these subjects, particularly as they relate to different areas and groups in the community; and
(3) upon the invitation of the board, sit with and participate in the deliberations of the board, but without the right to vote.

(d) The advisory council or a special committee shall report only to the board and shall make inquiries and reports only in those areas specified by the board's resolution creating the council or committee.
As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-18
Gifts, donations, and subsidies; approval; disposition

Sec. 18. (a) The board may accept gifts, donations, and subsidies for park and recreational purposes. However, a gift or transfer of

property to the board may not be made without its approval.

(b) A gift or grant of money shall be deposited in a special nonreverting fund to be available for expenditure by the board for purposes specified by the grantor. The disbursing officer of the unit may draw warrants against the fund only upon vouchers signed by the president and secretary of the board.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.8.

IC 36-10-3-19

Special taxing district for purposes of levying special benefit taxes; determination of revenues necessary for expenditures not covered by issuance of bonds

Sec. 19. (a) The territory within the boundaries of the unit comprises a special taxing district for the purpose of levying special benefit taxes for park and recreational purposes as provided in this chapter.

(b) The fiscal body of the unit shall determine and provide the revenues necessary for the operation of the department or for capital expenditures not covered by the issuance of bonds by:

(1) a specific levy to be used exclusively for these purposes;

(2) a special appropriation; or

(3) both of these methods.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-20

Special nonreverting capital fund; purposes; withdrawals

Sec. 20. (a) Upon the request of the board, the fiscal body of the unit may establish, by ordinance, a special nonreverting capital fund for the purposes of acquiring land or making specific capital improvements. The fiscal body may include in the board's annual budget an item and an appropriation for these specific purposes.

(b) Money placed in the nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance. The fiscal body may not repeal the ordinance under suspension of the rules.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.358-1987, SEC.1.

IC 36-10-3-21

Cumulative building fund; establishment; levy of tax; collection of tax

Sec. 21. (a) The board may establish a cumulative building fund under IC 6-1.1-41 to provide money for:

(1) building, remodeling, and repair of park and recreation facilities; or

(2) purchase of land for park and recreation purposes.

In addition to the requirements of IC 6-1.1-41, before a fund may be established, the proposed action must be approved by the fiscal body of the unit.

(b) To provide for the cumulative building fund, the unit's fiscal body may levy a tax in compliance with IC 6-1.1-41 not to exceed one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of assessed valuation of taxable property within the unit.

(c) The tax shall be collected and held in a special fund known as the unit's park and recreation cumulative building fund.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.93; P.L.358-1987, SEC.2; P.L.17-1995, SEC.42; P.L.6-1997, SEC.231.

IC 36-10-3-22

Fees for particular activities; special funds; deposits; withdrawals

Sec. 22. (a) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(b) The unit's fiscal body may establish by ordinance, upon request of the board:

(1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the unit's fiscal body; or

(2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the unit's fiscal body.

The unit's fiscal body shall designate the fund or funds into which the unit's fiscal officer (or county treasurer) shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the unit's fiscal officer (or county treasurer) either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the unit's general fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(c) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(d) Money procured from fees or received from the sale of surplus property under section 12 of this chapter shall be deposited at least once each month with the fiscal officer of the unit.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.372-1983, SEC.1.

IC 36-10-3-23
Acquisition of real property; resolution; improvements; notice; option or contract; appraisal; hearing

Sec. 23. (a) This section applies only to:

(1) the acquisition of real property; or

(2) a work of improvement;

that will be financed by the issuance of bonds.

(b) If the board decides to:

(1) acquire land for any of the purposes prescribed in this chapter, either by purchase or by appropriation, and in conjunction with the acquisition to proceed with a work of improvement authorized by this chapter;

(2) acquire real property without proceeding at the time with a work of improvement; or

(3) proceed with a work of improvement where the real property has been already secured;

it shall adopt a resolution stating the purpose, describing the land to be acquired, the manner of acquisition, and, in the case of an appropriation, the other land that may be injuriously affected, or describing the lands already acquired and intended to be used in connection with the proposed work of improvement.

(c) If a work of improvement is provided for in the resolution, the board shall have preliminary plans and specifications and an estimate of the cost of the proposed work prepared by the engineer selected to do the work. The resolution must be open to inspection by all persons interested in or affected by the appropriation of land or the construction of the work. The board shall have notice of the resolution and its contents published in accordance with IC 5-3-1. The notice must state a date on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings and on which it will determine the public utility and benefit.

(d) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the district, are considered notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the board by the original notice by publication.

(e) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by a platted description or by metes and bounds, whether the land is composed of one (1) or more lots or parcels and whether it is owned by one (1) or more persons. If the land or a part of it is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(f) The board may, at any time before the adoption of the

resolution:

(1) obtain from the owner or owners of the land an option for its purchase; or

(2) enter into a contract for its purchase upon the terms and conditions that the board considers best.

The option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution and to the condition that the land may be paid for only out of the special fund resulting from the sale of bonds as provided by this chapter.

(g) If the board decides to acquire any lots or parcels of land by purchase, the board shall appoint two (2) qualified appraisers to appraise the fair market value of the land. Each appraiser must be professionally engaged in making appraisals or be trained as an appraiser and licensed as a broker under IC 25-34.1. The appraisers may not be interested directly or indirectly in any land that is to be acquired under the resolution or that may be injured or incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. The appraisers shall return the appraisers' separate appraisals to the board not more than thirty (30) days after the date of their appointment. The appraisals shall be filed with and become a part of the record of the proceeding.

(h) The board may not take an option on the land or enter into a contract to purchase it at a price greater than the average of the two (2) appraisals received under subsection (g). The title to land to be acquired under the resolution, whether by purchase or appropriation, does not vest until the land is paid for out of the special fund established by the sale of bonds as provided in this chapter. Any indebtedness or obligation of any kind incurred by the board due to the acquisition of land or to construction work shall be paid out of the funds under the control of the board and is not an indebtedness or obligation of the unit.

(i) At the time fixed for the hearing, or at any time before the hearing, an owner of land to be appropriated under the resolution or injuriously affected or a person owning real or personal property located in the district may file a written remonstrance with the secretary of the board.

(j) At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering the evidence, the board shall take final action determining the public utility and benefit of the proposed project by confirming, modifying, or rescinding the resolution. The final action shall be recorded and is final and conclusive upon all persons.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.9; P.L.170-2003, SEC.18.

IC 36-10-3-24

Bonds; purpose; denominations; interest exempt from taxation; limitations

Sec. 24. (a) In order to raise money to pay for land to be acquired for any of the purposes named in this chapter, to pay for an improvement authorized by this chapter, or both, and in anticipation of the special benefit tax to be levied as provided in this chapter, the board shall cause to be issued, in the name of the unit, the bonds of the district. The bonds may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one (1) resolution or proceeding of the board under section 23 of this chapter is confirmed whereby different parcels of land are to be acquired, or more than one (1) contract for work is let by the board at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one (1) issue of bonds.

(b) The bonds may be issued in any denomination not less than one thousand dollars ($1,000) each, in not less than five (5) nor more than forty (40) annual series. The bonds are payable one (1) series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the board shall certify a copy of the resolution to the unit's fiscal officer. The fiscal officer shall prepare the bonds, and the unit's executive shall execute them, attested by the fiscal officer.

(c) The bonds and the interest on them are exempt from taxation as prescribed by IC 6-8-5-1. Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to:

(1) the filing of a petition requesting the issuance of bonds;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the appropriation of the proceeds of the bonds and approval by the department of local government finance; and

(4) the sale of bonds at public sale for not less than their par value.

(d) The board may not have bonds of the district issued under this section that are payable by special taxation when the total issue for that purpose, including the bonds already issued or to be issued, exceeds two percent (2%) of the adjusted value of the taxable property in the district as determined under IC 36-1-15. All bonds or

obligations issued in violation of this subsection are void. The bonds are not obligations or indebtedness of the unit, but constitute an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. The bonds must recite the terms upon their face, together with the purposes for which they are issued.
As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.6-1997, SEC.232; P.L.90-2002, SEC.517; P.L.219-2007, SEC.144; P.L.146-2008, SEC.793.

IC 36-10-3-25
Bonds; notice; hearing; ordinance approving issue

Sec. 25. (a) Before bonds may be issued under section 23 of this chapter, the board shall give notice of a public hearing to disclose the purposes for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data.

(b) The board shall have published in accordance with IC 5-3-1 a notice of the time, place, and purposes of the hearing.

(c) After the public hearing and before additional proceedings on the bond issues, the board must obtain an ordinance approving the bond issue from the unit's fiscal body.
As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.94.

IC 36-10-3-26
Bonds; disposition of proceeds

Sec. 26. All proceeds from the sale of bonds issued under section 24 of this chapter shall be kept in a separate fund. The fund shall be used to pay for land and other property acquired and for the construction of a work under the resolution, including all costs and expenses incurred in connection with the project. The fund may not be used for any other purpose. The fund shall be deposited as provided in this chapter. A surplus remaining from the proceeds of the bonds after all costs and expenses are paid shall be paid into and becomes a part of the park district bond fund.
As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-27
Levy of special tax on real and personal property; park district bond fund

Sec. 27. (a) In order to raise money to pay all bonds issued under section 24 of this chapter, the board shall levy annually a special tax upon all of the real and personal property located in the district sufficient to pay the principal of the bonds as they mature, including accrued interest. The board shall have the tax to be levied each year certified to the auditor of the county in which the district is located at the time for certification of tax levies. The tax shall be collected and enforced by the county treasurer in the same manner as other taxes are collected and enforced.

(b) As the tax is collected, it shall be accumulated and kept in a separate fund to be known as the park district bond fund. The tax shall be applied to the payment of the district bonds and interest as they mature and may not be used for another purpose.
As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-28
Primary obligation on bond

Sec. 28. If a board or district is discontinued under section 3 of this chapter, the primary obligation on its bonds is not affected, and the unit assumes liability for the payment of the bonds according to their terms.
As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-29
Joint department of parks and recreation; creation; eligibility; agreement; amendments

Sec. 29. (a) Two (2) or more units may create a joint department of parks and recreation.

(b) Only a unit that has by ordinance created a department under this chapter is eligible to participate in the creation of a joint department.

(c) The boards of the units that desire to create a joint department must agree upon the use of facilities, personnel, the distribution and raising of financial support, and other matters. The agreement may provide:

(1) for a joint district and joint board to supersede the separate districts and boards; or

(2) that the separate districts and boards be maintained.

After agreement has been reached, the fiscal body of each unit must adopt an ordinance approving the terms of the agreement before the agreement becomes final. The ordinances may not be passed under suspension of the rules.

(d) Failure of one (1) of the units to adopt the ordinance within ninety (90) days after the agreement has been reached voids the arrangement for all parties. However, the remaining parties may proceed with a new agreement.

(e) Amendments to an agreement may be made by adoption of an ordinance by the fiscal body of each unit.
As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-30
Joint board of parks and recreation; organization and function; powers and duties; executive committee, membership, authority, and limitations

Sec. 30. (a) A joint board shall be organized and shall function in the same manner as a separate board. The joint board consists of all the members of the separate boards. Two-thirds (2/3) of the members constitute a quorum, and official action must be authorized by two-thirds (2/3) of the members. The joint board has all of the

powers and duties of a separate board under this chapter, including the authority to issue bonds of the joint district.

(b) The joint board may create an executive committee composed of an equal number of members from each participating unit. The executive committee has all of the authority and limitations of the joint board, except that official action by the executive committee must be authorized by each member of the committee. In addition, an executive committee member may demand that an issue be submitted to the joint board.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-31

Joint board of parks and recreation; budget request; disposition of money appropriated

Sec. 31. (a) The joint board shall determine its total budget request. The members of each participating unit shall present to their fiscal body the total budget and shall state the amount chargeable to their unit by the terms of the agreement and ordinance. If their fiscal body does not appropriate an amount sufficient to meet the unit's proportionate share, the joint board may:

(1) reduce the expenditures attributable to that unit; or

(2) treat the reduced appropriation as a repudiation of the agreement and terminate the relationship according to section 32 of this chapter.

(b) Money appropriated by the participating units shall be deposited in a joint park and recreation board fund in the custody of the fiscal officer of the participating unit making the largest appropriation to the fund. Money may be withdrawn from the fund only upon vouchers signed by the president and secretary of the joint board.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-32

Joint board of parks and recreation; withdrawal of participating unit; termination; distribution of money remaining in fund; continuation of obligation

Sec. 32. (a) A participating unit may withdraw from a joint department at the end of a fiscal year by repealing its adopting ordinance and filing a copy of the repealing ordinance with the other participating units.

(b) The joint board may by resolution terminate the participation of a unit when the unit does not contribute its proportion of the total budget agreed upon in the original agreement and ordinance. The termination occurs at the end of the fiscal year in which the joint board makes its finding.

(c) At the conclusion of the fiscal year in which a withdrawal or termination occurs, the joint board shall equitably distribute to participating units all money remaining in the fund.

(d) A withdrawal does not alter the obligation of the units and the joint board to continue to levy and collect special benefit taxes to

provide debt service on all outstanding bonds of the joint district.

(e) If a unit has appropriated money for payment to a joint board that has been discontinued, the money shall be placed in the fund of the board of that unit. If the separate board no longer exists, the money shall be deposited in the general fund of the unit.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-33

Extension of service to unincorporated area; request; petition

Sec. 33. (a) A request to a municipality to extend park and recreation service to the unincorporated area of a township in which the municipality is located or in a township adjacent to the township in which the municipality is located may be made by at least the number of registered voters required under IC 3-8-6-3 to place a candidate on the ballot in that area or township and who reside in that area or township, unless the area is already located within another park district.

(b) The request must be made by petition to the board of the municipality and must:

(1) state the reasons for the need of service;

(2) specify the unincorporated area or township to be served; and

(3) include the signatures and addresses of the petitioners.

As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.12-1995, SEC.132.

IC 36-10-3-34

Extension of service to unincorporated area; public hearing; notice; approval or rejection; joint board

Sec. 34. (a) The board shall fix a date for a public hearing on each petition filed under section 33 of this chapter. The board shall publish in accordance with IC 5-3-1 a notice of the time, place, and purpose of the hearing. The cost of the notice shall be paid by the petitioners.

(b) After the public hearing has been held, the board may by resolution approve the petition and recommend an ordinance accomplishing its objectives to the municipal fiscal body. The secretary or a member of the board shall present the petition and ordinance to the fiscal body at its first meeting after approval of the petition. However, if the board rejects the petition, it may not be presented to the fiscal body.

(c) If the board involved is a joint board, the petition must also be approved by the members from the municipality involved, and then the petition and ordinance shall be presented to the fiscal body of the municipality involved.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.95.

IC 36-10-3-35

Extension of service to unincorporated area; approval of petition

and adoption of ordinance; election; notice; ballot; cost and expense of election

Sec. 35. (a) If the fiscal body approves the petition and adopts the ordinance presented under section 34 of this chapter, the ordinance takes effect.

(b) After the adoption of the ordinance, the fiscal body shall certify the question under IC 3-10-9-3 to the county election board of the county containing the greatest percentage of population of the municipality and fix a date for a special election to be held not later than ninety (90) days after adoption. However, if a primary, general, or municipal election will be conducted in each precinct in the affected area not later than six (6) months after the ordinance is adopted, the special election shall be conducted on the same day as the primary, general, or special election. The election shall be held by the county election board in the area described in the petition. IC 3-10-8-6 applies to the special election. Any voter residing in the affected area may vote in the election.

(c) The county election board shall give public notice of the special election in accordance with IC 3-10-2-2.

(d) The ballot must be in the form prescribed by IC 3-10-9-4 and must state "Shall park and recreation services be extended?".

(e) If the special election is not conducted at a general election, municipal election, or primary election, the fiscal body shall appropriate a sum sufficient to defray the cost of the ballots and to pay the expense of the election as prescribed by IC 3. The appropriation may be from the general fund or by transfer from the operating budget of the department.

As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.96; P.L.3-1987, SEC.568; P.L.3-1993, SEC.280; P.L.3-1997, SEC.471.

IC 36-10-3-36

Extension of service to unincorporated area; area to become part of district; appointment of member to board; application of chapter

Sec. 36. (a) If a majority of those voting in a special election vote under section 35 of this chapter for the extension of park and recreation services, then at the beginning of the next fiscal year the area becomes part of the district of the department.

(b) At the time the area becomes part of the district, the circuit judge of the county shall appoint a member from the area to the board. The member shall be appointed with the same qualifications and for the same term as other members and has the same powers and duties. If the petition of more than one (1) area is approved, the circuit judge shall make the selection of members so as to maintain the bipartisan character of the board as far as possible. As each additional member is appointed, the quorum of the board is increased by one (1).

(c) The board has the same powers and duties to provide park and recreation service to the area as it has for the municipality, and this

chapter applies as fully to the area to which service is extended as it applies to a municipality. However, the board need not provide service to the area before revenues from the area are available.
As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-37
Extension of service to unincorporated area; property subject to levy; certification of rate; review; issuance of bond

Sec. 37. (a) After a favorable special election under section 35 of this chapter, all property in the area to which service is extended is subject to the same levy for park and recreational purposes as other property within the district. After determining the levy for park and recreational purposes, the fiscal body of the municipality shall certify the rate to be applied to the area in the same manner as all other municipal levies are certified. In reviewing the park and recreation levy, all reviewing authorities shall treat the levy on the district property as a single levy so that the ultimate rate of tax for park and recreation purposes on all property in the district is identical.

(b) The authority of the board to issue bonds under sections 23 through 28 of this chapter includes all property in the area to which service is extended, but bonds may not be issued upon property in the area to which service is extended that do not obligate other property in the district to the same degree. After determining the levy for the park district bond fund, the board shall certify the rate to be applied to the area in the same manner as the rate to be applied to property in the municipality.
As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-38
Application of section; annexed territory; levy for park and recreational purposes

Sec. 38. (a) This section applies in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(b) This section applies only if a municipality annexes territory that is part of a district under this chapter.

(c) Any annexed territory that is in the district before the effective date of the annexation ordinance remains a part of the district, and the property in the annexed territory is subject to the same levy for park and recreational purposes as other property within the district. The annexing municipality may not impose an additional levy on the property in the annexed territory for park and recreational purposes.
As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.56-1988, SEC.15; P.L.12-1992, SEC.190.

IC 36-10-3-39
Application of section; discharge of firearm or shooting of arrow with bow, Class B misdemeanor; hunting, firearm sport, or archery area

Sec. 39. (a) This section applies only to parks within the

jurisdiction of a county board.

(b) A person who knowingly discharges a firearm or shoots an arrow with a bow into or inside a park commits a Class B misdemeanor.

(c) This section does not apply to an area that the board designates as a hunting, firearm sport, or archery area.

As added by Acts 1981, P.L.309, SEC.110.

IC 36-10-3-40

Issuance of bonds payable from county innkeeper's tax

Sec. 40. As an alternative to issuing bonds under section 24 of this chapter, the board may issue bonds payable from the county innkeeper's tax. The issuance of the bonds must be initiated by a resolution of the commission established by IC 6-9-7-2, recommending the issuance of the bonds and their purpose. Bonds that are payable from the innkeeper's tax imposed under IC 6-9-7 must be retired before August 1, 1999.

As added by P.L.74-1986, SEC.7. Amended by P.L.85-1993, SEC.5.

IC 36-10-3-41

Approval of bond issuance by county council; reduction of innkeeper's tax rate

Sec. 41. The bonds may not be issued until they have been approved by the county council. After the county council has approved the issuance of the bonds, the county council may not reduce the innkeeper's tax rate below a rate that would produce one and twenty-five hundredths (1.25) times the highest annual debt service on the bonds to their final maturity, based on an average of the immediately preceding three (3) years tax collections, if the tax has been levied for the last preceding three (3) years. If the tax has not been levied for the last preceding three (3) years, the county council may not reduce the rate below a rate which would produce one and twenty-five hundredths (1.25) times the highest debt service, based upon a study by a qualified public accountant or financial advisor.

As added by P.L.74-1986, SEC.8.

IC 36-10-3-42

Hearing; appropriation of proceeds; sale

Sec. 42. (a) The board shall hold a hearing as required by section 25 of this chapter. The board shall appropriate the proceeds of the bonds as required by law for special taxing district bonds.

(b) IC 6-1.1-20-1, IC 6-1.1-20-2, and IC 6-1.1-20-5 apply to the issuance of the bonds.

(c) The bonds may be sold at public sale in accordance with IC 5-1-11 or may be sold at a negotiated sale.

As added by P.L.74-1986, SEC.9. Amended by P.L.25-1995, SEC.92.

IC 36-10-3-43

Certification of debt service schedule; time for retirement of bonds

Sec. 43. After the sale of the bonds the secretary of the board shall certify to the county auditor a debt service schedule for the bonds. The schedule must provide that bonds that are payable from the innkeeper's tax imposed under IC 6-9-7 are retired before August 1, 1999.
As added by P.L.74-1986, SEC.10. Amended by P.L.85-1993, SEC.6.

IC 36-10-3-44
Lease or contracts for performance of historical pageants and admissions and maintenance of facilities

Sec. 44. The board may enter into a lease or contracts with not-for-profit corporations providing detailed terms and conditions for:

(1) the performance of historical pageants and entertainments; and

(2) the charging of admissions and maintenance of the facilities.

The contract must not extend for a longer term than the term of the bonds.
As added by P.L.74-1986, SEC.11.

IC 36-10-3-45
Sections not to be repealed during period of outstanding bonds

Sec. 45. The general assembly covenants that it will not repeal or amend:

(1) IC 6-9-7-6;
(2) IC 6-9-7-7;
(3) IC 36-10-3-40;
(4) IC 36-10-3-41;
(5) IC 36-10-3-42; and
(6) IC 36-10-3-43;

in a manner that would adversely affect owners of the bonds as long as the bonds are outstanding.
As added by P.L.74-1986, SEC.12.

IC 36-10-4

Chapter 4. Parks Department in Certain Cities

IC 36-10-4-1

Application of chapter

Sec. 1. (a) This chapter applies to each second class city in which the legislative body has adopted all or part of this chapter by ordinance.

(b) This chapter applies to each third class city in which the legislative body has adopted all or part of this chapter by ordinance.

(c) In addition, in a consolidated city sections 9(a) and 12 through 40 of this chapter apply to the department of parks and recreation and the board of parks and recreation, subject to IC 36-3-4-23.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.10; Acts 1982, P.L.33, SEC.48.

IC 36-10-4-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to a board of park commissioners, or board of parks and recreation of a consolidated city.

"Department" refers to a department of public parks, or department of parks and recreation of a consolidated city.

"District" means the area within the jurisdiction of a department.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-3

Department of public parks; establishment; membership; compensation; oath

Sec. 3. (a) A department of public parks is established as an executive department of the city.

(b) The department is under the control of a board of park commissioners. The board consists of four (4) commissioners appointed by the city executive. Each commissioner must be a freeholder residing in the city, and no more than two (2) commissioners may have the same political affiliation.

(c) A second class city may pay each commissioner an annual salary in an amount fixed by the fiscal body. The commissioners shall be paid their actual expenses upon approval by the city executive.

(d) Before beginning his duties each commissioner shall take and subscribe the usual oath of office. The oath shall be indorsed upon the certificate of appointment and filed with the city clerk. If a commissioner has not filed his oath:

(1) within thirty (30) days after the beginning of his term; or

(2) by the date of his appointment if he was appointed after the beginning of the term;

he is considered to have refused to serve and the office becomes vacant.

As added by Acts 1981, P.L.309, SEC.111. Amended by

P.L.176-2002, SEC.10.

IC 36-10-4-4
Commissioner; appointment; removal

Sec. 4. (a) By February 1 each year, the executive shall appoint a commissioner to fill the vacancy caused by the expiration of a term. Each commissioner appointed holds office for a term of four (4) years, beginning with January 1 in the year of appointment. If a vacancy occurs on the board, the executive shall appoint a commissioner for the remainder of the term.

(b) A commissioner may not be removed from office except upon charges preferred in writing before the executive, with a hearing held on them. If the executive is bringing the charges, the fiscal body shall appoint a hearing officer. The only permissible reasons for removal are as follows:

(1) Inefficiency.
(2) Neglect of duty.
(3) Malfeasance in office.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.11.

IC 36-10-4-5
Second class city; resolution to extend boundaries; remonstrance; referendum; election; effective date of extension; operation of parks

Sec. 5. (a) In a second class city, the board may adopt a resolution to extend the boundaries of the district to the county boundaries unless the county has already established a park district under IC 36-10-3. The board must file a certified copy of the resolution with the county auditor and county treasurer. Notice of the adoption of the resolution shall be given by publication once each week for two (2) weeks in accordance with IC 5-3-1.

(b) Whenever the board has adopted a resolution under subsection (a), remonstrances may be filed by the affected voters within ninety (90) days after the last publication under subsection (a). Remonstrances must be signed in ink by the voter in person and state the address of each signer and that the signer is a registered voter. A person who signs a remonstrance when he is not a registered voter commits a Class D felony. More than one (1) voter may sign the same remonstrance.

(c) A vote on the public question shall be held if at least the number of the registered voters of the county required under IC 3-8-6-3 to place a candidate on the ballot file remonstrances under subsection (b) with the county clerk protesting the extension of the district.

(d) The county clerk shall certify to the county election board in accordance with IC 3-10-9-3 whether or not the required number of registered voters of the county have filed remonstrances. If sufficient remonstrances have been filed, the county election board shall publish a notice of the election once a week for two (2) consecutive

weeks in accordance with IC 5-3-1-4, the first publication to be at least thirty (30) days before the date of the election. The question presented to the voters at the election shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the county park district be established?".

The election is governed by IC 3 whenever not in conflict with this chapter. The county election board shall make a return of the votes cast at the referendum.

(e) If a majority of the votes cast are against the extension of the district, the district is not extended. If sufficient remonstrances are not filed or if a majority of the votes cast support the extension of the district, the district is extended.

(f) The extension of the district is effective on January 1 of the year following the adoption of the resolution or, if an election is held, on January 1 of the year following the date of the election.

(g) A municipality that becomes part of a district by reason of the extension of the district under this section may continue to establish, maintain, and operate parks and other recreational facilities under any other law. The parks and other recreational facilities shall be operated by the municipality separate from the parks and other recreational facilities under the jurisdiction of the board in the same manner as they would be operated by the municipality if it was not within the district.

(h) The operation of separate parks or recreational facilities by a municipality does not affect the obligation of property owners within the municipality to pay all taxes imposed on property within the district.

(i) The legislative body of a municipality may elect that the separate parks or other recreational facilities of the municipality be maintained or operated as a part of the district by adopting a resolution or an ordinance to that effect. The separate park or other recreational facility comes under the jurisdiction of the board at the time specified in the resolution or ordinance.

As added by Acts 1981, P.L.309, SEC.111. Amended by P.L.358-1987, SEC.3; P.L.3-1987, SEC.569; P.L.12-1995, SEC.133.

IC 36-10-4-6

Extended districts in certain counties; board of park commissioners; term; vacancy

Sec. 6. (a) This section applies whenever a district is extended under section 5 of this chapter and such district is not located in a county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

(b) After the district is extended under section 5 of this chapter, the board consists of five (5) commissioners. Two (2) commissioners shall be appointed by the city executive, two (2) commissioners shall be appointed by the county executive of the county in which the city is located, and one (1) commissioner shall be appointed by a majority vote of the presidents of the school boards of the school corporations

in the county in which the city is located. The commissioners appointed by the county executive must be residents of the area of the district outside the corporate boundaries of the city. The commissioners appointed by the county executive may not be members of the same political party, and the commissioners appointed by the city executive may not be members of the same political party.

(c) A commissioner of an extended district may hold office for an unlimited number of terms.

(d) After the initial terms have expired, all of the commissioners after the extension of the district shall be appointed for terms of four (4) years, beginning on January 1. The terms of office of the three (3) commissioners in office at the time of the extension terminate January 1, and the terms of office of the new commissioners begin January 1. The city executive shall appoint one (1) commissioner for an initial term of two (2) years and one (1) for an initial term of four (4) years. The county executive shall appoint two (2) commissioners, one (1) commissioner for an initial term of two (2) years and the other commissioner for an initial term of four (4) years. The presidents of the school boards shall appoint one (1) commissioner for an initial term of four (4) years.

(e) A vacancy in the office of a commissioner shall be filled for the remainder of the term by the appointing authority.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.12; P.L.358-1987, SEC.4; P.L.12-1992, SEC.191; P.L.170-2002, SEC.172; P.L.119-2012, SEC.236.

IC 36-10-4-6.1

Extended districts in other counties; board of park commissioners; term; vacancy

Sec. 6.1. (a) This section applies whenever a district is extended under section 5 of this chapter and such district is located in a county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

(b) After the district is extended under section 5 of this chapter, the board consists of five (5) commissioners. Three (3) commissioners shall be appointed by the city executive, and two (2) commissioners shall be appointed by the county executive of the county in which the city is located. The commissioners appointed by the county executive must be residents of the areas of the district outside the corporate boundaries of the city. No more than two (2) of the three (3) commissioners appointed by the city executive may be members of the same political party, and the commissioners appointed by the county executive may not be members of the same political party.

(c) A commissioner of an extended district may hold office for an unlimited number of terms.

(d) All commissioners after the extension of the district shall be appointed for terms of four (4) years, beginning on January 1. The three (3) commissioners whose terms of office have not expired

continue in office and are considered appointees of the city executive until the expiration of the four (4) year terms for which they each were originally appointed. The county executive shall appoint two (2) commissioners, one for a term of two (2) years and the other for a term of four (4) years. As the term of each commissioner expires, a new commissioner shall be appointed for a term of four (4) years so that at all times the board consists of three (3) commissioners appointed by the city executive and two (2) commissioners appointed by the county executive.

(e) A vacancy in the office of a commissioner shall be filled for the remainder of the term by the appointing authority.

As added by P.L.358-1987, SEC.5. Amended by P.L.12-1992, SEC.192; P.L.170-2002, SEC.173; P.L.119-2012, SEC.237.

IC 36-10-4-7

Board of park commissioners; election of officers; quorum; regular meetings; office; report; disposition of money received

Sec. 7. (a) The board shall elect at its first regular meeting in February each year one (1) of the commissioners president and another vice president. The vice president shall perform the duties of the president during the absence or disability of the president.

(b) A majority of the commissioners constitutes a quorum. Action of the board is not binding unless authorized by a majority of the commissioners at a regular or duly called special meeting of the board. If there is a tie vote on any question, the city executive shall cast the deciding vote.

(c) The board shall fix a time for holding regular meetings. Special meetings of the board may be called at any time by its president, or by any two (2) of the commissioners, upon a written request to the secretary. If a special meeting is called, the secretary shall notify the commissioners by mailing written notices of the time of the meeting at least one (1) day before the meeting. All meetings are open to the public.

(d) The proper authorities of the city shall provide a suitable office for the board where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times.

(e) By February 1 of each year the board shall make a report to the city executive of:

(1) its proceedings, including a full statement of its receipts and disbursements for the preceding calendar year;

(2) the acquisition of lands by the board;

(3) improvements made by the board; and

(4) general character of the work of the board during the preceding year.

(f) Money received by the board shall immediately be paid into the city treasury and credited to the department. All expenditures relating to the parks, parkways, public grounds, public ways, and other places of the city under the control of the department shall be provided for by a special levy of taxes. The money shall be paid from

the city treasury when ordered by the board.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-8
Taxing district for levying special benefit taxes

Sec. 8. All of the area:

(1) within the corporate boundaries of a city; and

(2) in unincorporated areas of the county to which the district has been extended;

constitutes a taxing district for levying special benefit taxes for park purposes as provided in this chapter. Area added to the district under section 5 of this chapter is considered to have received a special benefit from the park facilities of the district equal to or greater than the special taxes imposed on the area by this chapter in order to pay all or a part of the cost of the facilities.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-9
Control of property within district; public ways passing through park property; powers of board

Sec. 9. (a) The board has, subject to statute and to the right given by section 5 of this chapter to other municipalities within the district to operate separate parks and recreational facilities, exclusive control of all property within the district used for park purposes.

(b) In addition, the part of all public ways that pass through park property is considered to be a part of this property and is also under the control of the board.

(c) The board may do the following:

(1) Acquire, lay out, and improve land for park purposes in the district and may equip, operate, maintain, and regulate the public use of that property.

(2) Appoint a secretary, and, in his absence a secretary pro tempore, landscape architects, engineers, surveyors, attorneys, clerks, guards, laborers, playground directors, and other employees, prescribe their duties and authority, and fix their compensation. If a superintendent of the department is appointed, he shall be appointed under IC 36-4-9-2.

(3) Make rules not in conflict with statutes or the ordinances of the city for the management of the property under its control.

(4) Require the department of public safety of the city to detail police officers to execute the orders and enforce the rules made by the board and to be subject to the board, with the city executive deciding any disagreement between the two (2) departments as to the number and duration of the details of police officers.

(5) Locate, erect, and maintain fountains in parks, as well as in the public ways that form the boundaries of parks, or intersect with them.

(6) Erect and maintain suitable fences around parks.

(7) Seize and impound animals found running at large in any of

the parks, including establishing suitable places for the impounding.

(8) Lease or sell any buildings, grounds, materials, equipment, or any parts of them owned by the city that are under the control of the department and that the board determines are not required for park purposes, permitting any other department of the city or the school city to occupy or use the property upon terms that are approved by the executive. All sums realized from the lease, sale, or other disposition of property shall be deposited in the city treasury to the credit of the department and expended for park purposes. All buildings and structures erected upon land under the control of the board are under the control of the board, and the board may not permit the erection of any building or structure upon land unless it becomes the property of the city. A lease or sale of minerals, mineral rights, or royalties for minerals for more than one (1) year from land owned by a second class city or a lease for more than one (1) year in a city that adopted this chapter by ordinance under IC 19-7-9 (before its repeal on September 1, 1981) may be made only to the highest and best bidder after notice of the sale or lease has been given by publication in accordance with IC 5-3-1.

(d) The board may also do the following:

(1) Vacate public ways, or parts of them, on land under the control of the board in the same manner as the city works board may vacate them.

(2) Take over and control public ways, or parts of them, within the city and convert them into boulevards or pleasure driveways if they connect with or run into or through a park, parkway, or boulevard or are necessary for the establishment of a park or boulevard system in the city, including grading, improving, and beautifying them and relinquishing to other departments of the city the control of a public way or parkway in streets taken over that are not necessary or desirable for maintenance as part of the park system of the city.

(3) Petition the proper board of the city to construct any necessary drainage or sanitary sewers and connections in a public way or parkway bordering park property and require a public service corporation to lay, install, and connect water and gas mains and electric light conduits in and along a boulevard or park drive when reasonably necessary.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.45, SEC.97; Acts 1981, P.L.320, SEC.13; P.L.3-1990, SEC.139.

IC 36-10-4-10

Powers of board extended five miles outside corporate city boundaries

Sec. 10. In a city that adopted this chapter by ordinance under IC 19-7-9 (before its repeal on September 1, 1981), the powers granted the board by section 9(a) extend five (5) miles outside the

corporate boundaries of the city.
As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.14; P.L.3-1990, SEC.140.

IC 36-10-4-11
Shade trees and lawns along public ways; resolution assessing cost; hearing; assessments; playgrounds; public school grounds or buildings

Sec. 11. (a) The board has exclusive control over the planting, trimming, and maintenance of shade trees along the public ways of the city. The board may:

(1) take over and control the improvement, maintenance, and embellishment of all lawns and street centers in and along the public ways of the city; or

(2) compel the owners of lots and parcels of land bordering on the public ways to plant, trim, protect, and maintain shade trees and to sod, plant, and maintain lawns and centers after first adopting a resolution showing the public necessity and assessing the cost against the abutting lots and parcels of land.

(b) After adopting a resolution under subsection (a), the board shall give notice and provide a hearing, with right of remonstrance, in the same manner as is provided for street and sidewalk improvements by the works board of the city. However, instead of letting a contract to the highest and best bidder, the board may carry out the improvement with its own employees and charge the actual cost in the same manner as if a contract was let. The cost may include a reasonable guaranty, but may not, however, exceed the estimate to be made and placed on file at the time of the adoption of the resolution.

(c) All assessments levied for the improvements are payable in one (1) payment, without notice, at the next regular taxpaying time after the completion of the improvement. The assessments are liens against the separate lots and parcels of land abutting the improvement. If they are not paid when due, they may be enforced by foreclosure, after giving notice, in the same manner as assessments for street and sidewalk improvements.

(d) The board has exclusive control over the establishment and maintenance of public playgrounds, public playfields, public swimming pools, public baths, community centers, and recreation centers in the city. The board shall select directors, assistants, and employees to manage and control the facilities and shall prescribe their duties and fix their compensation. The board may expend the sums from the general park fund for recreation purposes that it considers advantageous to the city.

(e) The governing body of the school corporation of the city may permit the use of public school grounds or buildings under its control that are required or adaptable for recreation purposes when that use will not interfere with use for school purposes.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-12
Open spaces for park, recreational, or civic purposes

Sec. 12. The board may develop open spaces for park, recreational, or civic purposes in cities where areas have become blighted or require redevelopment for the public welfare in cooperation with the redevelopment commission and the plan commission for the city, providing out of park funds, by bond issue, from other available funds, or by the receipt of grants or donations for such purposes the money necessary for the redevelopment commission to acquire the areas for the department and paying the money to the redevelopment commission for the project.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-13
Law governing adoption of plans, giving of notice, and receiving of bids in letting of contract

Sec. 13. The board is subject to IC 36-1-12 governing similar action by the works board when adopting plans, giving notice, and receiving bids in the letting of a contract for public improvements or repairs.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.57, SEC.43.

IC 36-10-4-14
Actions to recover damages for breach of agreement, penalties for violation of ordinance, damages for injury to property, and possession of property

Sec. 14. The board may bring an action in the name of the city to recover:

(1) damages for the breach of an agreement, expressed or implied, relating to or growing out of the establishment, management, or improvement of the parks, public ways, and other property used for park purposes under its control;

(2) penalties for the violation of an ordinance;

(3) damages for injury to the personal or real property relating to the parks, public ways, and other property used for park purposes; or

(4) possession of property.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-15
Publication of rules adopted by board

Sec. 15. All rules that the board adopts under this chapter shall be published in accordance with IC 5-3-1.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.45, SEC.98.

IC 36-10-4-16
Taxes; disbursements; borrowing; general park fund; special funds; fees; deposits; withdrawals

Sec. 16. (a) A tax on the taxable property in the district, as it appears on the tax duplicate, shall be levied annually by the city legislative body for park purposes.

(b) The tax shall be collected the same as other city taxes are collected, and the city fiscal officer shall, between the first and fifth days of each month, notify the board of the amount of taxes collected for park purposes during the preceding month. At the date of notification, the city fiscal officer shall credit the park fund with the amount.

(c) The board may expend on behalf of the city all sums of money collected from:

(1) taxes;

(2) the sale of privileges in the parks of the city;

(3) the sale of bonds of the city for park purposes; and

(4) any other source.

All gifts, donations, or payments that are given or paid to the city for park purposes belong to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund to be used by the board as provided by this chapter. Warrants for expenditures shall be drawn by the city fiscal officer upon a voucher of the board signed by the president or vice president and secretary.

(d) The city legislative body may borrow money for the use of the department and may issue the bonds of the city to pay back the borrowed money in the manner provided by statute for the issue of bonds for the general purposes of the city. However, the board may not contract debts beyond the amount of its annual income and the amount available from the sale of bonds or other sources.

(e) All money remaining in the treasury to the credit of the board at the end of the calendar year belongs to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund for use by the board for park purposes.

(f) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(g) The city legislative body may establish by ordinance upon request of the board:

(1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the city legislative body; or

(2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the city legislative body.

The city legislative body shall designate the fund or funds into which the city fiscal officer shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale

of surplus property shall be deposited by the city fiscal officer either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the general park fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(h) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(i) Money procured from fees or received from the sale of surplus property shall be deposited at least once each month with the city fiscal officer.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.15; P.L.372-1983, SEC.2; P.L.173-2003, SEC.40.

IC 36-10-4-17

Granting of public utility franchise

Sec. 17. A franchise may not be granted by the city for the construction or maintenance of railways or telephone, telegraph, pipe, or conduit lines upon, across, over, or through a park, parkway, park boulevard, boulevard, or driveway under the control of the board without the consent of the board.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-18

Ordinance authorizing sale of park lands; disposition of proceeds

Sec. 18. If a board decides to sell a part of the park lands owned by the city, it shall prepare an ordinance authorizing the sale and submit it to the city legislative body. If the legislative body passes the ordinance, the land shall be sold as other land of the city is sold and the proceeds of the sale credited to the department. The proceeds shall be expended for the improvement of the remaining park land or for the purchase of other land for park purposes, as the board considers best for the city.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-19

Building lines; establishment by resolution; nature of rights in land between building line and park property; procedure; regulation of use of property; conflict of interest

Sec. 19. (a) The board may, by resolution, establish a building line determining the distance at which all structures erected upon any premises fronting a park, parkway, or boulevard may be erected. Upon the adoption of the resolution, the board shall acquire, in the name of the city, by donation, condemnation, or purchase, the land between the building line and the park, parkway, or boulevard, or an interest in the land that will secure to the board the right to prevent

the erection of or to require the removal of all structures outside of the line, or both. After the adoption of the resolution, a permit may not be issued by a department or officer of the city authorizing the erection of a structure outside of the established line unless approved by the board.

(b) The establishment of a building line outside of a park, parkway, or boulevard in connection with the donation, condemnation, or purchase of land or an interest in it is a perpetual annihilation of all rights of the owners of property over and across which the building line runs to erect a structure or a part of one between the building line and the park, parkway, or boulevard. However, the perpetual and irrevocable free license to use and occupy the land between a building line and the park property is reserved to the property owner for purposes other than the erection of structures.

(c) If the board decides to establish a building line, the board has the same powers and shall proceed in the same manner in the condemnation, assessment, and collection of benefits, awards of damages, remonstrances, hearings, appeals, rehearings, and other matters as it does in the acquisition of real property. Benefits may not be assessed against property other than that abutting on the park, parkway, or boulevard along which the building line is established and within the limits of the building line. However, the total amount of benefits assessed against lots and parcels of land fronting on the park, parkway, or boulevard and located within the limits of the building line must equal the total cost of the establishment of the building line.

(d) A subdivision of lots or parcels of land lying within five hundred (500) feet of park, parkway, or boulevard may not be accepted for record and is not valid without the approval of the board. If the board considers it necessary, in order to promote public health, safety, morals, or general welfare, the board may, by general order or resolution, regulate:

(1) horse racing; and

(2) the location of trades, industries, commercial enterprises, buildings, or devices designed for uses that, in the order or resolution, are specified as injurious to the public health, safety, morals, or general welfare;

within five hundred (500) feet of a park, parkway, or boulevard. The right to regulate the use of this property for these purposes is considered to be included in a gift, donation, acquisition, or condemnation under this chapter. However, a lawful business being conducted upon adjacent property when jurisdiction is acquired over the property may not be prohibited or abated without a fair valuation and due compensation.

(e) Commissioners, and clerks, assistants, appointees, or employees of the board may not hold an interest, either directly or indirectly, in any kind of enterprise conducted for profit within one thousand (1,000) feet of a park, parkway, or boulevard under the jurisdiction of the board. The possession or ownership of an interest

operates to vacate the officer or position held by the person and makes him ineligible to hold an office or position under the board while the interest is, either directly or indirectly, possessed or retained by him.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-20
Acquisition of property for various purposes; holding property in trust; establishment of museums; contracts for management and maintenance of facilities

Sec. 20. (a) Real and personal property may be granted, devised, leased, bequeathed, or conveyed to a city for park purposes or for the establishment, improvement, maintenance, or ornamentation of a park, playground, boulevard, pleasureway, parkway, wheelway, garden for horticulture and floriculture, museum, zoological garden, collection of natural history, observatory, library, fountain, monument, work of art, art gallery, or other public ground.

(b) The city may take and hold the property in trust or upon conditions that are approved by the board. The property and the rents, issues, and profits from it are subject to the exclusive control of the board.

(c) The board shall also provide accommodations and take the steps that the money at its disposal will justify for securing and preserving collections of natural history and the establishment of museums in the parks of the city.

(d) The property may be improved, added to, and changed at the board's discretion and shall be protected, preserved, and arranged by the board for the public use and enjoyment under the rules that the board prescribes.

(e) The public may use and enjoy the facilities, although the board may impose an admission charge for entrance into the gardens, museums, and other collections.

(f) The board may also contract for the management and maintenance of gardens, museums, art galleries, or other institutions with a society incorporated under statute, as long as the public has the right to use and enjoy the facilities. The board may also impose an admission charge for entrance into these facilities, which remain subject to the control of the board.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-21
Eminent domain; damages; prior public use

Sec. 21. (a) The board may exercise the power of eminent domain:

(1) within the corporate boundaries of the city; and

(2) outside of the city within ten (10) miles, or five (5) miles if the city adopted this chapter by ordinance under IC 19-7-9 (before its repeal on September 1, 1981), of the corporate boundaries of the city and within the county in which the city is located;

for the purposes of this chapter. The board may award damages to

landowners for real property and property rights appropriated or injuriously affected and assess benefits to property beneficially affected. If the board cannot agree with the owners, lessees, or occupants of any real property selected by the board for the purposes of this chapter, the board may condemn the property as provided in this chapter, and, when not inconsistent with this chapter, may proceed under statutes governing the condemnation of land and rights-of-way for other public purposes.

(b) If the land or surface of the ground on, over, or across which it is necessary or advisable to establish, construct, or improve a boulevard, parkway, or pleasure driveway is already in use for another public purpose or has been condemned or appropriated for a use authorized by statute and is being used for that purpose by the entity appropriating it, the public use or prior condemnation does not bar the board from condemning the use of the ground for park purposes. However, the use by the board does not permanently prevent the use of the land or the surface of the ground for the prior public use or by the entity condemning or appropriating it. In a proceeding prosecuted by the board to condemn the use of land or the surface of the ground for purposes permitted by this chapter, the board must show that its proposed use will not permanently or seriously interfere with the continued use of the land or the surface of the ground.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.16; P.L.3-1990, SEC.141.

IC 36-10-4-22

Authority concerning rivers, streams, and waterways

Sec. 22. (a) This section applies only to the parts of rivers, streams, and waterways that are within or bordering park land and boulevards under the control of the board.

(b) The board may:

(1) keep open rivers, streams, and waterways and prevent the deposit of unsightly or obnoxious materials in or along them;

(2) take over, improve, control, and provide for the protection of the banks of rivers, streams, and waterways, including building levees and taking over levees already built;

(3) control the flow of water;

(4) make rules and regulations concerning rivers, streams, and waterways and their banks as is necessary for these purposes;

(5) dam or change the course of a river, stream, or waterway to provide water for sprinkling, boating, or other purposes;

(6) provide pools or artificial lakes in parks; and

(7) construct bridges and viaducts over or tunnels under rivers, watercourses, or railroads.

(c) The board may also require the owners of real property abutting along and upon rivers, streams, and waterways to remove unsightly or obnoxious materials, filth, and unhealthy and unsanitary substances in or along them. Five (5) days' written notice shall be given to the owners that states the materials, filth, or substances to be

removed. If a property owner fails to comply with the notice the board may remove the materials, filth, or substances. The expense of removal shall be certified by the board to the county treasurer and shall be collected by the treasurer in the same manner as assessments by the board for the improvement of boulevards are collected under this chapter and other statutes, including the sale of the property by the treasurer to pay delinquent expenses.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-23
Improvement of parkway, pleasure driveway, or boulevard; orders; assessment of costs; remonstrance; changing and fixing grade

Sec. 23. (a) The board may, in a proceeding separate from the acquisition of land by purchase or appropriation, order the improvement of a parkway, pleasure driveway, or boulevard, or part of any of these, under the control of the board by surface grading, paving, curbing, or constructing sidewalks in the same manner as the works board of the city may improve a public way or sidewalk within the city. The powers, rights, and duties of the board in carrying out this work are the same as the powers, rights, and duties of the works board in the performance of similar work under general procedures. In addition, the board may determine the kind of pavement to be used. The powers, rights, and duties of the persons to be assessed are the same as those provided under general procedures for doing similar work by the works board, with the cost of improvements assessed to the same extent as property is assessed.

(b) When costs are assessed, they become a lien upon the property to the same extent, are enforceable in the same manner, and have the same rights to payment by installments and appeal as are provided for street and sidewalk improvements ordered by the works board.

(c) If a majority of the resident freeholders affected by the proposed improvement remonstrate in writing against the improvement, the board may, after giving ten (10) days' notice to the remonstrators, petition the circuit court to specifically order the improvement. If at the hearing on the petition the board establishes the public necessity of the proposed improvement and demonstrates that the benefits will equal the assessments against the separate lots or parcels of land, the order shall be made.

(d) If land along one (1) side of a parkway, pleasure driveway, or boulevard is owned by the city or used by it for park purposes, one-half (1/2) of the cost of the improvements under this section, as well as any part of the other one-half (1/2) of the cost of the improvements that cannot be met by special assessments against abutting property, is considered to be benefits accruing to all of the property, real and personal, not exempt from taxation under this chapter and located within the boundaries of the district. The cost shall be paid out of the proceeds of the bonds of the taxing district that are issued and sold for those purposes. Payment shall be made as provided in sections 35 and 37 of this chapter.

(e) The board may provide for the rough grading of a parkway, pleasure driveway, or boulevard at the same time as the acquisition of the property or after the property, or a necessary part of it, has already been secured under section 21 of this chapter.

(f) The board may change and fix the grade of a boulevard, park boulevard, public driveway, or public ground under its control to the same extent as the works board of the city may change and fix the grade of a public way or public place within the city.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-24

Appropriation of property; purposes

Sec. 24. The board may appropriate property for:

(1) establishing a park, parkway, pleasure driveway, or boulevard;

(2) widening or extending a park, parkway, pleasure driveway, or boulevard;

(3) opening, widening, or extending a route or right-of-way for a sewer or channel of a watercourse connected with or necessary for the protection of a park, parkway, pleasure driveway, or boulevard;

(4) constructing an embankment or levee along a watercourse for the protection of a park, parkway, pleasure driveway, or boulevard;

(5) constructing a bridge or viaduct upon or connected with a park, parkway, pleasure driveway, or boulevard; or

(6) converting a public way connecting a park, parkway, or boulevard in the city into a boulevard or pleasure driveway.

The board may also, in the same proceeding, provide for the construction of improvements to the property for the purposes for which the property is appropriated. In addition, the board may provide for the construction of any of the improvements when the property or a part of it has been secured by contract or other means.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-25

Resolution to acquire property; adoption; contents; notice of adoption; appraisal; title; hearing; remonstrance, final action

Sec. 25. (a) This section applies only to:

(1) the acquisition of real property; or

(2) a work of improvement;

that will be financed by the issuance of bonds.

(b) If a board decides to:

(1) acquire land for any of the purposes of this chapter, either by purchase or appropriation, and to proceed with an improvement authorized by this chapter, other than surface grading and paving under section 23 of this chapter; or

(2) acquire property without proceeding at that time with an improvement; or

(3) proceed with an improvement when the property has been

already secured by purchase or otherwise;

it shall adopt a resolution under subsection (c).

(c) The resolution must:

(1) declare the purpose;

(2) describe the land to be acquired, the manner of acquisition, and, in case of appropriation, other land that may be injuriously affected; or describe the land already acquired and intended to be used for the proposed improvement; and

(3) if the improvement is provided for in the resolution, require that preliminary plans and specifications and an estimate of the cost of the proposed improvement be prepared by the engineer selected to do the work.

The resolution must be open to inspection by all persons interested in or affected by the appropriation of the land or the construction of the work.

(d) Upon the adoption of the resolution, the board shall have notice of the adoption and content of it published in accordance with IC 5-3-1. The notice must name a date on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings and determine the public utility and benefit of the proposed project.

(e) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the district, are considered to be notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the board by the original notice by publication.

(f) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by metes and bounds. It does not matter if the property is composed of one (1) or more lots or parcels or owned by one (1) or more persons.

(g) If the land or a part of it is to be acquired by purchase, the resolution must also state the maximum proposed cost. The board may, at any time before the adoption of the resolution:

(1) obtain from the owner or owners of the land an option for its purchase; or

(2) enter into a contract for its purchase upon the terms and conditions that the board considers best.

The option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution and to the condition that the land shall be paid for only out of the special fund resulting from the sale of district bonds and from local assessments, as provided in this chapter.

(h) If the board decides to acquire any lots or parcels of land by purchase, the board shall appoint three (3) qualified appraisers to

appraise the land. The appraisers may not be interested, directly or indirectly, in any land to be acquired under the resolution or that may be injured or incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. They shall then immediately view the land and determine the true market value of it at that time. They shall report the appraisal in writing, which shall be filed with and becomes a part of the record of the proceeding. The board may not take an option on the land or enter into a contract to purchase it at a higher price than the value named in the report.

(i) The title to any land to be acquired under the resolution, whether by purchase or appropriation, does not vest in the city until it is paid for out of the special fund created by the sale of bonds and from local assessments of special benefits as provided in this chapter. Any indebtedness or obligation incurred by the board due to the acquisition of land or to construction of a work shall be paid out of the funds under the control of the board and is not an indebtedness or obligation of the city.

(j) At or before the time fixed for the hearing, an owner of land to be appropriated or injuriously affected under the resolution, or a person owning real or personal property located within the corporate boundaries of the city, may file a written remonstrance with the secretary of the board. At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering this evidence, the board shall take final action determining the public utility and benefit of the proposed project by either confirming, modifying, or rescinding the resolution. The action shall be recorded and is final and conclusive upon all persons.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.17.

IC 36-10-4-26

Letting of contract for construction; bidder's deposit; payment; limitation of cost; validity of contract

Sec. 26. (a) If the board orders acquisition and construction and has advertised for bids for the construction after final adoption of the resolution, it shall require each bidder to deposit with his bid a certified check for an amount not less than two and one-half percent (2 1/2%) of the engineer's estimate of the cost of the improvement to insure the execution of the contract for which the bid is made.

(b) The contract must state that payments for all work under the contract shall be made only from the special fund derived from the proceeds of bonds and special assessments. A contract may not be let for a higher amount than the estimated cost of the work, and the board may let parts of the proposed work under different contracts. The board may, at any time before the execution of a contract for the work, rescind any acts or orders in relation to the proposed work or take the supplementary proceedings that the board considers necessary.

(c) The validity of a contract may not be subsequently questioned by any person except in an action to enjoin the performance of the contract instituted within fifteen (15) days after the execution of the contract. After that fifteen (15) day period, all proceedings and orders of the board preliminary to the contract are valid, conclusive, and binding upon all persons and are not subject to attack. The amount of the benefits resulting to all property in the city and the special tax shall be levied only for the balance.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-27
Properties subject to special tax; lands subject to special assessment for benefits; determination of benefits to all property in city

Sec. 27. (a) After final action of the board confirming the resolution in its original form, all property located within the corporate boundaries of the city is subject to a special tax to provide money to pay the total cost of acquiring land, of an improvement, or of both, including all necessary incidental expenses. The special tax constitutes the amount of benefits resulting to the property from the proceedings and shall be levied as provided in this chapter.

(b) If the board determines that any lots or parcels of land, exclusive of improvements, lying within two thousand (2,000) feet of either side of property to be acquired for a work of construction will incur a particular benefit because of proximity to the property to be acquired or the work of construction, the lots and parcels of land are subject to a special assessment for benefits in addition to the benefits received by them in common with all other property located in the city. The special assessment shall be determined in accordance with this chapter, but the total amount of the additional benefits assessed may not exceed twenty-five percent (25%) of the total cost of acquiring land, of the improvement, or of both.

(c) The total amount of additional benefits assessed and finally confirmed or adjudged against lots and parcels of land, exclusive of improvements, lying within two thousand (2,000) feet shall be deducted from the total cost of acquiring new park land, of the improvement, or of both. The balance of the total cost constitutes the amount of the benefits resulting to all property in the city, with the special tax levied only for the balance.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-28
Lists of property sought to be taken, certain property incurring particular benefit, and persons affected injuriously or beneficially

Sec. 28. (a) When the resolution has been finally confirmed by the board, the board shall have prepared a list of all the owners or holders or property sought to be taken or that will be injuriously affected either by the appropriation of the land or the improvement. The board shall also have prepared a list of all of the owners or holders of lots or parcels of land lying within two thousand (2,000)

feet on either side of the land to be acquired for park or boulevard purposes, for an improvement, or for both that will incur a particular benefit as provided in section 27 of this chapter by the acquisition, location, establishment, construction, or improvement of a park, playground, parkway, pleasure driveway, boulevard, improvement, or structure provided in the resolution.

(b) In addition to the names, the list must show with reasonable certainty a description of the property belonging to each person that will be appropriated or affected either injuriously or beneficially. A greater certainty in names and description is not necessary for the validity of an award or assessment than is required in the assessment of taxes.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-29

Exempt personal and real property; exception

Sec. 29. All real and personal property that is exempt from taxes by statute is exempt from all taxes and assessments under this chapter, except assessments against abutting property for improvements constructed by the board under section 23 of this chapter.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-30

Awards; determination; notice describing location of land appropriated or acquired

Sec. 30. (a) After completion of the list, the board shall proceed to determine and award:

(1) the amount of damages sustained by the owners of the parcels of land required to be appropriated, if any, as provided in the resolution or that will be injuriously affected; and

(2) the amount of particular benefits that will accrue to the lots or parcels of land, exclusive of improvements, lying within two thousand (2,000) feet on either side of the property to be acquired, of the improvement, or of both because of proximity to the land to be acquired and the establishment or construction of a project for park purposes as provided in the resolution and in addition to the benefits received by the lots or parcels of land in common with all property located in the city.

However, the total amount of benefits assessed against the lots and parcels of land, exclusive of improvements, located within two thousand (2,000) feet may not exceed twenty-five percent (25%) of the total cost of land acquisition or of the improvement.

(b) When the list has been completed, the board shall have published in accordance with IC 5-3-1 a notice describing the location of the land appropriated or acquired by the purchase or the land on which the improvement is to be made. The notice must also state:

(1) the general character of the improvement;

(2) what assessments have been made against land within two

thousand (2,000) feet of park property; and

(3) that the assessment list, with the names of the owners to whom damages have been awarded and against whom assessments have been made, a description of property affected, and the amounts of preliminary awards or assessments for each parcel of property affected is on file and can be seen in the board's office.

(c) In addition, the board shall have a written notice served upon the owner of each parcel of land taken or injuriously affected, by leaving a copy at his last and usual place of residence in the city or by delivering a copy to the owner personally. The notice must show separately each item of the determination regarding property owned by him.

(d) The board shall also have mailed a notice to the residence, if known, of persons owning land or parts of land against which special assessments have been made, showing each item of the determination as it affects those persons. If a person is a nonresident or his residence is not known, then he is considered to have been notified by the publication. The notice must name a day, not earlier than ten (10) days after service of the notice, the last day of publication, or the date of mailing, on which the board will receive and hear remonstrances from persons regarding the amount of their respective awards or assessments. Persons not included in the lists, assessments, or awards who claim to be entitled to an assessment or award are considered to have been notified of the pendency of the proceedings by the original notice of the resolution of the board and by the publication as provided in this section.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.45, SEC.99.

IC 36-10-4-31

Notice to mentally incompetent persons or minors; defects or irregularities in proceedings

Sec. 31. (a) If a person having an interest in land affected by the proceedings is mentally incompetent or under eighteen (18) years of age, the board shall certify this fact to its attorney. The attorney shall then apply to the court and secure the appointment of a guardian for the person. The board shall give notice to the guardian, who shall appear and protect the interest of the protected person. However, if the protected person already has a guardian, the notice may be served upon that guardian. The requisites of notice to the guardian are the same as for other notices.

(b) If there are defects or irregularities of any kind in the proceedings with respect to one (1) or more interested persons, they do not affect the proceedings as to any other person. In case of a defect, supplementary proceedings of the same general character as those already prescribed may be had in order to cure it.

As added by Acts 1981, P.L.309, SEC.111. Amended by P.L.33-1989, SEC.129.

IC 36-10-4-32

Remonstrance against award or assessment; hearing; decision; appeal; procedure; costs

Sec. 32. (a) A person notified or considered to be notified under the preceding sections of this chapter may remonstrate in writing against an award or assessment and appear before the board on the day fixed for hearing remonstrances. Every person appearing before the board having an interest in the proceedings shall be given a hearing. After the remonstrances have been received and the hearings held, the board shall either sustain, increase, or decrease the awards or assessments.

(b) A person remonstrating in writing who is aggrieved by the decision of the board may take an appeal to the circuit or superior court in the county in which the city is located. The appeal affects only the amount of the assessment or award of the person appealing.

(c) The appeal may be taken by filing an original complaint in court against the board within ten (10) days after the board's decision. The complaint must set forth the action of the board regarding the assessment or award and the facts relied upon as showing an error of the board. The court, or if requested by a property owner or the board, a jury, shall rehear the matter of the assessment or award de novo and either confirm, decrease, or increase the amount. The cause shall be tried as a civil case. All remonstrances upon which an appeal is taken may be consolidated and heard as one (1) cause of action and shall be heard and determined as soon as practical.

(d) If the amount of benefits assessed against the property is decreased by ten percent (10%) or more, or if the amount of damages is increased by ten percent (10%) or more, the plaintiff is entitled to recover costs.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-33

The local assessment duplicate; collection by county treasurer; payment date; foreclosure; installment payments; law governing; assessment bonds; expense of notices

Sec. 33. (a) Upon completion of the assessment roll by the board, the board shall immediately prepare a duplicate of the assessment roll of benefits, to be known as "The Local Assessment Duplicate", and deliver it, duly certified, to the county treasurer. The amounts of benefits assessed are then liens superior to all other liens, except taxes, against the respective lots or parcels of land upon which they are assessed. The duties of the treasurer are the same as are prescribed by law for the collection of assessments for street improvements.

(b) The assessments of benefits are due and payable to the treasurer from the time of the delivery of the assessment duplicate to the treasurer. If the assessments are not paid within sixty (60) days after delivery, the board, through its attorney, shall proceed to foreclose the liens in a court of competent jurisdiction as mortgages

are foreclosed, with similar rights of redemption and the right to sell the property to pay the assessments. The board may recover costs, reasonable attorney's fees, and interest from the expiration of the sixty (60) day period at the rate of six percent (6%) per year. If the person against whom the assessment is made is a resident of the city, demand shall be made by delivery to him personally or mailing to his last and usual place of residence a notice of the assessment and demand for payment.

(c) A person assessed for special and local benefits may, within thirty (30) days after confirmation of the assessments, decide to pay the assessment in installments in the same manner as provided for the payment of assessments for the improvement or paving of streets in the city.

(d) Statutes concerning the payment of street improvement assessments by installments, the issuance of bonds and coupons to anticipate assessments, and the rights of bondholders and landholders apply to assessments made under this chapter when consistent with this chapter. If assessment bonds are issued, they shall promptly be sold by the board in the same manner as park district bonds are authorized to be sold under section 35 of this chapter. Assessment bonds are exempt from taxation for all purposes. The expense of all notices with respect to assessments and delinquencies shall be paid by the board and all interest on delinquencies shall be deposited into the general fund of the board.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-34

Damage awards; certificates; payment; disputes as to claimants

Sec. 34. (a) The board shall, upon completion of a damage award or upon the determination of an appeal, make out certificates for the proper amounts and in favor of the proper persons. When a person presents a certificate to the city fiscal officer, the person is entitled to a warrant on the city treasury. The warrant shall be countersigned by the president or vice president and the secretary of the board.

(b) The city shall pay the persons the amounts due them as shown by the certificates. The certificates or vouchers shall, whenever practical, be actually tendered to the person entitled to them, but if this is impractical they shall be kept for the persons in the office of the board. The making and filing of the certificates is a valid effectual tender to the person entitled to them when there is sufficient money to pay them. The certificates shall be delivered to the person on request.

(c) If a dispute or doubt arises as to which person shall be paid the money, the board shall make out the certificate in favor of the attorney appointed by the board for the use of the person entitled to it. The attorney shall then draw the money and pay it into court in a proper proceeding, requiring the various claimants to interplead and have their respective rights determined. If an injunction is obtained because damages have not been paid or tendered, the board shall tender the amount of them, with interest from the time of the entry of

the property, if entry has been made, and all accrued costs. The injunction shall then be disposed of, if there is sufficient money to pay the certificate. The pendency of an appeal to the circuit or superior court of a county does not affect the validity of a tender made under this section, but the board is entitled to proceed with its appropriation of the property in question.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-35
Bonds; issuance; purpose; deduction of benefits from cost; inclusion of estimated costs in one bond issue; denomination; issuance and sale procedure

Sec. 35. (a) In order to pay for:

(1) land to be acquired for any of the purposes of this chapter;
(2) an improvement authorized by this chapter; or
(3) both;

the board shall issue the bonds of the district in the name of the city in anticipation of the special benefits tax to be levied under this chapter. The amount of the bonds may not exceed the estimated cost of all land to be acquired and the estimated cost of all improvements provided in the resolution, including all expenses necessarily incurred in the proceedings and a sum sufficient to pay the estimated costs of supervision and inspection during the period of construction. Expenses include all expenses actually incurred preliminary to acquisition of the land and the construction work, such as the estimated cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other expenses necessary to letting the contract and selling the bonds.

(b) The total amount of any benefits that have been assessed by the board and confirmed against lots and parcels of land, exclusive of improvements, lying within two thousand (2,000) feet on either side of the land to be acquired or of the improvement, however, shall be deducted from the estimated cost.

(c) If more than one (1) resolution or proceeding of the board under section 25 of this chapter is confirmed whereby different parcels of land are to be acquired or more than one (1) contract for work is let by the board at approximately the same time, the estimated cost involved under all of the resolutions and proceedings may be contained in one (1) issue of bonds.

(d) The bonds shall be issued in any denomination up to five thousand dollars ($5,000) each. The bonds are negotiable instruments and bear interest at a rate established by the board and approved by the city legislative body.

(e) After adopting a resolution ordering the bonds, the board shall certify a copy of the resolution to the fiscal officer of the city. The fiscal officer shall then prepare the bonds, which shall be executed by the city executive and attested by the fiscal officer. The bonds are exempt from taxation for all purposes and are subject to IC 6-1.1-20 concerning:

(1) the filing of a petition requesting the issuance of bonds; and

(2) the right of:

(A) taxpayers to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

(f) All bonds shall be sold at not less than par value plus accrued interest to date of delivery by the city fiscal officer to the highest bidder after giving notice of the sale of the bonds by publication in accordance with IC 5-3-1.

(g) The bonds are subject to approval by the city legislative body, in the manner it prescribes by ordinance or resolution.

(h) The bonds are not corporate obligations or indebtedness of the city, but are an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all property of the district. The bonds must recite these terms upon their face, together with the purposes for which they are issued.

(i) An action to question the validity of bonds of the district or to prevent their issue may not be brought after the date set for the sale of the bonds.

(j) The board may, instead of selling the bonds in series, sell the bonds to run for a period of five (5) years from the date of issue for the purposes of this chapter at any rate of interest payable semiannually, also exempt from taxation for all purposes. The board may sell bonds in series to refund the five (5) year bonds.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.320, SEC.18; P.L.27-1986, SEC.8; P.L.2-1989, SEC.55; P.L.146-2008, SEC.794.

IC 36-10-4-36

Cumulative building and sinking fund; establishment; levy of tax

Sec. 36. (a) To raise money for any of the purposes for which bonds may be issued under section 35 of this chapter, the board may request that the city legislative body adopt an ordinance establishing a cumulative building and sinking fund. The legislative body may establish a cumulative building and sinking fund under IC 6-1.1-41. The tax may not exceed three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable personal and real property in the district.

(b) The tax, when collected, shall be held in a public depository in a special fund to be known as the park district cumulative building and sinking fund.

As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.45, SEC.100; P.L.17-1995, SEC.43; P.L.6-1997, SEC.233.

IC 36-10-4-37

District bond fund; proceeds from sale of bonds; disposition of fund

Sec. 37. (a) All proceeds from the sale of bonds issued under section 35 of this chapter shall be kept as a separate fund to pay for:

(1) the cost of land and other property acquired;
(2) the cost of improvement; and
(3) all costs and expenses incurred in connection with the project.

(b) The fund may not be used for any other purpose. The fund shall be deposited, at interest, with the depository or depositories of other public funds of the city, and all interest collected on it belongs to the fund. A surplus remaining from the proceeds of the bonds after all costs and expenses are fully paid shall be paid into and becomes a part of the district bond fund.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-38

Special tax to pay principal of bonds and accruing interest; collection; accumulations of fund before use for payment

Sec. 38. (a) To raise money to pay all bonds issued under section 35 of this chapter, including interest, the board shall levy each year a special tax upon all of the real and personal property located in the district to pay the principal of the bonds as they mature, together with all accruing interest. The board shall have the tax levied each year certified to the auditor of the county in which the district is located by October 1 each year.

(b) The tax levied and certified shall be collected and enforced in the same manner as other city taxes are collected and enforced. As the tax is collected, it shall be accumulated and kept in a separate fund to be known as the park district bond fund. The tax shall be used to pay the bonds and interest as they mature and may not be used for any other purpose.

(c) All accumulations of the fund before use for the payment of bonds and interest shall be deposited, at interest, with one (1) of the depositories of other public funds of the city, with interest collected belonging to the fund.

As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-39

Payment for land taken or purchased or work done by contract; recording of land description and purpose of acquisition

Sec. 39. (a) The board shall pay to the parties the amounts respectively due them for land taken or purchased or work done by contract or otherwise from the fund derived from the sale of bonds and from assessments of benefits. No other source may be used for this payment. If the land or a part of it is secured by purchase or contract, the payment shall be made according to the terms of the contract. If land is taken by condemnation, the amount of damages assessed shall be paid or tendered within ninety (90) days after the final determination of the condemnation proceedings, or as soon after that as the bond fund is available. The title to the land, or that part paid for or otherwise acquired for these purposes, then vests in the city in the manner, to the extent, for the purposes, and subject to the limitations provided.

(b) Within sixty (60) days after land or an interest in it is acquired or taken under this chapter, the board shall file and have recorded in the recorder's office in the county in which the land is situated a description of it sufficiently accurate for its identification, including a statement of the purposes for which it is required or taken signed by a majority of the board.
As added by Acts 1981, P.L.309, SEC.111.

IC 36-10-4-40
Separate contracts with another party for public improvements or repairs; violation of section

Sec. 40. (a) Unless the board publicly declares an emergency, it may not during any six (6) month period make separate contracts with another party for public improvements or repairs under section 13 of this chapter on the same construction or repair site or on the same construction or repair project involving more than one (1) site, without advertising for and accepting public bids, if the aggregate cost of the separate contract is more than fifteen thousand dollars ($15,000).

(b) A commissioner who knowingly violates subsection (a) commits a Class D felony.

(c) A person who accepts a contract with the board, knowing that subsection (a) was violated in connection with the contract, commits a Class D felony and may not be a party to or benefit from any contract with an Indiana governmental entity for two (2) years after the date of his conviction.
As added by Acts 1981, P.L.309, SEC.111. Amended by Acts 1981, P.L.57, SEC.44.

IC 36-10-5
Chapter 5. Miscellaneous Municipal Park Provisions

IC 36-10-5-1
Application of chapter

Sec. 1. This chapter applies to the municipalities indicated in each section.

As added by Acts 1981, P.L.309, SEC.112.

IC 36-10-5-2
Designation and powers and duties of park authority in certain municipalities; powers of municipality; tax levy; borrowing and issuance of bonds; deposit of funds

Sec. 2. (a) This section applies to:

(1) third class cities and towns, unless otherwise provided by law; and

(2) each second class city that:

(A) adopted second class city status by ordinance under IC 36-4-1-1.1, as a result of the 2010 federal decennial census; and

(B) has adopted all or part of this section by ordinance or resolution.

(b) As used in this section, "park authority" means:

(1) the municipal legislative body; or

(2) any of the following designated by the legislative body as the park authority:

(A) The governing body of the school corporation.

(B) A recreation board.

(C) The municipal works board.

(D) Any other appropriate board or commission.

(c) If a recreation board is established under subsection (b)(2)(B), it must consist of five (5) resident freeholders appointed by the city executive or the town legislative body. At least one (1) member must be a member of the governing body of the school corporation and no members may serve on the municipal legislative body. All members must be qualified by an interest in and knowledge of the social and educational value of recreation. The members serve without compensation. The members shall be appointed for four (4) year terms from January 1 of the year of their appointment or until their successors are appointed. The initial terms of board members, however, are as follows:

(1) One (1) for a term of one (1) year.

(2) One (1) for a term of two (2) years.

(3) One (1) for a term of three (3) years.

(4) Two (2) for terms of four (4) years.

A vacancy shall be filled by the appointing authority for the remainder of the unexpired term.

(d) The park authority shall manage all public parks, including approaches, that belong to the municipality.

(e) If a municipality decides, by ordinance, to establish, lay out,

or improve a public park or grounds, or to make an extension of a park or grounds, it may locate the park or grounds, including appurtenances, and it may lay out and open the public ways necessary for the improvement. If it is necessary to acquire land, water rights, or easements, or a pool, lake, or natural stream of water, the park authority may condemn that property and take possession of it if it is located within five (5) miles of the municipality. Before the park authority condemns the property, it shall assess the damages to the owners of the property at a meeting of the authority. Additional condemnation proceedings are the same as those provided for the taking of property to open streets.

(f) The park authority may adopt rules concerning the laying out, improvement, preservation, ornamentation, and management of parks. The park authority shall allow monuments or buildings for libraries, works of art, or historical collections to be erected in a park, as long as they are under the control of the persons in charge of the park and no inclosure separates them from the rest of the park.

(g) The legislative body of the municipality may also levy a tax on all taxable property in the municipality to pay for park property and for its improvement. The legislative body may also borrow money and issue the bonds of the municipality at any rate of interest payable annually or semiannually and may sell them for at least par value. The money derived from the sale of bonds may be used only for the purchase or improvement of parks. The legislative body shall annually levy a tax sufficient to pay the interest on the debt on all taxable property in the municipality to create a sinking fund for the liquidation of the principal of the debt.

(h) If the park authority of a city decides to lease any buildings or grounds belonging to the city and located in a public park when they are not required for public use, the proceeds shall be deposited with the city fiscal officer to the credit of park funds and devoted to the improvement of public parks.

(i) Any nonreverting fund that was created under IC 19-7-6 (before its repeal on September 1, 1981) continues until abolished by ordinance of the municipal legislative body. The legislative body may include in the park authority's annual budget an item and an appropriation for the specific purposes of a nonreverting capital fund. Money put in the fund may not be withdrawn except for the purposes for which the fund was created, unless the legislative body repeals the ordinance creating the fund. The repeal may not be made under suspension of the rules. Money procured from fees shall be deposited at least once each month with the municipal fiscal officer. The fiscal officer shall deposit the money either in a special nonreverting operating fund or in the nonreverting capital fund as directed by the park authority. The legislative body may provide by ordinance that expenditures may be made from the special nonreverting operating fund without appropriation. Money from fees procured from golf courses, swimming pools, skating rinks, or other similar facilities requiring major expenditures for management and maintenance may not be deposited in this fund. Money from either

fund shall be disbursed only on approved claims that are allowed and signed in the same manner as other claims of the municipality are allowed and signed.

As added by Acts 1981, P.L.309, SEC.112. Amended by Acts 1981, P.L.320, SEC.19; P.L.3-1990, SEC.142; P.L.119-2012, SEC.238.

IC 36-10-5-3

Municipalities except consolidated cities; recreational facilities and programs; issuance of bonds or appropriations; revenue bonds

Sec. 3. (a) This section applies to all municipalities except consolidated cities.

(b) If a municipality decides to acquire, construct, develop, improve, and operate recreational facilities and programs for park purposes, it may issue the bonds of the municipality to pay the cost of acquisition, development, and improvement, subject to statutes concerning the issuance of bonds and the making of appropriations by municipalities.

(c) As an alternative method of financing the cost of acquisition, development, and improvement, the municipality may issue revenue bonds. The revenue bonds are not obligations of the municipality within the meaning of constitutional limitations, but are payable solely from the income and revenues of the recreational facilities and programs for park purposes for which they are issued. If the proceeds of the bonds are used to acquire land, the payment of the bonds may be secured by a pledge of the land. Statutes concerning the issuance of revenue bonds by municipalities to construct, acquire, extend, or improve waterworks apply, as far as applicable, to revenue bonds issued under this section regarding the authorization, issuance, sale, character, and immunities of the bonds and the rights, privileges, and powers of the bondholders. However, neither a petition nor an election is required in these proceedings. If statutes authorizing the issuance of waterworks revenue bonds contain different provisions regarding procedure or the rights and remedies of bondholders, the ordinance authorizing the issuance of revenue bonds under this section must set out the particular procedure that the municipal legislative body has adopted and the rights and remedies given to the bondholders.

As added by Acts 1981, P.L.309, SEC.112. Amended by P.L.157-1991, SEC.6.

IC 36-10-5-4

Municipalities having populations less than 20,000; sale of parkland and minerals and mineral rights; disposition of sale proceeds; transfer of sale proceeds to school corporation; notice; hearing

Sec. 4. (a) This section applies to municipalities having a population of less than twenty thousand (20,000).

(b) If the legislative body of a municipality decides to sell the parkland, a part of it, the minerals, mineral rights, or royalties for minerals under the parkland, or part of them, the legislative body

may do so upon passing an ordinance for that purpose providing for the manner and terms of the sale. The legislative body may plat the land by laying it off into lots and public ways, and then selling the lots, after passing an ordinance to that effect or including it in the original ordinance. However, the land may not be sold until it is appraised as required in cities for the conveyance of property. If there is a board of park commissioners in a city, the legislative body shall proceed only upon a resolution of the board filed with the legislative body.

(c) The proceeds derived from the sale of parkland or from minerals, mineral rights, or royalties for minerals under parkland shall be expended for:

(1) the improvement of the remaining parkland of the municipality;

(2) the purchase of other land for park purposes;

(3) the purchase, improvement, equipment, or maintenance of playgrounds, swimming pools, comfort stations, or recreation stations in the municipality; or

(4) a combination of these purposes.

In addition, money may be used for these purposes if it is derived in part from another source or under another statute.

(d) The legislative body of the municipality may transfer the proceeds or a part of them derived from the sale of parkland or minerals, mineral rights, or royalties for minerals under parkland to the school corporation of the municipality. The proceeds shall be used by the school corporation for providing, equipping, and maintaining playgrounds, swimming pools, comfort stations, or recreation stations, whether they are on school grounds, used in connection with school grounds or school buildings, or on separate grounds. Before proceeds may be transferred to the school corporation for any of these purposes, the legislative body must pass an ordinance providing for the transfer of the proceeds and for what purposes they may be used.

(e) Before final passage of the ordinance for the platting or sale of land by a town, notice of a hearing on the ordinance shall be given in accordance with IC 5-3-1. At the hearing any citizen of the town may appear and present objections to the ordinance and the sale of the land. If a remonstrance signed by twenty-five percent (25%) of the legal voters in the town is filed in the office of the town clerk within the time limits prescribed in the ordinance, the ordinance may not be passed or the land sold.

As added by Acts 1981, P.L.309, SEC.112. Amended by Acts 1981, P.L.45, SEC.101.

IC 36-10-5-5

Municipal boards in certain municipalities

Sec. 5. (a) This section applies to a municipality that:

(1) has a population of more than twenty-five thousand (25,000); and

(2) is located in a county having a population of more than two

hundred seventy thousand (270,000) but less than three hundred thousand (300,000).

(b) A municipal board consists of four (4) members appointed by the executive of the municipality. A member shall be appointed on the basis of the member's interest in and knowledge of parks and recreation. The members may include the executive of the municipality and one (1) or more members of the municipal fiscal body. The ordinance creating a municipal board governed by this section may provide for one (1) or two (2) ex officio members.

As added by P.L.157-1991, SEC.7. Amended by P.L.12-1992, SEC.193; P.L.170-2002, SEC.174; P.L.119-2012, SEC.239.

IC 36-10-6

Chapter 6. Miscellaneous County Park Provisions

IC 36-10-6-1

Application of chapter

Sec. 1. This chapter applies to the counties indicated in each section.

As added by Acts 1981, P.L.309, SEC.113.

IC 36-10-6-2

Establishment of area park district; procedure; powers of board; withdrawal from district

Sec. 2. (a) This section applies to all counties.

(b) As used in this section, "board" refers to an area park board established under this chapter.

(c) As used in this section, "district" refers to an area park district established under this chapter.

(d) Two (2) or more counties may establish an area park district for the purposes of establishing, owning, maintaining, and controlling one (1) or more public parks for the use and benefit of the residents of those counties. To establish a district, the legislative body of each county desiring to join shall adopt substantially identical ordinances indicating this intention. Before the ordinances take effect, they must be published in their respective counties in accordance with IC 5-3-1. Within ten (10) days after the publication of the ordinance, the auditor of each county shall file a certified copy of the ordinance with the auditor of each of the other counties involved. When the ordinances have been adopted and filed by all the counties joining, the district is considered established. All of the territory of the counties joining comprises the district.

(e) Within ten (10) days after the publication of the ordinance, any registered voter may notify the legislative body of his intent to file a remonstrance petition. Within sixty (60) days after this notice, petitions for and against the county's joining in the proposed district may be filed with the legislative body. The petitions must be signed and acknowledged by registered voters of the county. The petition that contains the greater number of signatures prevails.

(f) Within thirty (30) days after the establishment of the district, the legislative body of each county joining shall appoint members to the area park board. Each county may appoint one (1) member to the board. In addition, each county may appoint an additional member for each fifty thousand (50,000) residents or fraction thereof of that county's population. Each member must be a resident of the county from which he is appointed, and at least one (1) member from each county must be an elected official of that county. Members serve for terms of four (4) years and may be reappointed. Vacancies shall be filled by the appointing authority for the unexpired term of the vacating member.

(g) The board shall meet within thirty (30) days after the appointment of all members. Notice of the meeting shall be given by

the auditor of the county that passed the first ordinance to establish the district. At the meeting the board shall elect one (1) of its members chairman and one (1) secretary and shall adopt rules of order that it considers necessary. The board shall then meet at times and places that it determines. Members serve on the board without compensation. However, all members except the elected official members are entitled to receive a per diem and mileage for time spent in the performance of their duties.

(h) Except as provided in subsection (i), the board has all of the powers of a board under IC 36-10-3 except the power of eminent domain.

(i) The board may levy a tax for the establishment, purchase, maintenance, and control of the parks established and controlled by the board, but the tax may not exceed one and sixty-seven hundredths cents ($0.0167) for each one hundred dollars ($100) of assessed valuation of property in the district. When the board determines the rate of the levy, the board shall certify it to each county auditor. The levy shall then be placed upon the tax duplicate of each county in the district, and the tax shall be collected in the same manner as other taxes are collected. All money received for the district shall be paid into the treasury of the county with the greatest population. The money shall be deposited and kept as other public funds are deposited and kept, and interest earned on the money shall be credited to the area park fund. Money may be paid out by the treasurer only upon the written order of the board.

(j) A county may withdraw from a district only upon a two-thirds (2/3) vote of its legislative body. If a county decides to withdraw from a district, the date of withdrawal must be effective on January 1 of a year at least one (1) year after the date upon which the county voted to withdraw.

As added by Acts 1981, P.L.309, SEC.113. Amended by Acts 1981, P.L.45, SEC.102; P.L.213-1986, SEC.10; P.L.6-1997, SEC.234.

IC 36-10-6-5
Repealed

(*Repealed by Acts 1982, P.L.6, SEC.30.)*

IC 36-10-6-6
Repealed

(*Repealed by Acts 1982, P.L.6, SEC.32.)*

IC 36-10-7

Chapter 7. Miscellaneous Township Recreation Provisions

IC 36-10-7-1

Application of chapter

Sec. 1. This chapter applies to the townships indicated in each section.

As added by Acts 1981, P.L.309, SEC.114.

IC 36-10-7-2

Townships except those in county having consolidated city; establishment of community center or recreational land area; bonds; maintenance

Sec. 2. (a) This section applies to all townships except those in a county having a consolidated city.

(b) The township executive may, upon petition of at least twenty-five (25) resident freeholders and approval of the township legislative body, purchase or improve suitable land or purchase, construct, reconstruct, renovate, remodel, or improve room space, buildings, or equipment for:

(1) a township community center for civic, social, recreation, or other township purposes; or

(2) a township recreational land area.

(c) A township may issue general obligation bonds for the purposes set forth in subsection (b) in the manner provided by IC 36-10-3 for the issue of bonds under that chapter.

(d) Money for the purposes set forth in subsection (b) must be appropriated as provided by statute from funds belonging to the township or from the proceeds of a general obligation bond.

(e) The executive may operate and maintain the community center or recreational land area. A property tax levy may be imposed as provided by statute for the cost of all or part of the operation and maintenance expense incurred under this section.

(f) The executive may rent to others all or part of the community center or recreational land area when it is not needed for township purposes. The money received for rent shall be used to pay maintenance and utility expenses of the community center or recreational land area.

As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.354-1985, SEC.3; P.L.157-1991, SEC.8.

IC 36-10-7-3

Townships; programs, facilities, or services; tax levy; appropriation

Sec. 3. (a) This section applies to all townships.

(b) The township executive may:

(1) levy a tax; and

(2) use appropriated township funds;

to pay for recreation programs, facilities (including a community center used for recreational purposes), or services.

As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.354-1985, SEC.4; P.L.157-1991, SEC.9.

IC 36-10-7-4
Certain townships; public park or playground; management; records; violation

Sec. 4. (a) This section applies to each township:

(1) in a county having a consolidated city; or

(2) containing a second class city within its boundaries that is not a county seat.

(b) If there is a public park or playground in the township under the jurisdiction of the township, the township executive shall manage the park or playground. The executive shall keep complete records of the management and all related transactions, including receipts such as fees, concessions, licenses, permits, and sales. The receipts shall be credited to the general fund of the township.

(c) An executive who violates this section commits a Class C infraction.

As added by Acts 1981, P.L.309, SEC.114.

IC 36-10-7-5
Acquisition of land for park purposes in certain townships; procedure; establishment, maintenance, and improvement of parks; issuance of bonds; tax levy; park and recreation fund; fees; appointment and duties of parks superintendent

Sec. 5. (a) This section applies to a township having a population of more than one hundred fifty thousand (150,000) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) The township executive may purchase, accept by grant, devise, bequest, or other conveyance, or otherwise acquire land for park purposes within the township, either inside or outside the corporate boundaries of a municipality, and may make necessary improvements.

(c) If the executive does not purchase, accept, or acquire land within the township for park purposes or make necessary improvements, two hundred (200) resident taxpayers and voters of the township may petition the executive and the legislative body in writing to:

(1) purchase, accept, or otherwise acquire the land described in the petition so that a township park may be established under this section; or

(2) make the improvements designated in the petition.

The petition must be addressed to the executive and legislative body and bear the signatures and addresses of the petitioners in ink, acknowledged before a notary public. After the petition is filed in the office of the executive, the executive shall have notice of the filing published in accordance with IC 5-3-1. The notice must name a date at least sixty (60) days after the date of the last publication on which the executive and legislative body will hear and consider the petition.

The notice constitutes notice of the proceedings to all taxpayers within the township, whether resident or nonresident.

(d) At the hearing the executive and legislative body shall hear and consider all remonstrances, whether written and signed in ink or from a resident of the township upon the question of whether the land should be purchased, accepted, or acquired by the township and a township park established, maintained, and improved. After the hearing, the executive and legislative body shall approve the petition unless twenty percent (20%) of the resident taxpayers of the township remonstrate in writing by filing their remonstrance on or before the day fixed for the hearing. In that case the executive and legislative body shall dismiss the petition.

(e) If land has been acquired for park purposes, the executive shall establish a park. After it is established, the executive shall provide for necessary improvements and construct facilities for the comfort and convenience of the public in the township park. Except as otherwise provided, all expenses incurred shall be paid out of the park and recreation fund of the township.

(f) If a park or parkland is acquired by a township under this section and the expense of the acquisition or of the development and improvement of the park is too great to be borne by the park and recreation fund of the township, the legislative body may authorize its chairman to issue the bonds of the township to procure money for these purposes. However, the total bonded indebtedness of the township for park purposes may not exceed one million dollars ($1,000,000). Upon special notice of the chairman in writing to each member of the legislative body stating the time, place, and purpose of the meeting, the legislative body may determine whether to issue the bonds of the township to pay the cost of acquiring, developing, or improving the park or parkland. If the legislative body determines that it is of public benefit to issue the bonds of the township, the legislative body, by a special order entered and signed upon the record, may authorize its chairman to issue the bonds of the township. The bonds may run for a period not to exceed ten (10) years, may bear interest at any rate, and may be sold for not less than their par value. Before issuing the bonds, the chairman shall publish notice of their sale in accordance with IC 5-3-1. The notice must state the amount of bonds offered, the denomination, the period to run, the rate of interest, and the date, place, and hour of sale. The legislative body shall attend the sale and must concur before bonds are sold.

(g) The legislative body shall annually levy a sufficient tax to pay at least one-tenth (1/10) of the amount of the bonds, together with the accrued interest, each year, and the legislative body shall apply the annual tax to the payment of the bonds and interest each year. The tax levy is in addition to all other tax levies authorized by statute. A tax levy authorized by this section shall be levied and collected on all property within the boundaries of the township, including municipalities.

(h) There is established a special nonreverting operating fund for

park purposes to be known as the park and recreation fund. Appropriations may be made from the fund by the township's legislative body for park purposes only. The cost of the maintenance and improvement of the park shall be paid out of the park and recreation fund of the township, and the legislative body shall increase the levy of the fund each year by an amount sufficient to provide the money to maintain the park.

(i) Money in the form of fees procured from golf courses, swimming pools, skating rinks, clubhouses, social centers, or other similar facilities requiring major expenditures for maintenance and improvement shall be deposited in the park and recreation fund and shall be appropriated by the township legislative body either in the annual budget or by additional appropriation in the manner as set out in IC 6-1.1-18-5.

(j) The executive shall appoint a superintendent of parks. Said appointment shall be made within thirty (30) days of a vacancy in the position of superintendent of parks. If the executive fails to make said appointment within the prescribed period, the legislative body shall have the power to make said appointment. Political affiliation may not be considered in the selection of the superintendent. The superintendent must:

(1) be qualified by training or experience in the field of parks and recreation; and

(2) have a certificate or an advanced degree in the field of parks and recreation.

(k) The superintendent must do the following:

(1) Propose annually to the executive a plan for the operation of the park.

(2) Administer the plan as approved by the executive.

(3) Supervise the general maintenance of the park.

(4) Keep the records of the park and preserve all papers and documents of the park.

(5) Keep accurate records of park income and expenditures in the manner prescribed by the state board of accounts.

(6) Appoint and discharge employees of the park without regard to political affiliation.

(7) Prepare and present to the executive an annual report.

(8) Perform other duties that the executive directs.

(l) The executive shall execute an employment contract with the superintendent that must contain the terms and conditions of the superintendent's employment.

As added by Acts 1981, P.L.309, SEC.114. Amended by Acts 1982, P.L.6, SEC.29; Acts 1982, P.L.1, SEC.69; P.L.207-1984, SEC.2; P.L.355-1985, SEC.1; P.L.157-1991, SEC.10; P.L.12-1992, SEC.194; P.L.170-2002, SEC.175.

IC 36-10-7-6

Townships containing a town and having a population of at least 8,500; acquisition, improvement, maintenance, and disposal of land for park purposes; procedure; issuance of bonds; tax levy;

employment of needy persons

Sec. 6. (a) This section applies to all townships having a population of at least eight thousand five hundred (8,500) that contain a town.

(b) The township executive may do the following in relation to township parks:

(1) Purchase, acquire by eminent domain, accept by grant, devise, bequest, or other conveyance, or otherwise acquire land within the township for park purposes.

(2) Make necessary improvements on the land.

(3) Maintain and operate the land.

(4) Dispose of all or part of the land that is unnecessary for the park or park purposes.

(c) If the executive decides to acquire land for park purposes under this section, the following procedures apply:

(1) A resolution to that effect shall be adopted by the legislative body and shall be entered upon the minutes of the legislative body. The resolution must be signed by the members of the legislative body and by the executive.

(2) Upon a petition signed in ink by at least one hundred (100) resident taxpayers and freeholders of the township, the executive shall, after the adoption of the resolution, fix a day not less than fifteen (15) nor more than twenty (20) days after adoption during which time remonstrances may be filed with the executive against the resolution.

(3) The executive shall give notice by publication of the resolution and of the time limits for filing remonstrances in accordance with IC 5-3-1.

(4) Remonstrances must be signed in ink and shall be filed not later than the day fixed for the expiration of the time for filing remonstrances in the notices.

(5) If the number of signers of remonstrances exceeds the number of signers who have signed the original petition, determined by the same qualifications, the executive may give notice, in accordance with IC 5-3-1, of a date by which time a supplementary petition containing the names of qualified signers in addition to the names signed to the first petition may be filed asking for acquisition.

(6) A supplemental petition must be signed in ink by signers having the same qualifications as required for the original petition.

(7) If, after the expiration of the period for filing a supplemental petition, it is determined that the number of qualified signers to the original petition and the supplemental petition exceeds the number of signers to the remonstrance, the executive may proceed with the acquisition of land and the improvement and operation of it.

(8) If the number signing the remonstrance is greater than the number signing the original and supplemental petition, then the township may not proceed with the improvement.

However, the remonstrance does not prevent the acquisition of land or inhibit the power of the executive to acquire parkland unless at least twenty percent (20%) of the resident freeholders who are also legal voters, execute the remonstrance. Only the executive and the legislative body may determine the sufficiency of a petition or remonstrance and the qualifications of a signer. These matters are subject to review only for fraud.

(d) The executive may acquire any property, land, privilege, immunities, or other species of interest reasonably necessary for the park or for the purpose of improving, maintaining, or operating it. The executive may sue in the name of the township for the condemnation of any property, land, privilege, immunities, or other species of interest in accordance with statutes available to municipal corporations for condemnation.

(e) To provide money for any of the purposes of this section, the legislative body may authorize the executive to issue the bonds of the township. However, the total bonds issued and outstanding at any time for such purposes may not exceed ninety thousand dollars ($90,000). The bonds may bear interest at any rate, may be made payable semiannually, shall be sold for at least their par value, and run for a period of not less than ten (10) nor more than twenty (20) years. Parts of the total issue may be sold from time to time as the executive determines. After the authorization of the bonds, the executive shall, in accordance with IC 5-3-1, publish notice of that part of the bonds that will be sold at that time. The notice must state the amount of bonds offered, the denomination, the period to run, the rate of interest, and the date, place, and hour of sale. No part of the bonds may be sold except after notice.

(f) The legislative body shall levy annually a sufficient tax to pay at least the principal and interest of bonds that will mature in the following year, and the executive shall apply the tax to the payment of bonds and interest. The tax levy is in addition to other tax levies. The tax shall be levied and collected on all property within the boundaries of the township, including municipalities. The cost of the care, upkeep, repair, maintenance, and improvement of the park shall be paid out of the general fund of the township, and the legislative body shall increase the levy of the fund each year by an amount sufficient to provide the money to maintain the park.

(g) The executive shall direct the expenditure of the money raised by the bond issue to save money that otherwise would be expended for township assistance. The executive may offer persons who are able-bodied and capable of work the opportunity to work upon the park improvement. If a person refuses without good excuse, the executive shall consider the refusal prima facie evidence that the person is not entitled to township assistance.

As added by Acts 1981, P.L.309, SEC.114. Amended by Acts 1982, P.L.6, SEC.31; P.L.157-1991, SEC.11; P.L.73-2005, SEC.175.

IC 36-10-7-7

Acquisition and maintenance of grounds and structures by certain

townships for use as public parks; public park fund

Sec. 7. (a) This section applies to all townships having a population between two thousand (2,000) and three thousand (3,000).

(b) The township executive may accept, acquire, and maintain grounds and structures to be used as public parks upon petition of at least fifty-one percent (51%) of the resident taxpayers of the township.

(c) Whenever a park has been established in the township, the legislative body shall, at its annual meeting and annually each following year, levy a tax not exceeding one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of taxable property in the township. The money shall be set aside in a public park fund to be used by the executive for the maintenance and improvement of the park and for no other purpose.

As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.157-1991, SEC.12; P.L.6-1997, SEC.235.

IC 36-10-7-8

Acquisition of land for park purposes by certain townships; improvements; maintenance; bonds; levy of taxes

Sec. 8. (a) This section applies to all townships having a population of less than two thousand (2,000).

(b) The township executive may lease, purchase, accept by grant, devise, bequest, or other conveyance to the township, or otherwise acquire land for park purposes and may make necessary improvements only as provided by this section.

(c) The legislative body may establish a township park and may, by resolution, appropriate from the general fund of the township the necessary money to lease, purchase, accept, or otherwise acquire land for park purposes or make improvements thereon. The executive shall then lease, purchase, accept, or acquire the land for park purposes or shall make improvements thereon as directed in the resolution. However, the costs of the park grounds or of the improvements provided for in the resolution may not exceed in one (1) year one-fifth of one percent (0.2%) of the adjusted value of all taxable property of the township as determined under IC 36-1-15.

(d) If a park has been established under this section, the executive shall have the park maintained and may make improvements and construct and maintain facilities for the comfort and convenience of the public. However, the executive annually may not spend more than one cent ($0.01) on each one hundred dollars ($100) of assessed valuation of taxable property in the township as it appears on the tax duplicates of the auditor of the county in which the township is located. The money shall be paid from the general fund of the township.

(e) If the general fund of the township is insufficient to meet the expenses of acquiring or improving the land for park purposes, the executive shall call a special meeting of the legislative body by written notice to each member of the legislative body at least three

(3) days before the date of the meeting. The notice must state the time, place, and purpose of the meeting. The legislative body shall meet and determine whether an emergency exists for the issuance of the warrants or bonds of the township. The legislative body shall, by resolution, authorize the issuance and sale of the warrants or bonds of the township in an amount not exceeding two percent (2%) of the adjusted value of all taxable property in the township as determined under IC 36-1-15. The amount of bonds may not exceed the total estimated cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings. The proceeds from the sale of the bonds shall be deposited in the general fund of the township. The bonds become due and payable not less than two (2) nor more than ten (10) years after the date of issuance, may bear interest at any rate, and may not be sold for less than par value. The bonds shall be sold after giving notice of the sale of bonds in accordance with IC 5-3-1. The bonds and the interest thereon are exempt from taxation as provided by IC 6-8-5 and are subject to the provisions of IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds, the appropriation of the proceeds of the bonds, and the approval by the department of local government finance.

(f) The legislative body shall, at its next annual meeting after authorization of bonds and annually each following year, levy a sufficient tax against all the taxable property of the township to pay the principal of the bonds, together with accruing interest, as they become due. The executive shall apply the money received from the levy only to the payment of bonds and interest as they become due.

(g) In addition to the levy required by subsection (f), the legislative body shall, when a park has been established under this section and at every annual meeting after establishment, levy a tax not exceeding one cent ($0.01) on each one hundred dollars ($100) of taxable property in the township. The levy required by this subsection shall be used by the executive for the maintenance and improvement of the park. The executive may not expend more for maintenance and improvement of the park than the amount collected by the levy except:

(1) upon petition by fifty-one percent (51%) of the taxpayers of the township; or

(2) when warrants or bonds are to be issued under this section to finance the expenses of improvements.

The amount received from the levy shall be deposited in the general fund of the township.

(h) A park established under this section shall be kept open to the public in accordance with rules prescribed by the executive.

(i) If the executive determines that land or other property used for park purposes under this section should be disposed of and that the park should no longer be maintained, the executive shall appoint three (3) disinterested appraisers to appraise the property. The property shall then be disposed of either at public or private sale for at least its appraised value.

(j) This subsection applies if the township sells the property by acceptance of bids. A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

(k) All money from the sale of park property, less the expenses incurred in making the appraisal and sale, shall be paid into the general fund of the township.

As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.373-1983, SEC.1; P.L.208-1984, SEC.1; P.L.336-1989(ss), SEC.55; P.L.157-1991, SEC.13; P.L.6-1997, SEC.236; P.L.90-2002, SEC.518.

IC 36-10-7-9

Membership of department and board of parks and recreation of certain townships

Sec. 9. (a) This section applies to the township having the largest population in a county having a population of:

(1) more than seventy thousand fifty (70,050) but less than seventy-one thousand (71,000); or

(2) more than two hundred seventy thousand (270,000) but less than three hundred thousand (300,000).

(b) Notwithstanding IC 36-10-7.5-5, the department of parks and recreation of a township described in subsection (a) consists of four (4) members appointed by the township executive on the basis of the members' interest in and knowledge of parks and recreation. The members of a board governed by this section may include any of the following:

(1) The township executive.

(2) One (1) or more members of the township board.

(3) Any other persons residing in the township.

As added by P.L.157-1991, SEC.14. Amended by P.L.12-1992, SEC.195; P.L.271-1993, SEC.2; P.L.170-2002, SEC.176; P.L.119-2012, SEC.240.

IC 36-10-7.5

Chapter 7.5. Township General Park and Recreation Law

IC 36-10-7.5-1

Application of chapter

Sec. 1. This chapter applies to all townships.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-1.5

"Park and recreation board" defined

Sec. 1.5. As used in this chapter, "park and recreation board" refers to a township park and recreation board established under section 5.5 of this chapter.

As added by P.L.271-1993, SEC.3.

IC 36-10-7.5-2

"Department" defined

Sec. 2. As used in this chapter, "department" refers to a department of parks and recreation created under section 5 of this chapter.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.4.

IC 36-10-7.5-3

"District" defined

Sec. 3. As used in this chapter, "district" refers to a special taxing district created under this chapter.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-3.5

"Park governor" defined

Sec. 3.5. As used in this chapter, "park governor" means the following:

(1) The executive, if a township park and recreation board is not established under section 5.5 of this chapter.

(2) The township park and recreation board, if a township park and recreation board is established under section 5.5 of this chapter.

As added by P.L.271-1993, SEC.5.

IC 36-10-7.5-4

"Superintendent" defined

Sec. 4. As used in this chapter, "superintendent" refers to a superintendent of parks and recreation appointed under this chapter.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.6.

IC 36-10-7.5-5

Creation of department of parks and recreation; resolution; transfer of property from prior authority

Sec. 5. (a) The legislative body of a township may adopt a resolution creating a department of parks and recreation under this chapter and repealing prior resolutions creating other park and recreation authorities. Except as provided in IC 36-10-7-9, the department consists of:

(1) the park governor;

(2) the superintendent of parks and recreation, if the township has a superintendent appointed under section 11 of this chapter; and

(3) other personnel that the park governor determines.

(b) After a department has been created under this section, all books, papers, documents, and other property of former park and recreation authorities are transferred to and become the property of the department.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.7.

IC 36-10-7.5-5.5

Township park and recreation board

Sec. 5.5. (a) In a township having a department of parks and recreation established under section 5 of this chapter, the executive may establish a township park and recreation board.

(b) A township park and recreation board established under this section consists of:

(1) the executive; and

(2) three (3) persons appointed by the executive to serve at the pleasure of the executive.

(c) The executive or an appointed member of the township park and recreation board established under this section remains a member of the board until a successor is elected or appointed and qualified.

As added by P.L.271-1993, SEC.8.

IC 36-10-7.5-6

Park governor; powers and duties

Sec. 6. The park governor shall do the following:

(1) Exercise general supervision of and make rules for the department.

(2) Establish rules governing the use of the park and recreation facilities by the public.

(3) Provide police protection for park property and activities, either by requesting assistance from state, municipal, or county police authorities, or by having specified employees deputized as police officers. The deputized employees, however, are not eligible for police pension benefits or other emoluments of police officers.

(4) Appoint the necessary administrative officers of the department and fix their duties.

(5) Establish standards and qualifications for the appointment of all personnel and approve their appointments without regard to politics.

(6) Make recommendations and an annual report to the legislative body concerning the operation of the department and the status of park and recreation programs in the township.

(7) Prepare and submit an annual budget in the same manner as other budgets of the township.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.9.

IC 36-10-7.5-7

Park governor; authorized actions

Sec. 7. The park governor may do the following:

(1) Enter into contracts and leases for facilities and services.

(2) Contract with persons for joint use of facilities for the operation of park and recreation programs and related services.

(3) Contract with another park board, a unit, or a school corporation for the use of park and recreation facilities or services. A township or school corporation may contract with the park governor for the use of park and recreation facilities or services.

(4) Acquire and dispose of real and personal property, either within or outside Indiana.

(5) Exercise the power of eminent domain under statutes available to townships.

(6) Sell, lease, or enter into a royalty contract for the natural or mineral resources of park land, the money received to be deposited in a nonreverting capital fund of the department.

(7) Engage in self-supporting activities as prescribed in this chapter.

(8) Contract for special and temporary services and for professional assistance.

(9) Delegate authority to perform ministerial acts in all cases except where final action of the park governor is necessary.

(10) Prepare, publish, and distribute reports and other materials relating to activities authorized by this chapter.

(11) Sue and be sued collectively by its legal name, as the "_____ (township's name) Park and Recreation Department governor", with service of process being had upon the executive, but costs may not be taxed against the township in any action.

(12) Invoke any legal, equitable, or special remedy for the enforcement of:

(A) this chapter;

(B) a park or recreation resolution; or

(C) an action taken by the park governor under this chapter or a resolution.

(13) Release and transfer, by resolution, a part of the area over which the park governor has jurisdiction for park and recreational purposes to park authorities of another unit for park and recreational purposes upon petition of the park or recreation governing authority of the acquiring unit.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.10.

IC 36-10-7.5-8
Lease of buildings and grounds

Sec. 8. The park governor may lease any buildings or grounds that:

(1) belong to the township; and

(2) are located within a park;

to a person for a period not greater than fifty (50) years. The lease may authorize the lessee to provide upon the premises educational, research, veterinary, or other proper facilities for the exhibition of wild or domestic animals in wildlife parks, dining facilities, swimming facilities, golf courses, skating facilities, dancing facilities, amusement rides generally found in amusement parks, or other recreational facilities. A lease may be made for more than one (1) year only to the highest and best bidder after notice that the lease will be made has been given by publication in accordance with IC 5-3-1.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.11.

IC 36-10-7.5-9
Sale of surplus property; appraisal

Sec. 9. (a) The park governor may sell or order sold through a designated representative by public or private sale any personal property that the park governor has declared to be surplus and declared to have an aggregate appraised value not greater than five thousand dollars ($5,000).

(b) Whenever the park governor decides to sell at a private sale, the park governor must employ a qualified appraiser to determine a reasonable selling price for each kind of surplus item and must publish the following information in the manner provided in IC 5-3-1:

(1) The fact that a private sale will be held.

(2) The location of the sale.

(3) The dates of the beginning and end of the sale.

(4) The time of day during which the sale will take place.

(5) The kinds of items to be sold at the sale.

(6) The price of each kind of item, which may not be less than the reasonable selling price determined by the qualified appraiser.

(c) If the park governor decides to sell at a public sale, the park governor shall conduct the sale in the manner provided by law for the township to sell surplus property.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.12.

IC 36-10-7.5-10
Conference attendance

Sec. 10. If the park governor determines that the executive or any park employee should attend a state, regional, or national conference dealing with park and recreation problems, the park governor may authorize the payment of the actual expenses involved in attending the conference. However, the amount must be available as part of the department's appropriation.
As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.13.

IC 36-10-7.5-11
Superintendent; appointment; qualifications

Sec. 11. (a) The park governor may appoint a superintendent of parks and recreation. The park governor may not consider political affiliation in the selection of the superintendent.

(b) The superintendent must:

(1) be qualified by training or experience in the field of parks and recreation; or

(2) have a certification or an advanced degree in the field of parks and recreation.

(c) An incumbent township employee performing park and recreation functions in a supervisory capacity at the time a township adopts a creating resolution under this chapter is eligible for appointment as superintendent or as an assistant, but the employee must have the required training, experience, or certification.
As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.14.

IC 36-10-7.5-12
Powers and duties of superintendent

Sec. 12. Under the direction of the park governor, the superintendent of the township shall do the following:

(1) Propose annually to the park governor a plan for the operation of the department.

(2) Administer the plan as approved by the park governor.

(3) Supervise the general administration of the department.

(4) Keep the records of the department and preserve all papers and documents of the department.

(5) Recommend persons for appointment as assistants if the park governor determines there is a need for assistants.

(6) Appoint the employees of the department, subject to the approval of the park governor according to the standards and qualifications fixed by the park governor and without regard to political affiliation.

(7) Prepare and present to the park governor an annual report.

(8) Perform other duties that the park governor directs.
As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.15.

IC 36-10-7.5-13
Assistants to superintendent

Sec. 13. (a) If the park governor determines that the size of the department's operation requires assistants for the superintendent, the park governor may appoint, upon the recommendation of the superintendent, at least one (1) assistant. The park governor shall determine the assistant's qualifications on a basis similar to that prescribed for the superintendent.

(b) Each assistant is directly responsible to the superintendent and shall perform the duties specified by the superintendent.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.16.

IC 36-10-7.5-14

Officers' and employees' bonds and crime policies

Sec. 14. (a) Each officer and employee who handles money in the performance of duties under this chapter must execute an official bond for the term of office or employment before entering upon the duties of the office or employment.

(b) The fiscal body of the township may under IC 5-4-1-18 authorize the purchase of a blanket bond or crime insurance policy endorsed to include faithful performance to cover all officers' and employees' faithful performance of duties. The amount of the bond or crime insurance policy shall be fixed by the fiscal body and approved by the park governor.

(c) All official bonds shall be filed and recorded in the office of the county recorder of the county in which the department is located.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.17; P.L.49-1995, SEC.13.

IC 36-10-7.5-15

Advisory council or special committee; membership; responsibilities

Sec. 15. (a) The park governor may create an advisory council or special committees composed of citizens who are interested in parks and recreation.

(b) In selecting an advisory council or a special committee, the park governor shall give consideration to the groups in the community particularly interested in parks and recreation. When creating an advisory council or a special committee, the park governor shall specify the terms of the members and the purposes for which the council or committee is created.

(c) An advisory council or a special committee shall do the following:

(1) Study the subjects and problems specified by the park governor and recommend to the park governor additional problems in need of study.

(2) Advise the park governor concerning these subjects, particularly as they relate to different areas and groups in the community.

(3) Report only to the park governor.
(4) Make inquiries and reports only in those areas specified by the park governor.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.18.

IC 36-10-7.5-16
Gifts, grants, and transfers

Sec. 16. (a) The park governor may accept gifts, donations, and subsidies for park and recreational purposes. However, a gift or transfer of property to the park governor may not be made without the approval of the park governor.

(b) A gift or grant of money shall be deposited in a special nonreverting fund to be available for expenditure by the park governor for purposes specified by the grantor. The fiscal officer of the township may draw warrants against the fund only upon vouchers signed by the executive.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.19.

IC 36-10-7.5-17
Special benefit taxes; provision of operating revenues

Sec. 17. (a) The territory within the boundaries of the township comprises a special taxing district for the purpose of levying special benefit taxes for park and recreational purposes as provided in this chapter.

(b) The fiscal body of the township shall determine and provide the revenues necessary for the operation of the department or for capital expenditures not covered by the issuance of bonds by:

(1) a specific levy to be used exclusively for these purposes;
(2) a special appropriation; or
(3) both.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-18
Special nonreverting capital fund

Sec. 18. (a) Upon the request of the executive, the fiscal body of the township may establish by resolution a special nonreverting capital fund for the purposes of acquiring land or making specific capital improvements. The fiscal body may include in the department's annual budget an item and an appropriation for these specific purposes.

(b) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the resolution. The fiscal body may not repeal the resolution under suspension of the rules.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-19
Township park and recreation cumulative building fund

Sec. 19. (a) The fiscal body may establish a cumulative building fund under IC 6-1.1-41 to provide money for:

(1) building, remodeling, and repair of park and recreation facilities; or

(2) purchase of land for park and recreation purposes.

(b) To provide for the cumulative building fund, the township fiscal body may levy a tax in compliance with IC 6-1.1-41 not greater than one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of assessed valuation of taxable property within the township.

(c) The tax shall be collected and held in a special fund known as the township park and recreation cumulative building fund.

As added by P.L.157-1991, SEC.15. Amended by P.L.17-1995, SEC.44; P.L.6-1997, SEC.237.

IC 36-10-7.5-20

Fees; management and deposit of collections

Sec. 20. (a) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the park governor may charge a reasonable fee.

(b) The township fiscal body may establish by resolution upon request of the executive any of the following:

(1) A special nonreverting operating fund for park purposes from which expenditures may be made as provided by resolution by appropriation by the board township fiscal body.

(2) A special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the township fiscal body.

(c) The fiscal body shall designate the fund or funds into which the township fiscal officer shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance.

(d) Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the township fiscal officer either in the special nonreverting operating fund or in the nonreverting capital fund as directed by the fiscal body. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the township general fund.

(e) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the resolution establishing the fund. The fiscal body may not repeal the resolution under suspension of the rules.

(f) Money procured from fees or received from the sale of surplus property under this chapter shall be deposited at least one time each month with the fiscal officer of the township.

As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993,

SEC.20.

IC 36-10-7.5-21
Land acquisition or appropriation and improvements

Sec. 21. (a) This section applies only to:

(1) the acquisition of real property; or

(2) a work of improvement;

that will be financed by the issuance of bonds.

(b) If the executive or the fiscal body decides to:

(1) acquire land for any of the purposes prescribed in this chapter, either by purchase or by appropriation, and in conjunction with the acquisition to proceed with a work of improvement authorized by this chapter;

(2) acquire real property without proceeding at the time with a work of improvement; or

(3) proceed with a work of improvement where the real property has been already secured;

the legislative body may adopt a resolution stating the purpose, describing the land to be acquired, the manner of acquisition, and, in the case of an appropriation, the other land that may be injuriously affected, or describing the lands already acquired and intended to be used in connection with the proposed work of improvement.

(c) If a work of improvement is provided for in the resolution, the executive shall have preliminary plans and specifications and an estimate of the cost of the proposed work prepared by the engineer selected to do the work. Before adopting a resolution, the legislative body shall receive or hear remonstrances from persons interested in or affected by the proceedings and on which it will determine the public utility and benefit.

(d) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the township, are considered notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the executive or the legislative body by the original notice of publication.

(e) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by a platted description or by metes and bounds, whether the land is composed of one (1) or more lots or parcels and whether the land is owned by one (1) or more persons. If the land or a part of the land is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(f) The executive may, at any time before the adoption of the resolution:

(1) obtain from the owner of the land an option for the purchase

of the land; or

(2) enter into a contract for the purchase of the land upon the terms and conditions that the executive considers best.

The option or contract is subject to the final approval of the legislative body confirming, modifying, or rescinding the option or contract and to the condition that the land may be paid for only out of the special fund resulting from the sale of bonds as provided by this chapter.

(g) If the executive decides to acquire any lots or parcels of land by purchase, the executive shall appoint three (3) qualified appraisers to appraise the value of the land. The appraisers may not be interested directly or indirectly in any land that is to be acquired under the resolution or that may be injured or that may incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. The appraisers shall then view the land, determine the true market value of the land at that time, and report the appraisal in writing. The report shall be filed with and becomes a part of the record of the proceeding.

(h) The executive may not take an option on the land or enter into a contract to purchase the land at a higher price than the value named in the report. The title to land to be acquired under the resolution, whether by purchase or appropriation, does not vest until the land is paid for out of the special fund established by the sale of bonds as provided in this chapter. Any indebtedness or obligation of any kind incurred by the executive due to the acquisition of land or to construction work shall be paid out of the funds under the control of the executive and is not an indebtedness or obligation of the township.

(i) At the time fixed for the hearing or at any time before the hearing, an owner of land to be appropriated under the resolution or injuriously affected or a person owning real or personal property located in the district may file a written remonstrance with the chairman of the legislative body.

(j) At the hearing, which may be adjourned from time to time, the legislative body shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering the evidence, the legislative body shall take final action determining the public utility and benefit of the proposed project by confirming, modifying, or rescinding the resolution. The final action shall be recorded and is final and conclusive upon all persons.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-22

District bonds for land acquisition or improvements

Sec. 22. (a) To raise money to pay for land to be acquired for any of the purposes named in this chapter or to pay for an improvement authorized by this chapter, and in anticipation of the special benefit tax to be levied as provided in this chapter, the legislative body shall issue in the name of the township the bonds of the district. The bonds

may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one (1) resolution or proceeding of the legislative body under this chapter is confirmed whereby different parcels of land are to be acquired or more than one (1) contract for work is let by the executive at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one (1) issue of bonds.

(b) The bonds may be issued in any denomination not less than one thousand dollars ($1,000) each, in not less than five (5) nor more than forty (40) annual series. The bonds are payable one (1) series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the legislative body shall certify a copy of the resolution to the township's fiscal officer. The fiscal officer shall prepare the bonds, and the executive shall execute the bonds, attested by the fiscal officer.

(c) The bonds and the interest on the bonds are exempt from taxation as prescribed by IC 6-8-5-1. Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to:

(1) the filing of a petition requesting the issuance of bonds;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the appropriation of the proceeds of the bonds with the approval of the department of local government finance; and

(4) the sale of bonds at public sale for not less than the par value of the bonds.

(d) The legislative body may not have bonds of the district issued under this section that are payable by special taxation when the total issue for that purpose, including the bonds already issued or to be issued, exceeds two percent (2%) of the total adjusted value of the taxable property in the district as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void. The bonds are not obligations or indebtedness of the township but constitute an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. A bond must recite the terms upon the face of the bond, together with

the purposes for which the bond is issued.
As added by P.L.157-1991, SEC.15. Amended by P.L.6-1997, SEC.238; P.L.90-2002, SEC.519; P.L.219-2007, SEC.145; P.L.146-2008, SEC.795.

IC 36-10-7.5-23
Bond issue; notice and hearing

Sec. 23. (a) Before bonds may be issued under this chapter, the legislative body shall give notice of a public hearing to disclose the purposes for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data.

(b) The legislative body shall publish in accordance with IC 5-3-1 a notice of the time, place, and purposes of the hearing.
As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-24
Funds from bond proceeds; use; surplus

Sec. 24. All proceeds from the sale of bonds issued under this chapter shall be kept in a separate fund. The fund shall be used to pay for land and other property acquired and for the construction of a work under the resolution, including all costs and expenses incurred in connection with the project. The fund may not be used for any other purpose. The fund shall be deposited as provided in this chapter. A surplus remaining from the proceeds of the bonds after all costs and expenses are paid shall be paid into and becomes a part of the district bond fund.
As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-25
Tax levy; district bond fund

Sec. 25. (a) To raise money to pay all bonds issued under this chapter, the fiscal body shall levy annually a special tax upon all of the real and personal property located in the district sufficient to pay the principal of the bonds as the bonds mature, including accrued interest. The fiscal body shall have the tax to be levied each year certified to the auditor of the county in which the township is located at the time for certification of tax levies. The tax shall be collected and enforced by the county treasurer in the same manner as other taxes are collected and enforced.

(b) As the tax is collected, the tax shall be accumulated and kept in a separate fund to be known as the district bond fund. The tax shall be applied to the payment of the bonds and interest as the bonds mature and may not be used for another purpose.
As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-26
Contracts or leases with not-for-profit corporations

Sec. 26. (a) The executive may enter into a lease or a contract with a not-for-profit corporation providing detailed terms and conditions for the following:

(1) The performance of historical pageants and entertainments.
(2) The charging of admission.
(3) The maintenance of the facilities.

(b) The contract must not extend for a longer term than the term of the bonds.

As added by P.L.157-1991, SEC.15.

IC 36-10-7.5-27

Bondholder rights under other statutes

Sec. 27. The general assembly covenants that it will not repeal or amend:

(1) IC 6-9-7-6;
(2) IC 6-9-7-7;
(3) IC 36-10-3-40;
(4) IC 36-10-3-41;
(5) IC 36-10-3-42; and
(6) IC 36-10-3-43;

in a manner that would adversely affect owners of the bonds as long as the bonds are outstanding.

As added by P.L.157-1991, SEC.15.

IC 36-10-8

Chapter 8. Capital Improvement Boards in Certain Counties

IC 36-10-8-1

Application of chapter

Sec. 1. This chapter applies to all counties not having a consolidated city.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.16-1983, SEC.22.

IC 36-10-8-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to a capital improvement board of managers subject to or created under this chapter.

"Net income" means the gross income after deducting:

(1) the necessary operational expenses of the board in performing its duties (the expenses not to exceed the amount budgeted or approved); and

(2) any reserve provided for in the budget.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-3

Continuation; creation; authority to finance capital improvements

Sec. 3. (a) If a county had in existence on January 1, 1982, a capital improvement board of managers that was created under IC 18-7-18 (before its repeal on February 24, 1982), that board continues to exist and is subject to this chapter. In any other county to which this chapter applies, a capital improvement board of managers may be created by ordinance of the county legislative body.

(b) A county to which this chapter applies may finance, construct, equip, operate, and maintain a capital improvement under this chapter.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.213-1986, SEC.11; P.L.163-1987, SEC.8; P.L.3-1990, SEC.143.

IC 36-10-8-4

Membership; terms; vacancies; removal; oath; reimbursement of expenses

Sec. 4. (a) The board is composed of seven (7) members.

(b) The county executive shall determine in the creating ordinance which units within the county shall make appointments to the board. In addition, the creating ordinance must provide that no more than four (4) of the members be affiliated with the same political party. The creating ordinance must also provide staggered terms for the appointments.

(c) Notwithstanding subsection (b), if a board was created under IC 18-7-18 (before its repeal on February 24, 1982), three (3) members shall be appointed by the executive of the second class city

and three (3) members shall be appointed by the executive of the county. Those members shall select the seventh member, who serves as president. One (1) of the members appointed by the city executive must be engaged in the hospitality industry in the city. No more than two (2) of the members appointed by the city executive may be affiliated with the same political party and no more than two (2) of the members appointed by the county executive may be affiliated with the same political party. In addition, each member must have been a resident of the county for at least one (1) year immediately preceding the member's appointment. Initial terms of the members are as follows:

(1) One (1) of the members appointed by each appointing authority for a term ending January 15 of the year following the appointment.

(2) Two (2) of the members appointed by each appointing authority for a term ending January 15 of the second year following the appointment.

(3) The seventh member serves for a term ending January 15 of the second year following the appointment.

(d) Subsequent terms of members are for two (2) years. All terms begin on January 15. A member serves until a successor is appointed and qualified. A member may be reappointed after the member's term has expired.

(e) If a vacancy occurs on the board, the appointing authority shall appoint a new member. That member serves for the remainder of the vacated term.

(f) A board member may be removed for cause by the appointing authority who appointed the member.

(g) Each member, before entering upon the member's duties, shall take and subscribe an oath of office in the usual form. The oath shall be endorsed upon the member's certificate of appointment. The certificate shall be promptly filed with the records of the board. However, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), the certificate shall be filed with the clerk of the circuit court of the county in which the board is created.

(h) A member may not receive a salary, but is entitled to reimbursement for any expenses necessarily incurred in the performance of the member's duties.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.163-1987, SEC.9; P.L.3-1990, SEC.144; P.L.176-2009, SEC.27; P.L.229-2011, SEC.267.

IC 36-10-8-5

Organizational meeting; officers; bylaws; quorum; approval of actions

Sec. 5. (a) Immediately after January 15 each year, the board shall hold an organizational meeting. They shall elect one (1) of the members vice president, another secretary, and another treasurer to perform the duties of those offices. The officers serve from the date of their election until their successors are elected and qualified.

(b) The members may adopt the bylaws and rules that they consider necessary for the proper conduct of their duties and the safeguarding of the funds and property entrusted to their care. A majority of the members constitutes a quorum, and the concurrence of a majority of the board is necessary to authorize any action.
As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-6
Name; powers

Sec. 6. The board may, acting under the name "(name of county) county capital improvement board of managers", or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), "(name of the county) and (name of the city) capital improvement board of managers", do the following:

(1) Acquire by grant, purchase, gift, devise, lease, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and any rights and interests in it necessary or convenient for the exercise of its powers under this chapter.

(2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement under this chapter and condemn, appropriate, lease, rent, purchase, and hold any real property, rights-of-way, materials, or personal property needed for the purposes of this chapter, even if it is already held for a governmental or public use.

(3) Control and operate a capital improvement, and receive and collect money due to the operation or otherwise relating to the capital improvement, including employing an executive manager and other agents and employees that are necessary for the acquisition, construction, and proper operation of the improvements and fixing the compensation of all employees with a contract of employment or other arrangement terminable at the will of the board. However, a contract may be entered into with an executive manager and associate manager for a period not longer than four (4) years at one (1) time and may be extended from time to time for the same or shorter periods.

(4) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of a capital improvement.

(5) Lease a capital improvement or a part of it to any association, corporation, or individual, with or without the right to sublet.

(6) Fix charges and establish rules and regulations governing the use of a capital improvement.

(7) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, or a political subdivision or department of either, including entering into and carrying out contracts and

agreements in connection with this subdivision.

(8) Acquire the site for a capital improvement, or a part of a site by conveyance from the redevelopment commission of a city within the county in which the board is created or from any other source, on the terms that may be agreed upon.

(9) If the board was created under IC 18-7-18 (before its repeal on February 24, 1982), exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.

(10) Receive and collect all money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes, but any employees or members of the board authorized to receive, collect, and expend money must be covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.

(11) Provide coverage for its employees under IC 22-3 and IC 22-4.

(12) Purchase public liability and other insurance considered desirable.

(13) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.

(14) Maintain and repair a capital improvement and all equipment and facilities that are a part of it, including the employment of a building superintendent and other employees that are necessary to maintain the capital improvement.

(15) Sue and be sued in its own name, service of process being had upon the president or vice president of the board or by leaving a copy at the board's office.

(16) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement and serve the commercial, industrial, and cultural interests of Indiana and its citizens by the use of the capital improvement. It may assist and cooperate with public, governmental, and private agencies and groups for these purposes.

(17) Promote the development and growth of the convention and visitor industry in the county.

(18) Transfer money from the capital improvement fund established by this chapter to any Indiana not-for-profit corporation for the promotion and encouragement of conventions, trade shows, visitors, and special events in the county.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.145; P.L.8-1993, SEC.519; P.L.176-2009, SEC.28.

IC 36-10-8-7
Additional powers

Sec. 7. The board may hire architects, engineers, accountants, attorneys, and consultants in connection with the preparation of plans and specifications for a capital improvement and its financing, paying for it as provided under section 12 of this chapter. The acquisition of a site for a capital improvement, the adoption of plans and specifications, the advertising for bids, and the awarding of contracts for the erection or equipping of the capital improvement shall be done by the board under statutes governing these activities by cities or counties. Title to or interest in any property acquired shall be held in the board's name, and the board has complete and exclusive authority to sell, lease, or dispose of it and to execute all conveyances, leases, contracts, and other instruments in connection with it.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-8
Budget; preparation; review

Sec. 8. The board shall prepare a budget for each calendar year covering the projected operating expenses, estimated income, and reasonable reserves. It shall submit the budget for review, approval, or rejection to the fiscal body of the county and, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), also the fiscal body of the second class city. The board may make expenditures only as provided in the budget as approved, unless additional expenditures are approved by the respective fiscal bodies.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.146.

IC 36-10-8-9
Deposit of net income from operation of capital improvements

Sec. 9. The net income received by the board from the operation of capital improvements under this chapter shall be deposited semiannually on June 1 and December 1 in the capital improvement fund provided in section 12 of this chapter. However, if there are bonds outstanding, the net income from the convention center shall be deposited in the capital improvement bond fund provided in section 13 of this chapter.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-10
Payment of certain operational expenses from capital improvement fund

Sec. 10. All operational expenses actually incurred by the board within the approved budget necessary to be paid before the receipt of income by the board from the leasing or use of a capital improvement, and any expenses that cannot be paid from that income because of an excess of expenses over income, shall be met and paid by funds in the capital improvement fund.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-11
Handling and expenditure of funds; treasurer; controller; reports; audits

Sec. 11. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. He shall give bond for the faithful performance and discharge of all duties required of him by law in the amount and with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by the treasurer of the county for the use of the board shall be promptly remitted and paid over by him to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all money coming into his hands as required by this chapter and IC 6-7-1-30.1, and in accordance with general statutes relating to the deposit of public funds. Money so deposited may be invested and reinvested by the treasurer in accordance with IC 5-13 and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested. All funds invested and fully safeguarded and secured as provided in IC 5-13-9 are exempt from assessments under IC 5-13-12.

(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. He shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller, and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of him in the amount and with surety and other conditions that may be prescribed and approved by the board. He shall keep an accurate account of all money due the board and of all money received, invested, and disbursed in accordance with generally recognized governmental accounting principles and procedure. All accounting forms and records shall be prescribed or approved by the state board of accounts.

(d) The controller shall issue all warrants for the payment of money from the funds of the board in accordance with procedures prescribed by the board, but a warrant may not be issued for the payment of a claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the treasurer of the board or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(e) If there are bonds outstanding issued under this chapter, the controller shall deposit with the paying agent or officer within a reasonable period before the date that any principal or interest becomes due sufficient money for the payment of the principal and interest on the due dates.

(f) At least annually the controller shall submit to the board a report of his accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which they were disbursed. The board may require that the report be prepared by an independent certified public accountant designated by the board. The handling and expenditure of funds is subject to audit and supervision by the state board of accounts.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.19-1987, SEC.56.

IC 36-10-8-12

Capital improvement fund; deposit of tax revenues; expenditures

Sec. 12. Unless there are bonds outstanding under this chapter, any tax revenues received by the board from the treasurer of the state as provided by law shall be deposited in a separate and distinct fund called the "capital improvement fund". Any money in the fund may be expended by the board without the necessity of an appropriation to pay:

(1) operating expenses and maintain reasonable reserves;

(2) for services of architects, engineers, accountants, attorneys, and consultants;

(3) for all or part of the cost of a capital improvement;

(4) the principal on, or interest of, any bonds issued under this chapter that cannot be paid from money in the capital improvement bond fund; or

(5) for any other purpose that has been budgeted and approved under section 8 of this chapter.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-13

Capital improvement bond fund; amount of revenue to be deposited; excess revenues; use of funds

Sec. 13. (a) If there are bonds outstanding issued under section 14 of this chapter, the treasurer of the board shall deposit in a separate and distinct fund called the "capital improvement bond fund" all tax revenues received as provided by law until there are sufficient funds from those tax revenues, the proceeds of the bonds, or both of these sources, in the capital improvement bond fund to provide the amount required by the resolution or resolutions or trust agreement or agreements pursuant to which the bonds are issued. The treasurer of the board shall then deposit sufficient tax revenues in the fund to maintain such amounts in the fund as are required by the resolution or resolutions or trust agreement or agreements. The various accounts within the capital improvement bond fund shall be held by

the treasurer of the board or by an escrow agent, depository, or trustee as may be provided in the resolution or resolutions or trust agreement or agreements pursuant to which the bonds are issued.

(b) Any excess tax revenues not required by this section to be deposited in the capital improvement bond fund shall be deposited in the capital improvement fund, or, in the discretion of the board, in any special fund that may be established by the board for the payment of principal and interest on any bonds outstanding issued under this chapter. Amounts in the capital improvement bond fund shall be applied to the payment of principal of the bonds and the interest on them and to no other purpose.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-14

Revenue bonds; authority to issue; procedure

Sec. 14. (a) A capital improvement may be financed in whole or in part by the issuance of revenue bonds payable solely out of the net income received from the operation of a capital improvement and from the tax revenues provided by law that are required by this chapter to be deposited in the capital improvement bond fund.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall adopt a resolution authorizing the issuance of revenue bonds. The resolution must state the date or dates on which the principal of the bonds will mature (not exceeding forty (40) years from the date of issuance), the maximum interest rate to be paid, and the other terms upon which the bonds will be issued.

(c) The board shall submit the resolution to the county executive, or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), to the executive of the second class city, who shall review it. If the executive approves the resolution, then the board shall take all actions necessary to issue bonds in accordance with the resolution. The board may enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of bonds to be issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The bonds shall be sold at public sale in accordance with IC 5-1-11. All bonds and interest are exempt from taxation in Indiana to the extent provided in IC 6-8-5.

(e) When issuing revenue bonds, the board may covenant with the purchasers of the bonds that any funds in the capital improvement fund may be used to pay the principal on, or interest of, the bonds that cannot be paid from money in the capital improvement bond fund.

(f) The revenue bonds may be made redeemable before maturity at the price or prices and under the terms that are determined by the board in the authorizing resolution. The board shall determine the form of bonds, including any interest coupons to be attached, and shall fix the denomination or denominations of the bonds and the

place or places of payment of the principal and interest, which may be at any bank or trust company within or outside Indiana. All bonds must have all the qualities and incidents of negotiable instruments under statute. Provision may be made for the registration of any of the bonds as to principal alone or to both principal and interest.

(g) The revenue bonds shall be issued in the board's name and must recite on the face that the principal of and interest on the bonds is payable solely from the net income received from the operation of the capital improvement or from the net income and other funds made available for this purpose. The bonds shall be executed by the manual or facsimile signature of the president of the board, and the seal of the county shall be affixed to them. The seal shall be attested by the manual or facsimile signature of the county auditor. Any coupons attached must bear the facsimile signature of the president of the board.

(h) This chapter constitutes full and complete authority for the issuance of revenue bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by the board or any other officer, department, agency, or instrumentality of the state, the county, or any municipality is required to issue any revenue bonds except as may be prescribed in this chapter.

(i) Revenue bonds issued under this section are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under statute.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.147; P.L.42-1993, SEC.99.

IC 36-10-8-15

Bonds; covenant with purchasers; continuation of statute

Sec. 15. The Indiana general assembly covenants with the purchasers of any bonds issued under this chapter that the statute authorizing the levy of a specific tax within the county the proceeds of which are required by this chapter to be deposited in a specific fund created under this chapter will not be repealed, amended, or altered in any manner that would reduce or adversely affect the levy and collection of the tax levied, or reduce the rates or amounts of the tax, as long as the principal of, or interest on, any bonds is unpaid. The board, on behalf of the county, is authorized to make a similar pledge or covenant in any agreement with the purchasers of any bonds issued under this chapter or in any resolution or trust agreement pursuant to which the bonds are issued.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-16

General obligation bonds; authority to issue; procedure

Sec. 16. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), also of the city, if the board determines that the estimated annual net income of the capital improvement, plus the estimated annual tax revenues to be derived from any tax revenues made available for this purpose, will not be sufficient to satisfy and pay the principal of and interest on all bonds issued under this chapter, including the bonds then proposed to be issued.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the county executive authorizing the issuance of general obligation bonds, or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), by the fiscal body of the city authorizing the issuance of general obligation bonds. The resolution must set forth an itemization of the funds and assets received by the board, together with the board's valuation and certification of the cost. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the proper officers, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) Upon receipt of the resolution and certificate, the proper officers may adopt them and take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the proposed appropriation;

(6) the approval of the appropriation by the department of local

government finance; and

(7) the sale of bonds at public sale;

apply to the issuance of bonds under this section.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.148; P.L.90-2002, SEC.520; P.L.219-2007, SEC.146; P.L.146-2008, SEC.796; P.L.176-2009, SEC.29.

IC 36-10-8-17

Bonds; application of proceeds to construction cost; deposit in reserve subaccount

Sec. 17. (a) All money received from any bonds issued under this chapter shall be applied solely to the payment of the construction cost of the capital improvement for which the bonds are issued. The cost may include:

(1) planning and development of the capital improvement and all buildings, facilities, structures, and improvements related to it;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that the board considers necessary or desirable to make the capital improvement suitable for use and operation;

(4) architectural, engineering, consultant, and attorney fees;

(5) incidental expenses in connection with the issuance and sale of bonds; and

(6) interest during construction.

(b) To the extent authorized and directed in any resolution of the board or in any trust agreement providing for the issuance of bonds under section 14 of this chapter, proceeds of these bonds may be deposited in the reserve subaccount of the capital improvement bond fund established under section 13 of this chapter. However, the amount deposited, when added to any amount in that subaccount, may not exceed the maximum amount required to be in the subaccount by section 14 of this chapter, taking into consideration the bonds then being issued.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-18

Tax exemption

Sec. 18. All property owned or used and all income and revenues received by the board are exempt from special assessments and taxation in Indiana for all purposes.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-19

Joint and cooperative planning, financing, construction, operation, and maintenance agreements

Sec. 19. The board and the state, any department, agency, or commission of the state, or any department, agency, or commission of municipal or county government may enter into agreements,

contracts, or leases with each other on the terms that are agreed upon, providing for joint and cooperative planning, financing, construction, operation, or maintenance of a capital improvement or of the buildings, facilities, structures, or improvements that are necessary or desirable in connection with the use and operation of a capital improvement. The buildings, facilities, structures, or improvements may include:

(1) facilities for the comfort of visitors and other persons using the capital improvement;

(2) parking lots and garages;

(3) walks and pedestrian ways;

(4) landscaping, lighting, and beautification; and

(5) open spaces, malls, or plazas desirable to produce a unified architectural and artistic setting for the capital improvement.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-20

Dissolution of boards created under IC 18-7-18; escheat of funds

Sec. 20. (a) This section applies only to a board that was created under IC 18-7-18 (before its repeal on February 24, 1982).

(b) If the board is dissolved voluntarily or involuntarily, any funds in the possession of the board or to the credit of the board in the possession of the state escheat to the general fund of the county.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.149.

IC 36-10-8-21

Capital improvement board of managers operations; annual report

Sec. 21. (a) This section applies only to a board that was created under IC 18-7-18 (before its repeal on February 24, 1982).

(b) On or before March 31 each year, the executive manager shall submit to the board an annual report of the operations of the convention and visitor center.

As added by P.L.176-2009, SEC.30.

IC 36-10-9

Chapter 9. Marion County Capital Improvement Board

IC 36-10-9-1

Application of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to a capital improvement board of managers created under this chapter.

"Bonds" means bonds issued under section 12 or section 15 of this chapter and, except as used in section 12 of this chapter or unless the context otherwise requires, lease agreements entered into under section 6(15) of this chapter.

"Excise taxes" refers to the excise taxes imposed by IC 6-9-8, IC 6-9-12, and IC 6-9-13.

"Issue", "issued", or "issuance" means in the case of lease agreements "execute", "executed", or "execution" respectively.

"Lease agreements" means lease agreements entered into under section 6(15) of this chapter.

"Net income" means the gross income from the operation of a capital improvement after deducting the necessary operating expenses of the board.

"Notes" means notes issued under section 21 of this chapter.

"Operating expenses" means:

(1) the necessary operational expenses of the board in performing its duties under this chapter, including maintenance, repairs, replacements, alterations, and costs of services of architects, engineers, accountants, attorneys, and consultants;

(2) the expenses for any other purpose that has been approved under section 8 of this chapter; and

(3) the maintenance of reasonable reserves for any of the items listed in subdivisions (1) and (2) of this definition or for other purposes required under a resolution, ordinance, or trust agreement.

"Principal and interest" or "principal on and interest of" includes, unless the context otherwise requires, payments required by lease agreements.

"Pre-1981 general obligation bonds" means general obligation bonds issued before January 1, 1981.

"Trust agreements", except as used in section 13 of this chapter or unless the context otherwise requires, includes lease agreements.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.82-1985, SEC.9.

IC 36-10-9-3

Creation of county board of managers; powers of county

Sec. 3. (a) A capital improvement board of managers is created in the county.

(b) The county may finance, construct, equip, operate, and maintain a capital improvement under this chapter.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-4

County board of managers; membership; terms; vacancies; oath of office; compensation

Sec. 4. (a) The board is composed of nine (9) members. Six (6) members shall be appointed by the executive of the consolidated city, one (1) member shall be appointed by the board of commissioners of the county, one (1) member shall be appointed by the legislative body of the consolidated city from among the members of the legislative body, and one (1) member shall be appointed jointly by majority vote of a body consisting of one (1) member of the board of county commissioners of each county in which a food and beverage tax is in effect under IC 6-9-35 on January 1 of the year of the appointment. The board of county commissioners that has the greatest population of all counties in which a food and beverage tax is in effect under IC 6-9-35 on January 1 of the year of the appointment shall convene the meeting to make the joint appointment. Each county in which a food and beverage tax is in effect under IC 6-9-35 on January 1 of the year of the appointment is entitled to be represented at the meeting by one (1) member of the county's board of county commissioner, who shall be selected by that county's board of county commissioners. One (1) of the members appointed by the executive must be engaged in the hotel or motel business in the county. Not more than four (4) of the members appointed by the executive may be affiliated with the same political party.

(b) The terms of members are for two (2) years beginning on January 15 and until a successor is appointed and qualified. A member may be reappointed after the member's term has expired.

(c) If a vacancy occurs on the board, the appointing authority shall appoint a new member. That member serves for the remainder of the vacated term.

(d) A board member may be removed for cause by the appointing authority who appointed the member.

(e) Each member, before entering upon the duties of office, shall take and subscribe an oath of office in the usual form. The oath shall be endorsed upon the member's certificate of appointment, which shall be promptly filed with the records of the board.

(f) A member does not receive a salary, but is entitled to reimbursement for any expenses necessarily incurred in the performance of the member's duties.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.116-1995, SEC.8; P.L.182-2009(ss), SEC.454.

IC 36-10-9-5
County board of managers; organizational meetings

Sec. 5. (a) Immediately after January 15 each year, the board shall hold an organizational meeting. It shall elect one (1) of the members president, another vice president, another secretary, and another treasurer to perform the duties of those offices. The officers serve from the date of their election until their successors are elected and qualified.

(b) The board may adopt the bylaws and rules that it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care. A majority of the members constitutes a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-6
County board of managers; powers and duties as capital improvement board of managers

Sec. 6. The board may, acting under the title "capital improvement board of managers of _____ County", do the following:

(1) Acquire by grant, purchase, gift, devise, lease, condemnation, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and all property rights and interests necessary or convenient for the exercise of its powers under this chapter.

(2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement built or acquired by the board under this chapter.

(3) Control and operate a capital improvement, including letting concessions and leasing all or part of the capital improvement.

(4) Fix charges and establish rules governing the use of a capital improvement.

(5) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or political subdivisions, foundations, and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, and any political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.

(6) Exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.

(7) Receive and collect money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes.

(8) Receive excise taxes, income taxes, and ad valorem property taxes and expend the money for operating expenses, payments of principal or interest of bonds or notes issued under this chapter, and for all or part of the cost of a capital improvement.

(9) Retain the services of architects, engineers, accountants, attorneys, and consultants and hire employees upon terms and conditions established by the board, so long as any employees or members of the board authorized to receive, collect, and expend money are covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.

(10) Provide coverage for its employees under IC 22-3 and IC 22-4.

(11) Purchase public liability and other insurance considered desirable.

(12) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.

(13) Sue and be sued in the name and style of "capital improvement board of managers of _____ County" (including the name of the county), service of process being had by leaving a copy at the board's office.

(14) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement, including the convention and visitor industry, and serve the commercial, industrial, and cultural interests of Indiana and its citizens. The board may assist, cooperate, and fund governmental, public, and private agencies and groups for these purposes.

(15) Enter into leases of capital improvements and sell or lease property under IC 5-1-17 or IC 36-10-9.1.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.82-1985, SEC.10; P.L.8-1993, SEC.520; P.L.255-1997(ss), SEC.21; P.L.214-2005, SEC.75.

IC 36-10-9-7

Procurement of materials and work; emergency procedure; title to or interest in property

Sec. 7. (a) The purchase or lease of material and work on a capital improvement shall be done by the board under statutes governing these activities by counties. However, if the total cost of construction or equipping of a capital improvement or of the alteration, maintenance, or repair of any building is estimated to be fifty thousand dollars ($50,000) or less, the board may procure materials and perform the work by its own employees and with owned or leased equipment without awarding a contract. In addition, in an emergency determined and declared by the board and entered in its records, the board may make emergency alterations, repairs, or replacements and contract for them without advertising for bids.

(b) Title to or interest in any property acquired shall be held in the

name of the county, and the board has complete and exclusive authority to sell, lease, or dispose of it and to execute all conveyances, leases, contracts, and other instruments in connection with it. However, real property may not be sold without the approval of the executive of the consolidated city.
As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-8
Annual budget; capital improvement; issuance of bonds

Sec. 8. (a) The board shall prepare a budget for each calendar year covering the projected operating expenses, projected expenditures for capital improvements or land acquisition, and estimated income to pay the operating expenses and capital expenditures, including amounts, if any, to be received from excise taxes and ad valorem property taxes. It shall submit the operating and capital budget for review, approval, or rejection to the city-county legislative body. The board may make expenditures only as provided in the budget as approved, unless additional expenditures are approved by the legislative body. However, payments to users of any capital improvement that constitute a contractual share of box office receipts are neither an operating expense nor an expenditure within the meaning of this section.

(b) If the board desires to finance a capital improvement in whole or in part by the issuance of bonds under section 12 or 15 of this chapter, the board shall submit the following information to the city-county legislative body at least thirty (30) days before the adoption of a resolution authorizing the issuance of the bonds:

(1) A description of the project to be financed through the issuance of bonds.

(2) The total amount of the project anticipated to be funded through the issuance of bonds.

(3) The total amount of other anticipated revenue sources for the project.

(4) Any other terms upon which the bonds will be issued.

(c) The city-county legislative body must discuss the information provided in subsection (b) in a public hearing held before the resolution may be adopted by the board.

(d) The board shall post the board's proposed budget and adopted budget on the board's Internet web site.
As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.42-1994, SEC.14; P.L.182-2009(ss), SEC.455.

IC 36-10-9-8.1
Long range financial plan

Sec. 8.1. (a) During 2009, the board shall prepare a long range financial plan covering the period beginning with the year 2010 and ending with the year 2041. The long range financial plan must set forth the following:

(1) The schedule for the retirement of all debt that is outstanding as of January 1, 2010.

(2) An estimated operating and capital budget for each calendar year that covers the projected operating expenses, debt obligations, expenditures for capital improvements and land acquisition, and estimated income to pay these items, including the source of each type of income.

(b) Before January 1, 2010, the board shall deliver a copy of the long range financial plan to each member of the city-county legislative body and to the legislative council in an electronic format under IC 5-14-6.

(c) The city-county legislative body shall discuss the long range financial plan in a public hearing.

As added by P.L.182-2009(ss), SEC.456.

IC 36-10-9-9

Treasurer; controller; duties; board of accounts audits

Sec. 9. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. The treasurer shall give bond for the faithful performance and discharge of all duties required of the treasurer by law in the amount and with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by the treasurer of the county for the use of the board shall be promptly remitted and paid over by the county treasurer to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all funds coming into the treasurer's hands as required by this chapter and by IC 6-7-1-30.1, and in accordance with IC 5-13. Money so deposited may be invested and reinvested by the treasurer in accordance with general statutes relating to the investment of public funds and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested, except as provided in a resolution, ordinance, or trust agreement providing for the issuance of bonds or notes. All funds invested in deposit accounts as provided in IC 5-13-9 must be insured under IC 5-13-12.

(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. The controller shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of the controller in the amount and with surety and other conditions that may be prescribed and approved by the board. The controller shall keep an accurate account of all money due the board and of all money received, invested, and disbursed in accordance with

generally recognized governmental accounting principles and procedure. All accounting forms and records shall be prescribed or approved by the state board of accounts.

(d) The controller shall issue all warrants for the payment of money from the funds of the board in accordance with procedures prescribed by the board but a warrant may not be issued for the payment of a claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the treasurer of the board or by the executive manager. Warrants may be executed with facsimile signatures.

(e) If there are bonds or notes outstanding issued under this chapter, the controller shall deposit with the paying agent or other paying officer within a reasonable period before the date that any principal or interest becomes due sufficient money for the payment of the principal and interest on the due dates. The controller shall make the deposit with money from the sources provided in this chapter, and he shall make the deposit in an amount that, together with other money available for the payment of the principal and interest, is sufficient to make the payment. In addition, the controller shall make other deposits for the bonds and notes as is required by this chapter or by the resolutions, ordinances, or trust agreements under which the bonds or notes are issued.

(f) The controller shall submit to the board at least annually a report of the board's accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which they were disbursed. The board may require that the report be prepared by an independent certified public accountant designated by the board. The state board of accounts shall audit annually the accounts, books, and records of the board and prepare a financial report and a compliance audit report. The board shall submit to the city-county legislative body financial and compliance reports of the state board of accounts. The board shall post the reports of the state board of accounts on the board's Internet web site. The city-county legislative body shall discuss the financial and compliance reports of the state board of accounts in a public hearing. The handling and expenditure of funds is subject to supervision by the state board of accounts.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.19-1987, SEC.57; P.L.46-1997, SEC.17; P.L.182-2009(ss), SEC.457.

IC 36-10-9-10

Capital improvement fund

Sec. 10. (a) Unless there are bonds or notes outstanding under this chapter and secured in whole or in part by money deposited in the capital improvement bond fund, the proceeds of excise taxes received from the treasurer of the state shall be deposited in a separate and distinct fund called the "capital improvement fund". The gross income received by the board from the operation of capital improvements under this chapter shall be deposited in the capital

improvement fund, regardless of whether or not there are any bonds or notes outstanding. Any money in the fund may be expended by the board without the necessity of an appropriation to pay or provide for the payment of operating expenses. Money in the fund may also be used by the board without appropriation or approval to pay the principal on, or interest of, any bonds or notes issued under this chapter that cannot be paid from funds in the capital improvement bond fund or may be used for the payment of the principal of, redemption premium, if any, for, and interest on any bonds or notes issued under this chapter, upon prior redemption, or for all or part of the cost of a capital improvement.

(b) The board may covenant in any resolution, ordinance, or trust agreement providing for the issuance of bonds or notes as to the order of application of money deposited in the capital improvement fund, including the holding or disposing of any surplus in that fund.

(c) The net income from the operation of capital improvements under this chapter shall be transferred from the capital improvement fund to the capital improvement bond fund to the extent of any deficiency in the amount required to be in the capital improvement bond fund.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-11

Capital improvement bond fund

Sec. 11. (a) If there are any outstanding bonds or notes issued under this chapter and secured in whole or in part by money deposited in the capital improvement bond fund, the treasurer of the board shall, except as otherwise provided in this section, deposit the following amounts in a separate and distinct fund called the "capital improvement bond fund":

(1) Excise tax proceeds received by the treasurer.

(2) Net income transferred to the capital improvement bond fund under section 10 of this chapter.

(3) Any other amounts received for deposit in the capital improvement bond fund.

(b) Principal and interest subaccounts shall be maintained in the capital improvement bond fund. The lesser of the following amounts shall be deposited in the principal and interest subaccounts:

(1) The total of the amounts listed in subsection (a).

(2) The total of the following amounts:

(A) In the principal and interest subaccount for the pre-1981 general obligation bonds, the amount required to provide sufficient funds to pay the principal of and interest coming due within the next twelve (12) months on the pre-1981 general obligation bonds.

(B) In the principal and interest subaccounts for all outstanding bonds and notes issued under this chapter, other than the pre-1981 general obligation bonds, the amounts required by the resolutions, ordinances, and trust agreements under which the bonds or notes are issued.

The deposits shall be made pro rata as between pre-1981 general obligation bonds, if any, and all other bonds and notes issued under this chapter. Deposits to principal and interest subaccounts for notes and for bonds, other than pre-1981 general obligation bonds, shall be made in the manner and in the order of priority that is provided in the resolutions, ordinances, and trust agreements under which the bonds or notes are issued. Amounts in a principal and interest subaccount may be used solely to pay the principal of and interest on the issue or issues of bonds or notes for which the principal and interest subaccount was established.

(c) The treasurer of the board shall maintain in the capital improvement bond fund a bond reserve subaccount for the pre-1981 general obligation bonds. The treasurer shall maintain the subaccount in an amount equal to the maximum amount of principal and interest coming due on the pre-1981 general obligation bonds in any subsequent year. Reserve subaccounts shall also be maintained for other bonds and for notes secured in whole or in part by money deposited in the capital improvement bond fund; these subaccounts shall be maintained to the extent and in the amount required by the resolutions, ordinances, and trust agreements under which the bonds or notes are issued. Amounts described in subsection (a) that are not required to be deposited in principal and interest subaccounts under subsection (b) shall be deposited in the reserve subaccounts to the extent of any deficiency in those subaccounts. The deposits shall be made pro rata as between the reserve subaccount for pre-1981 general obligation bonds and all other reserve subaccounts. Deposits to the reserve subaccounts for notes and for bonds, other than pre-1981 general obligation bonds, shall be made in the manner and in the order of priority that is provided in the resolutions, ordinances, and trust agreements under which the bonds or notes are issued. Subject to subsection (e), amounts in a reserve subaccount may be used solely to pay the principal of and interest on the issue or issues of bonds or notes for which the reserve subaccount was established and only to the extent amounts in the principal and interest subaccount for the issue or issues of bonds or notes are not sufficient for that purpose.

(d) Amounts described in subsection (a) that are not required to be deposited in principal and interest subaccounts or bond reserve subaccounts under subsections (b) and (c) shall be deposited in the capital improvement fund rather than the capital improvement bond fund.

(e) Unless otherwise provided in any resolution, ordinance, or trust agreement under which bonds or notes are issued, amounts in the capital improvement bond fund in excess of the amount required by this section to be on deposit in that fund shall be transferred to the capital improvement fund.

(f) The principal and interest subaccount and bond reserve subaccount for the pre-1981 general obligation bonds shall be held by the treasurer of the board. Other principal and interest subaccounts and bond reserve subaccounts shall be held by the

treasurer or by an escrow agent, depository, or trustee provided in the resolutions, ordinances, or trust agreements establishing the subaccounts. One (1) principal and interest subaccount or bond reserve subaccount may be established for two (2) or more issues of bonds or notes.

(g) Amounts in the capital improvement bond fund on June 1, 1981, shall be first used to establish the principal and interest subaccount for the pre-1981 general obligation bonds in the required amount and then to establish the bond reserve subaccount for those bonds in the required amount. Any excess remaining shall be deposited in the capital improvement fund.

(h) For purposes of this section and section 10 of this chapter, bonds issued under section 15 of this chapter shall be considered to be secured by money deposited in the capital improvement bond fund, if provided in the resolution, ordinance, or trust agreement providing for the issuance of the bonds.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-11.1

Defeased bonds; use of funds in capital improvement bond fund and capital improvement fund

Sec. 11.1. (a) Upon the defeasance of an issue of capital improvement board bonds, the board may use funds in its capital improvement bond fund for those defeased bonds for the purposes set forth in subsection (b) if the board:

(1) has sold all or part of a capital improvement to a county convention and recreation facilities authority and leased it back; or

(2) has leased all or part of a capital improvement to a county convention and recreation facilities authority and leased it back.

(b) The board may use the funds in the capital improvement fund for the defeased bonds for the following:

(1) As payment of lease rental or as a reserve for lease rental.

(2) As a deposit with the county convention and recreation facilities authority or a trustee for the authority's bond owners to be used for payment of those bonds or as a reserve for those bonds.

(3) For any purpose for which the board is authorized to expend or apply funds.

(4) For any combination of the purposes set forth in subdivisions (1), (2), and (3).

As added by P.L.82-1985, SEC.11.

IC 36-10-9-12

Revenue bonds

Sec. 12. (a) A capital improvement may be financed in whole or in part by the issuance of bonds payable, to the extent stated in the resolution or trust agreement providing for the issuance of the bonds, solely from one (1) or more of the following sources:

(1) Net income received from the operation of the capital

improvement and not required to be deposited in the capital improvement bond fund under section 11 of this chapter.

(2) Net income received from the operation of any other capital improvement or improvements and not required to be deposited in the capital improvement bond fund under section 11 of this chapter.

(3) Money in the capital improvement bond fund available for that purpose.

(4) Money in the capital improvement fund available for that purpose.

(5) Any other funds made available for that purpose.

The resolution or trust agreement may pledge all or part of those amounts to the repayment of the bonds and may secure the bonds by a lien on the amounts pledged.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall adopt a resolution authorizing the issuance of revenue bonds. The resolution must state the date or dates on which the principal of the bonds will mature (not exceeding forty (40) years from the date of issuance), the maximum interest rate to be paid, and the other terms upon which the bonds will be issued.

(c) If the city-county legislative body approves issuance of bonds under IC 36-3-6-9, the board shall submit the resolution to the executive of the consolidated city, who shall review it. If the executive approves the resolution, the board shall take all actions necessary to issue bonds in accordance with the resolution. The board may, under section 13 of this chapter, enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of bonds to be issued under this section may not be brought after the fifteenth day following:

(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or

(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract of sale for the bonds;

whichever occurs first.

(d) Bonds issued under this section may be sold at public or private sale for the price or prices that are provided in the resolution authorizing the issuance of bonds. All bonds and interest are exempt from taxation in Indiana as provided in IC 6-8-5.

(e) When issuing revenue bonds, the board may covenant with the purchasers of the bonds that any funds in the capital improvement fund may be used to pay the principal on, or interest of, the bonds that cannot be paid from any other funds.

(f) The revenue bonds may be made redeemable before maturity at the price or prices and under the terms that are determined by the board in the authorizing resolution. The board shall determine the form of bonds, including any interest coupons to be attached, and shall fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may

be at any bank or trust company within or outside Indiana. All bonds must have all the qualities and incidents of negotiable instruments under statute. Provision may be made for the registration of any of the bonds as to principal alone or to both principal and interest.

(g) The revenue bonds shall be issued in the name of the county and must recite on the face that the principal of and interest on the bonds is payable solely from the amounts pledged to their payment. The bonds shall be executed by the manual or facsimile signature of the president of the board, and the seal of the county shall be affixed or imprinted on the bonds. The seal shall be attested by the manual or facsimile signature of the auditor of the county. However, one (1) of the signatures must be manual, unless the bonds are authenticated by the manual signature of an authorized officer or a trustee for the bondholders. Any coupons attached must bear the facsimile signature of the president of the board.

(h) This chapter constitutes full and complete authority for the issuance of revenue bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by the board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to issue any revenue bonds except as prescribed in this chapter.

(i) Revenue bonds issued under this section are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under statute.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.42-1993, SEC.100; P.L.182-2009(ss), SEC.458.

IC 36-10-9-13

Revenue bonds; trust agreement; resolution; operating expenses

Sec. 13. (a) Revenue bonds issued under this chapter may be secured by a trust agreement by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana. Any resolution adopted by the board providing for the issuance of revenue bonds and any trust agreement under which the revenue bonds are issued may pledge or assign, subject only to valid prior pledges, all or a part of the amounts authorized by this chapter, but the board may not convey or mortgage any capital improvement or any part of a capital improvement.

(b) In authorizing the issuance of revenue bonds, the board may:

(1) limit the amount of revenue bonds that may be issued as a first lien against the amounts pledged to the payment of those revenue bonds; or

(2) authorize the issuance from time to time of additional revenue bonds secured by the same lien.

Additional revenue bonds shall be issued on the terms and conditions provided in the bond resolution or resolutions adopted by the board and in the trust agreement or any agreement supplemental to the trust agreement. Additional revenue bonds may be secured equally and ratably without preference, priority, or distinction with the original issue of revenue bonds or may be made junior to the original issue of revenue bonds.

(c) Any pledge or assignment made by the board under this section is valid and binding from the time that the pledge or assignment is made, and the amounts pledged and received by the board are immediately subject to the lien of the pledge or assignment without physical delivery of those amounts or further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the board irrespective of whether these parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created or an assignment need be filed or recorded in order to perfect the resulting lien against third parties. However, a copy of the pledge or assignment shall be filed in the records of the board.

(d) Any trust agreement or resolution providing for the issuance of revenue bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law. The provisions may include convenants stating the duties of the board in relation to:

(1) the acquisition of property;

(2) the construction, improvement, maintenance, repair, operation, and insurance of the capital improvement or capital improvements in connection with which the bonds have been authorized;

(3) the rates of fees, rentals, or other charges to be collected for the use of the capital improvement or capital improvements;

(4) the custody, safeguarding, investment, and application of all money received or to be received by the board or trustee;

(5) the establishment of funds, reserves, and accounts; and

(6) the employment of consulting engineers in connection with the construction or operation of the capital improvement or capital improvements.

(e) It is lawful for any bank or trust company incorporated under statute, and any national banking association that may act as depository of the proceeds of bonds or other funds of the board, to furnish indemnifying bonds or to pledge securities that are required by the board.

(f) Any trust agreement entered into under this section may state the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition, the trust agreement may contain other provisions that the board considers reasonable and proper for the security of the bondholders.

(g) All expenses incurred in carrying out a trust agreement entered

into under this section may be treated as a part of the necessary operating expenses of the board.
As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-14
Tax covenant with bond purchasers

Sec. 14. (a) The Indiana general assembly covenants with the purchasers of any bonds or notes issued under this chapter that:

(1) the excise taxes pledged to the payment of those bonds and notes will not be repealed, amended, or altered in any manner that would reduce or adversely affect the levy and collection of those taxes; and

(2) it will not reduce the rates or amounts of those taxes;

as long as the principal of, or interest on, any bonds or notes is unpaid.

(b) The board, on behalf of the county, may make a similar pledge or covenant in any agreement with the purchasers of any bonds or notes issued under this chapter.

(c) For purposes of this section, the principal of or interest on bonds or notes is considered paid if provision has been made for their payment in such a manner that the bonds or notes are not considered to be outstanding under the resolution, ordinance, or trust agreement under which the bonds or notes are issued.
As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-15
General obligation bonds

Sec. 15. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the board of commissioners of the county authorizing the issuance of general obligation bonds. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the city-county legislative body for approval under IC 36-3-6-9, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) If the city-county legislative body approves the issuance of bonds under IC 36-3-6-9, the board shall submit the resolution to the executive of the consolidated city, who shall review the resolution.

If the executive approves the resolution, the board shall take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the giving of notice of the determination to issue bonds;

(4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;

(5) the right of taxpayers to appear and be heard on the proposed appropriation;

(6) the approval of the appropriation by the department of local government finance; and

(7) the sale of bonds at public sale for not less than par value;

are applicable to the issuance of bonds under this section.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.90-2002, SEC.521; P.L.219-2007, SEC.147; P.L.146-2008, SEC.797; P.L.182-2009(ss), SEC.459.

IC 36-10-9-16

Bond revenue; use

Sec. 16. All money received from any bonds issued under this chapter shall be applied solely to the payment of the construction cost of the capital improvement or capital improvements or the cost of refunding or refinancing outstanding bonds or notes, for which the bonds are issued. The cost may include:

(1) planning and development of the capital improvement and all buildings, facilities, structures, and improvements related to it;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operation;

(4) architectural, engineering, consultant, and attorney fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest and for operations, extensions, replacements, renovations, and improvements;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, for, and interest on the bonds or notes being refunded or refinanced.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.5-1988, SEC.223.

IC 36-10-9-17
Rights of holders of notes or bonds

Sec. 17. Unless their rights are restricted by the appropriate bond resolution, ordinance, or trust agreement, any holder of notes or bonds (except pre-1981 general obligation bonds) issued under this chapter or a trustee under a trust agreement entered into under this chapter may, by any suitable form of legal proceeding, protect and enforce any rights provided under statute or granted by the bond resolution, ordinance, or trust agreement.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-18
Tax exemptions

Sec. 18. All property owned or used and all income and revenues received by the board are exempt from special assessments and taxation in Indiana for all purposes.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-19
Contracts of board, state, and political subdivisions

Sec. 19. The board and the state, any department, agency, or commission of the state, or any department, agency, or commission of municipal or county government, may enter into agreements, contracts, or leases with each other on the terms that are agreed upon, providing for joint and cooperative planning, financing, construction, operation, or maintenance of a capital improvement or of the buildings, facilities, structures, or improvements that are necessary or desirable in connection with the use and operation of a capital improvement.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9-20
State appropriation

Sec. 20. (a) Four million dollars ($4,000,000) has been appropriated out of money in the general fund of the state not otherwise appropriated for distribution by the auditor and treasurer of state to a board that was in existence on March 11, 1967, to be expended by the board for the purpose of financing a convention center to be known as the Indiana convention exposition center. However, the four million dollar ($4,000,000) appropriation could not be spent by the board until funds and assets, exclusive of real property, in addition to this appropriation, had been received by the board under section 6 of this chapter of a total value of two million

dollars ($2,000,000) in excess of the cost of the funds and assets to the board. The valuation of the funds and assets shall be conclusively determined by the board and the executive of the consolidated city. This appropriation does not lapse at the end of any biennium.

(b) The four million dollars ($4,000,000), including accrued interest, shall be repaid to the treasurer of state by December 31, 2000, in annual installments. The first payment shall be made on or before December 31, 1992. The amount of the payment must include interest at two percent (2%) per year The repayment shall be made by the board from net income received from the operation of the convention center, from available amounts in the capital improvement fund, and from any contributions, bequests, or other sources available to the board for this purpose.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.27-1992, SEC.29.

IC 36-10-9-21

Borrowing in anticipation of funds

Sec. 21. (a) In anticipation of funds to be received from any source, the board may borrow money and issue notes for a term not exceeding ten (10) years and at a rate or rates of interest determined by the board. The notes shall be issued in the name of the "capital improvement board of managers of _____ county" and may be secured (either on a parity with or junior and subordinate to any outstanding bonds or notes) by:

(1) the pledge of income and revenues of any capital improvement;

(2) the proceeds of excise taxes; or

(3) any other funds anticipated to be received.

The notes are payable solely from the income, excise taxes, revenues, and anticipated funds.

(b) The financing may be negotiated directly by the board with any bank, insurance company, savings association, or other financial institution licensed to do business in Indiana upon the terms and conditions that are agreed upon, except as specifically provided in this section, and may be consummated without public offering. The notes plus interest are exempt from taxation in Indiana as provided for bonds in IC 6-8-5.

As added by Acts 1982, P.L.77, SEC.28. Amended by P.L.79-1998, SEC.111.

IC 36-10-9-22

Defense and indemnity of officers and employees in legal actions

Sec. 22. A board established under this chapter may defend any current or former member of the board or its officers, employees, or agents in a claim or suit, at law or in equity, that arises from the exercise of powers or the performance of duties or services for the board or that arises from official acts as a member of the board. The board may indemnify a person for any liability, cost, or damages related to a claim or suit, including the payment of legal fees. Before

taking action authorized by this section, the board must, by resolution, determine that the action or conduct in question was taken, done, or omitted in good faith.

As added by Acts 1982, P.L.77, SEC.28.

IC 36-10-9.1

Chapter 9.1. Marion County Convention and Recreational Facilities Authority

IC 36-10-9.1-1

Application of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-2

"Authority" defined

Sec. 2. As used in this chapter, "authority" refers to the county convention and recreational facilities authority created by this chapter.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-3

"Board" defined

Sec. 3. As used in this chapter, "board" refers to the board of directors of the authority.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-4

"Bonds" defined

Sec. 4. As used in this chapter, "bonds" means bonds, notes, or other evidence of indebtedness.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-5

"Capital improvement board" defined

Sec. 5. As used in this chapter, "capital improvement board" refers to the capital improvement board of managers created by IC 36-10-9.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-6

Creation of authority

Sec. 6. A _____ County Convention and Recreational Facilities Authority (the blank to be filled in with the name of the county) is created in the county as a separate body corporate and politic as an instrumentality of the county to finance facilities for lease to the capital improvement board.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-7

Board of directors; members

Sec. 7. (a) The board is composed of three (3) members, who must be residents of the county appointed by the executive of the county.

(b) A member is entitled to serve a three (3) year term. A member

may be reappointed to subsequent terms.

(c) If a vacancy occurs on the board, the executive of the county shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) A board member may be removed for cause by the executive of the county.

(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the board.

(f) A member may not receive a salary.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-8

Organizational meeting; officers; special meetings; quorum

Sec. 8. (a) Immediately after January 15 of each year, the board shall hold an organizational meeting. It shall elect one (1) of the members president, another vice president, and another secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. The board may elect an assistant secretary-treasurer.

(b) Special meetings may be called by the president of the board or any two (2) members of the board.

(c) A majority of the members constitutes a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-9

Bylaws and rules

Sec. 9. The board may adopt such bylaws and rules as it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-10

Purposes

Sec. 10. The authority is organized for the following purposes:

(1) Financing, constructing, and leasing capital improvements to the capital improvement board.

(2) Financing and constructing additional improvements to capital improvements owned by the authority and leasing them to the capital improvement board.

(3) Acquiring all or a portion of one (1) or more capital improvements from the capital improvement board by purchase or lease and leasing these capital improvements back to the capital improvement board, with any additional improvements that may be made to them.

(4) Acquiring all or a portion of one (1) or more capital

improvements from the capital improvement board by purchase or lease to fund or refund indebtedness incurred on account of those capital improvements to enable the capital improvement board to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the capital improvement board considers to be unduly burdensome.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-11
Powers

Sec. 11. The authority may also:

(1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip capital improvements;

(2) lease those capital improvements to the capital improvement board;

(3) sue, be sued, plead, and be impleaded, but all actions against the authority must be brought in the circuit or superior court of the county in which the authority is located;

(4) condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with capital improvements;

(5) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;

(6) enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a capital improvement;

(7) design, order, contract for, and construct, reconstruct, and renovate any capital improvements or improvements thereto;

(8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees necessary for construction of capital improvements or improvements thereto;

(9) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter; and

(10) take any other action necessary to implement its purposes as set forth in section 10 of this chapter.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-12
Refunding of bonds

Sec. 12. (a) Bonds issued under IC 36-10-9 or prior law may be refunded as provided in this section.

(b) The capital improvement board may:

(1) lease all or a portion of a capital improvement or improvements to the authority, which may be at a nominal lease rental with a lease back to the capital improvement board, conditioned upon the authority assuming bonds issued under IC 36-10-9 or prior law and issuing its bonds to refund those

bonds; and

(2) sell all or a portion of a capital improvement or improvements to the authority for a price sufficient to provide for the refunding of those bonds and lease back the capital improvement or improvements from the authority.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-13

Lease of capital improvements to capital improvement board; terms

Sec. 13. (a) Before a lease may be entered into, both the capital improvement board and the executive of the county must find that the lease rental provided for is fair and reasonable.

(b) A lease of capital improvements from the authority to the capital improvement board:

(1) may not have a term exceeding forty (40) years;

(2) may not require payment of lease rental for a newly constructed capital improvement or for improvements to an existing capital improvement until the capital improvement or improvements thereto have been completed and are ready for occupancy;

(3) may contain provisions:

(A) allowing the capital improvement board to continue to operate an existing capital improvement until completion of the improvements, reconstruction, or renovation; and

(B) requiring payment of lease rentals for an existing capital improvement being used, reconstructed, or renovated;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the capital improvement board to purchase the capital improvement upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the capital improvement, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a capital improvement;

(7) must be approved by the executive of the county;

(8) may provide that the capital improvement board shall agree to:

(A) pay all taxes and assessments thereon;

(B) maintain insurance thereon for the benefit of the authority; and

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(9) subject to IC 36-10-9-11, may provide that the lease rental payments by the capital improvement board shall be made from any one (1) or more of the following sources:

(A) Proceeds of one (1) or more of the excise taxes as defined in IC 36-10-9.

(B) Net revenues of the capital improvement.

(C) Any other funds available to the capital improvement board.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-14

Leases; exclusivity of provisions of this chapter

Sec. 14. This chapter contains full and complete authority for leases between the authority and the capital improvement board. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this chapter.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-15

Approval of plans and specifications

Sec. 15. If the lease provides for a capital improvement or improvements thereto to be constructed by the authority, the plans and specifications shall be submitted to and approved by the capital improvement board and all agencies designated by law to pass on plans and specifications for public buildings.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-16

Common wall agreements

Sec. 16. The authority and the capital improvement board may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-17

Lease or sale of property by capital improvement board to the authority

Sec. 17. (a) The capital improvement board may lease for a nominal lease rental, or sell to the authority, one (1) or more capital improvements or portions thereof or land upon which a capital improvement is located or is to be constructed.

(b) Any lease of all or a portion of a capital improvement by the capital improvement board to the authority must be for a term equal to the term of the lease of that capital improvement back to the capital improvement board.

(c) The capital improvement board may sell property to the authority for such amount as it determines to be in the best interest of the capital improvement board, which amount may be paid from the proceeds of bonds of the authority.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-18
Repealed

(*Repealed by P.L.19-1986, SEC.62.)*

IC 36-10-9.1-18.1
Bonds; issuance by authority

Sec. 18.1. (a) The authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring property;

(2) constructing, improving, reconstructing, or renovating one (1) or more capital improvements; or

(3) funding or refunding bonds issued under IC 36-10-9 or prior law.

(b) The bonds are payable solely from the lease rentals from the lease of the capital improvements for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds at public or private sale upon such terms as determined by the board.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of the acquisition or construction, or both, of capital improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the facility and all buildings, facilities, structures, and improvements related to it;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;

(4) architectural, engineering, consultant, and attorney fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (in any) for, and interest on, the bonds being refunded or refinanced.

As added by P.L.19-1986, SEC.63. Amended by P.L.11-1987, SEC.35.

IC 36-10-9.1-18.2

Bonds; exclusivity of this chapter

Sec. 18.2. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board of any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this chapter.

As added by P.L.19-1986, SEC.64.

IC 36-10-9.1-18.3

Validity of bonds issued under this chapter before February 21, 1986; effect of repeal of section 18 of this chapter

Sec. 18.3. (a) The following do not affect the validity of any bonds issued under this chapter before February 21, 1986:

(1) The repeal of section 18 of this chapter by P.L.19-1986, SECTION 62.

(2) The enactment of section 18.1 of this chapter by P.L.19-1986, SECTION 63.

(3) The enactment of section 18.2 of this chapter by P.L.19-1986, SECTION 64.

(b) Sections 18.1 and 18.2 of this chapter, as enacted by P.L.19-1986, are intended to replace section 18 of this chapter, and the substantive operation and effect of section 18 of this chapter continues uninterrupted until either section 18.1 or 18.2 of this chapter is amended or repealed.

As added by P.L.220-2011, SEC.685.

IC 36-10-9.1-19

Investment in bonds of authority

Sec. 19. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

As added by P.L.82-1985, SEC.12. Amended by P.L.42-1993, SEC.101.

IC 36-10-9.1-20

Trust indenture as security for bonds

Sec. 20. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign lease rentals, receipts, and income from leased capital improvements, but may not mortgage land or capital improvements;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and board;
(3) set forth the rights and remedies of bondholders and trustee; and
(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the authority under this section is valid and binding from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties by filing the trust indenture in the records of the board.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-21
Bonds; issuance by capital improvement board

Sec. 21. If the capital improvement board exercises its option to purchase leased property, it may issue its bonds as authorized by statute.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-22
Tax exemption

Sec. 22. All:
(1) property owned by the authority;
(2) revenues of the authority; and
(3) bonds issued by the authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

As added by P.L.82-1985, SEC.12. Amended by P.L.21-1990, SEC.58; P.L.254-1997(ss), SEC.35.

IC 36-10-9.1-23
Actions contesting validity of bonds; limitations

Sec. 23. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:
(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or
(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.2

Chapter 9.2. Sports and Fitness Facilities

IC 36-10-9.2-1

Applicability of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by P.L.37-1988, SEC.42.

IC 36-10-9.2-2

Bonds or notes to fund facility

Sec. 2. The city-county legislative body may issue bonds or notes to fund all or any part of a facility to promote sports and fitness within the corporate boundaries of the consolidated city, or to pay any costs associated with such a facility, including reimbursement of any costs associated with the facility that have been paid by any other entity.

As added by P.L.37-1988, SEC.42.

IC 36-10-9.2-3

Public purpose in funding facility

Sec. 3. Funding of such a facility or payment of costs or reimbursement for such a facility constitutes a public purpose by creating or maintaining jobs and employment and by providing for the health and welfare of residents of the consolidated city.

As added by P.L.37-1988, SEC.42.

IC 36-10-9.2-4

Debt service on bonds or notes

Sec. 4. Debt service on bonds or notes issued under this chapter may be paid from any funds available to pay the debt service, as determined by the city-county legislative body as set forth in IC 5-1-14-4.

As added by P.L.37-1988, SEC.42.

IC 36-10-9.2-5

Use of facility to serve public health and welfare

Sec. 5. If the proceeds of bonds or notes are used to reimburse any entity under section 2 of this chapter, the consolidated city shall, acting through a board or commission designated for that purpose, contract or make arrangements for the use of the facility to serve the public health and welfare.

As added by P.L.37-1988, SEC.42.

IC 36-10-10

Chapter 10. Civic Center Building Authority in South Bend or Mishawaka

IC 36-10-10-1

Application of chapter

Sec. 1. This chapter applies to the two (2) cities having the largest populations in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.12-1992, SEC.196; P.L.119-2012, SEC.241.

IC 36-10-10-2

Definitions

Sec. 2. As used in this chapter:

"Authority" refers to a civic center building authority created under this chapter.

"Board" refers to the board of directors of the authority.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-3

Creation; procedure

Sec. 3. The legislative body of a city may adopt an ordinance to create an authority under this chapter for the purpose of financing, acquiring, constructing, equipping, and leasing to the city in which the authority is created land and a building or buildings for civic purposes. Upon the adoption of the ordinance a separate municipal corporation known as the "_____ Civic Center Building Authority" (including the name of the city) is created. The clerk of the city shall file a certified copy of the resolution with the judge of the circuit court of the county in which the authority is created.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-4

Board; members; appointment; terms; vacancies; oath

Sec. 4. (a) Within thirty (30) days after the filing of the certified copy of the resolution, the executive of the city shall appoint five (5) directors of the authority. All of the directors must be residents of the county and at least three (3) of them must be residents of the city. The directors shall operate under the title "Civic Center Building Authority Board of Directors". Each appointment shall be evidenced by a written certificate of appointment signed by the executive. A copy of the certificate shall be sent to each appointee.

(b) Initial terms of the directors are as follows:

(1) One (1) for a term of one (1) year.

(2) One (1) for a term of two (2) years.

(3) One (1) for a term of three (3) years.

(4) Two (2) directors for terms of four (4) years each.

At the expiration of a term, the executive shall appoint a successor

for a four (4) year term. Each director serves until his successor is appointed and qualified.

(c) If a director dies, resigns, ceases to be a resident of the city, or is removed for cause, the executive shall appoint another person as director for the remainder of that term. If a person appointed director fails to qualify within ten (10) days after the mailing to him of notice of his appointment, the executive shall appoint another person. Each director, before entering upon his duties, shall take and subscribe an oath of office to be endorsed upon his certificate of appointment. The certificate shall be filed with the clerk of the circuit court.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.7-1983, SEC.43.

IC 36-10-10-5

Board; members; removal; procedure

Sec. 5. A director may be removed from office for good cause by an order of the circuit court of the county in which the authority is located, subject to the procedure of this section. A complaint stating the preferred charges may be filed by any person against a director. The cause shall be placed on the advanced calendar and be tried as other civil causes are tried by the court without the intervention of a jury. If the charges are sustained, the court shall declare the office vacant. A change of venue from the judge shall be granted upon motion, but a change of venue from the county may not be taken.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-6

Board; organizational meeting; officers; annual reorganization meeting

Sec. 6. The directors originally appointed shall meet within fifteen (15) days after their appointment at a time and place designated by the executive for the purpose of organization. The directors shall elect the following officers of the board from among their number:

(1) President.
(2) Vice president.
(3) Secretary.
(4) Treasurer.

The officers serve until the expiration of the first term to expire. The board shall meet annually to reorganize within thirty (30) days after the appointment of each successor director.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.7-1983, SEC.44.

IC 36-10-10-7

Board; bylaws; meetings; quorum; approval of actions; reimbursement of expenses

Sec. 7. The board may adopt the bylaws and resolutions that it considers necessary for the proper conduct of proceedings, the carrying out of its duties, and the safeguarding of the funds and property of the authority. Regular and special meetings shall be held

at the times that the board determines and upon notice that it fixes, either by resolution or in accordance with the bylaws. A majority of the directors constitutes a quorum, and the concurrence of a majority is necessary to authorize any action. Directors serve without pay but are entitled to reimbursement for any expenses necessarily incurred in the performance of their duties.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-8
Directors; conflicts of interest

Sec. 8. A director may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. A transaction in which any director has a pecuniary interest is void.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-9
Preliminary expenses; payment; reimbursement

Sec. 9. (a) All necessary preliminary expenses actually incurred in the:

(1) making of surveys;
(2) estimates of cost and receipts;
(3) employment of architects, engineers, attorneys, or other consultants;
(4) giving of notices;
(5) taking of options; and
(6) all other expenses necessary to be paid prior to the issue and delivery of bonds;

may be met and paid out of funds provided by the city, from funds on hand or derived from taxes levied and appropriated for these purposes, or from funds received as donations or contributions.

(b) the funds of the city from which payments are made shall be fully reimbursed and repaid by the board out of the first proceeds of the sale of bonds before any other disbursements are made.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-10
Board; powers

Sec. 10. The board may finance and construct a building or buildings to be used as a convention center on land owned or leased by the authority and lease that land and building or buildings to the city in which the authority has been created. The board, acting in the name of the authority, also may:

(1) sue and be sued; however, all actions against the authority shall be brought in the circuit or superior courts of the county in which the authority is located;
(2) appropriate, purchase, lease, and hold any real property needed or considered useful in connection with a convention center constructed or to be constructed under this chapter;
(3) acquire by gift, devise, or bequest real and personal property and hold, use, expend, or dispose of that property for the

purposes authorized by this chapter;
(4) enter upon any lots or lands for the purpose of surveying or examining them for determining the location of any convention center;
(5) design, order, contract for, and construct a convention center and make all necessary or desirable improvements to the grounds and premises that it acquires;
(6) enter into a lease with the city;
(7) collect rentals payable as provided for in a lease; and
(8) make and enter into all contracts and agreements necessary or incidental for the performance of its duties and the execution of its powers under this chapter.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-11
Lease of land and buildings by city from authority; term; lease before acquisition and construction

Sec. 11. (a) A city may lease land and buildings from the authority for civic purposes. A contract of lease on a particular building may not be entered into for a period of more than forty (40) years, but the lease may be renewable for a similar or shorter period of time.

(b) A city may, in anticipation of the construction and erection of a convention center, including the necessary equipment and appurtenances, make and enter into a lease with the authority prior to the actual acquisition of a site and the construction and erection of the convention center. A lease may not provide for the payment of any lease rental by the lessee until the convention center is ready for occupancy.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-12
Lease; payment of rental; approval

Sec. 12. A lease under this chapter must provide for the payment of the lease rental by the city from the levy of taxes against the real and personal property located within the city. The lease is subject to approval by the department of local government finance under IC 6-3.5. The lease may be executed before approval; however, if the department of local government finance does not approve the lease, it is void.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.90-2002, SEC.522.

IC 36-10-10-13
Lease; notice and hearing; authorization; execution

Sec. 13. (a) When the authority, the city executive, and a majority of the city legislative body have agreed upon the terms and conditions of a lease, and before the final execution of the lease, a notice shall be given by the city clerk by publication of a public hearing to be held by the city legislative body in the city. The hearing shall be held on a day at least ten (10) days after the publication of

notice. The notice of the hearing shall be published one (1) time in a newspaper of general circulation printed in the English language and published in the city.

(b) The notice must name the date, place, and time of the hearing and must set forth a brief summary of the principal terms of the lease, including the character and location of the property to be leased, the lease rental to be paid, the number of years the contract is to be in effect, and where the proposed lease, drawings, plans, specifications, and estimates may be examined. The proposed lease and the drawings, plans, specifications, and estimates of construction cost must be open to inspection by the public during the ten (10) day period and at the meeting.

(c) All interested persons are entitled to be heard at the hearing concerning the necessity for the execution of the lease and whether the lease rental is fair and reasonable. The hearing may be adjourned to a later date with the place to be set before adjournment. Following the hearing the city legislative body and city executive may either authorize the execution of the lease as originally agreed upon or may make modifications that are agreed upon with the authority, the legislative body, and city executive. The authorization must be done by ordinance, which shall be entered in the official records of the legislative body. The lease contract shall be executed on behalf of the city by the executive and attested by the city clerk. It shall be executed on behalf of the authority by the president or vice president and secretary of the board.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-14

Lease; notice of execution; filing and certification of objections; hearing and decision by department of local government finance

Sec. 14. (a) If the execution of the lease is authorized, notice of the execution shall be given on behalf of the city by publication one (1) time in a newspaper of general circulation printed in the English language and published in the city. Fifty (50) or more taxpayers in the city whose tax rate will be affected by the proposed lease and who may be of the opinion that no necessity exists for the execution of the lease, or that the lease rental is not fair and reasonable, may file a petition in the office of the city clerk within fifteen (15) days after publication of notice of the execution of the lease, setting forth their objections and the facts supporting those objections.

(b) Upon the filing of a petition, the city clerk shall immediately certify a copy, together with other data that is necessary in order to present the questions involved, to the department of local government finance. Upon receipt of a certified petition and information, the department of local government finance shall set a time and place for the hearing of the matter in the city where the petition originated. The hearing shall be held at least five (5) but not more than fifteen (15) days after receipt of the petition by the department of local government finance. Notice of the hearing shall be given by the department of local government finance to the city

executive and to the first ten (10) taxpayer petitioners on the petition by certified mail sent to the addresses listed on the petition at least five (5) days before the date of the hearing. After the hearing, the department of local government finance shall promptly issue its decision on the petition.
As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.90-2002, SEC.523.

IC 36-10-10-15
Lease; action to contest validity or enjoin performance; limitation

Sec. 15. An action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease may not be brought at any time later than fifteen (15) days after publication of notice of the execution of the lease, or if an appeal has been taken to the department of local government finance, then fifteen (15) days after the decision of the department.
As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.90-2002, SEC.524.

IC 36-10-10-16
Lease; options to renew or purchase; issuance of general obligation bonds by city to pay purchase price

Sec. 16. (a) A lease may provide that the lessee has an option to renew the lease for a similar or shorter term, on conditions that are provided in the lease. The lease must contain an option to purchase at any time after ten (10) years from the execution of the lease and before the expiration of the term of the lease on the date or dates in each year that are fixed, at a price equal to the amount required to enable the authority to redeem all outstanding securities payable out of the rentals provided in the lease, all premiums payable on redemption, and accrued and unpaid interest, and to pay all other indebtedness and obligations of the authority attributable to the construction and leasing of the convention center, including the cost of liquidation of the authority if it is to be liquidated. A lease may not provide, nor may it be construed to provide, that the city is under any obligation to purchase the convention center or under any obligation with respect to any creditors or bondholders of the authority.

(b) A city exercising an option to purchase may issue general obligation bonds for the purpose of procuring funds with which to pay the purchase price of the convention center. The bonds shall be authorized, issued, and sold in the manner provided by statute.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-17
Lease; approval of plans, specifications, and estimates

Sec. 17. Before the execution of a lease, the authority proposing to build a convention center for lease to a city shall submit to and receive approval by the city executive and city legislative body of the plans, specifications, and estimates of cost for the convention center.

The plans and specifications shall be submitted to and approved by the state department of health, the department of homeland security, and other state agencies that are designated by statute to pass on plans and specifications for public buildings.
As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.8-1984, SEC.129; P.L.2-1992, SEC.896; P.L.1-2006, SEC.586.

IC 36-10-10-18
Sale or lease of land by city to authority

Sec. 18. (a) A city desiring to have a convention center erected on land owned or to be acquired by it may sell or lease the land to the authority. The land may be leased at a nominal lease rental, but the term of the lease may not be less than the term of the lease of the convention center to the city.

(b) Before a sale may take place, the city executive, with the approval of the city legislative body, shall file a petition with the circuit court of that county requesting the appointment of:

(1) one (1) disinterested freeholder of the city as an appraiser; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to determine the fair market value of the land. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the land. Upon their appointment, the appraisers shall fix the fair market value of the land and report within two (2) weeks from the date of their appointment. The city may then sell the land to the authority for an amount not less than the amount fixed as the fair market value by the appraisers, the amount to be paid in cash upon delivery of the deed by the city to the authority. A sale of land by a city to the authority shall be authorized by the city executive and city legislative body by ordinance, which shall be entered in the official records of the legislative body. The deed shall be executed on behalf of the city by the executive and attested by the city clerk.
As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.113-2006, SEC.23.

IC 36-10-10-19
Revenue bonds; issuance; resolution

Sec. 19. (a) In order to procure funds to pay the cost of a convention center to be built or acquired under this chapter, and to repay advances for preliminary expenses made to the authority by the city under section 9 of this chapter, the board may issue revenue bonds of the authority. The bonds are payable solely from the income and revenues of the particular convention center financed from the proceeds of the bonds.

(b) The revenue bonds shall be authorized by resolution of the board and must bear interest at a rate or rates per year not exceeding the maximum rate fixed in the resolution, payable semiannually or annually, and mature serially, either annually or semiannually, at the times that are determined by the resolution of the board authorizing

the bonds. The maturities of the bonds may not extend over a period longer than the period of the lease of the convention center for which the bonds are issued. The bonds may be made redeemable before maturity at the option of the authority, to be exercised by the board, at par value together with the premiums and under the terms and conditions that are fixed by the resolution authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium.

(c) The resolution must determine the form of the bonds, including the interest coupons to be attached, and must fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which must be at a state or national bank or trust company within Indiana or may be at one (1) or more state or national banks or trust companies outside Indiana. All bonds must have all the qualities and incidents of negotiable instruments under statute, and all bonds constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under statute. Provision may be made for the registration of the bonds in the name of the owner as to principal alone.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.42-1993, SEC.102.

IC 36-10-10-20

Revenue bonds; execution; sale; authority to issue refunding bonds

Sec. 20. (a) The bonds shall be executed by the president of the board and the corporate seal of the authority shall be affixed and attested by the secretary of the board. The interest coupons attached to the bonds shall be executed by placing the facsimile signature of the treasurer on them. The bonds shall be sold by the board at public sale and for not less than the par value. Notice of sale shall be published in accordance with IC 5-3-1.

(b) The board shall award the bonds to the highest bidder as determined by computing the total interest on the bonds from the date of issue to the dates of maturity and deducting the premium bid, if any, unless the board determines that no acceptable bid has been received. In that case the sale may be continued from day to day, not to exceed thirty (30) days. A bid may not be accepted that is lower than the highest bid received at the time fixed for sale in the bond sale notice.

(c) Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds. The board may also issue refunding bonds under IC 5-1-5.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-21
Bonds; application of proceeds; lien

Sec. 21. All money received from any bond issued under this chapter, after reimbursement and repayment to the city of all amounts advanced for preliminary expenses as provided in section 9 of this chapter, shall be applied to the payment of the costs of site acquisition and construction and equipment of the convention center for which the bonds are issued, including incidental expenses, and may include interest during construction and for a period of one (1) year thereafter. A lien exists on all money, until so applied, in favor of the holders of the bonds or the trustees.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-22
Bonds; trust indenture

Sec. 22. In the discretion of the board, the bonds may be secured by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana having trust powers. The trust indenture may mortgage all or part of the land, convention center, or both for which the bonds are issued. The trust indenture may contain the provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper, including covenants setting forth the duties of the authority and board in relation to the construction of the convention center, its insurance, and the custody, safeguarding, and application of all money received or to be received by the authority due to the convention center financed by the issuance of the bonds. The indenture may set forth the rights and remedies of the bondholders and trustee and provisions restricting the individual right of action of bondholders. Within the limits of this chapter, the board may provide by resolution or in the trust indenture for the payment of the proceeds of the sale of the bonds to an officer, board, or depository as it determines for the custody of them and for the method of disbursement, with safeguards and restrictions that it determines.

As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-23
Tax levy by city to pay lease rental

Sec. 23. (a) The legislative body of a city that has entered into an approved lease contract under this chapter shall annually levy a tax sufficient to produce each year the necessary revenues that, with other available money, are sufficient to pay the lease rental provided to be paid in the lease from taxes.

(b) In fixing and determining the amount of the necessary levy to pay lease rental payable from taxes, the legislative body may take into consideration amounts that have been transferred from the net revenues of the convention center to a fund for payment of lease rental. This chapter does not relieve the city from the obligation to pay from taxes any lease rental payable from taxes if other funds are

not available for that purpose. The tax levies are reviewable by other bodies vested by statute with authority to ascertain that the levies are sufficient to raise the amount that, with other money available, will be sufficient to meet the rental which under the lease contract is payable from taxes. The annual lease rental shall be paid semiannually to the authority or to the corporate trustee under any trust indenture following settlements of tax collections.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-24
Tax exemption

Sec. 24. All:

(1) property owned by the authority;
(2) revenues of the authority; and
(3) bonds or other securities issued by the authority, the interest on them, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption prior to maturity, proceeds received at maturity, and the receipt of interest and proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.
As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.21-1990, SEC.59; P.L.254-1997(ss), SEC.36.

IC 36-10-10-25
Handling and expenditure of funds; audit; employment of construction manager; surety bonds of officers and employees

Sec. 25. (a) Unless provided otherwise, all funds coming into possession of the authority shall be deposited, held, and secured or invested in accordance with the general statutes relating to the handling of public funds. The handling and expenditure of funds coming into possession of the authority is subject to audit and supervision by the state board of accounts. All contracts for construction and equipment of any building shall be let in accordance with the general statutes relating to public contracts.

(b) The board may employ a construction manager in connection with the project in the same manner as other professional advisers are employed.

(c) Any officer or employee of the authority authorized to receive, disburse, or in any way handle funds or negotiable securities of the authority shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount determined by the board. The bond shall be conditioned upon the faithful performance of his duties and the accounting for all money and property that may come into his hands or under his control. The cost of the bonds shall be paid out of funds of the authority.

(d) The records of the authority are public records.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-26
Liquidation; procedure

Sec. 26. An authority may be liquidated after redemption of all of its securities, payment of all of its debts, and termination of all of its leases if the board files a report with the judge of the circuit court showing those facts and stating that liquidation would be in the best public interest. If the court finds those facts to be true, it shall make an order book entry ordering the authority liquidated.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-27
Construction of addition to convention center by city; law applicable; financing

Sec. 27. The city may construct an addition to the convention center leased by it under this chapter. The construction of an addition is subject to all statutes generally applicable to the construction of an addition to a city building owned by a city. In order to provide money for such purposes, a city may issue its general obligation bonds or appropriate money from its general fund or from any other funds or money available that could be used for such purposes as if the building were owned instead of leased by the city.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-28
Additions to convention center; party wall agreements

Sec. 28. A city and an authority that enter into a lease under this chapter may enter into party wall agreements or other agreements concerning the attaching of an addition or additions to a convention center. The agreement shall be recorded in the office of the recorder of the county in which the building is located. The agreement may provide for an easement or license to construct a part of an addition over or above any building.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-29
Civic center board of managers; creation; duties; organization

Sec. 29. (a) The city legislative body shall adopt an ordinance creating a city board of nine (9) members to be known as the "Civic Center Board of Managers". The board of managers shall supervise, manage, operate, and maintain:

(1) the convention center and its programs; and
(2) any other public facility owned or leased by the city or by an agency of it.

(b) A person appointed to the board of managers must be at least eighteen (18) years of age and a resident of the county in which the city is located. Five (5) of the managers shall be appointed by the city executive, and four (4) of the managers shall be appointed by the city legislative body. The managers serve for terms of three (3) years.

(c) Notwithstanding subsection (b), initial terms of the managers appointed by the executive are as follows:

(1) One (1) manager for a term of one (1) year.
(2) Two (2) managers for terms of two (2) years.
(3) Two (2) managers for terms of three (3) years.

(d) Notwithstanding subsection (b), the initial terms of the managers appointed by the city legislative body are as follows:
(1) One (1) manager for a term of one (1) year.
(2) Two (2) managers for terms of two (2) years.
(3) One (1) manager for a term of three (3) years.

(e) A manager may be removed for cause by the appointing authority. Vacancies shall be filled by the appointing authority, and any person appointed to fill a vacancy serves for the remainder of the vacated term. The managers may not receive salaries, but shall be reimbursed for any expenses necessarily incurred in the performance of their duties.

(f) The board of managers shall annually elect officers to serve during the calendar year. The board of managers may adopt resolutions and bylaws governing its operations and procedure and may hold meetings as often as necessary to transact business and to perform its duties. A majority of the managers constitutes a quorum.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-30
Board of managers; powers

Sec. 30. The board of managers may supervise, manage, operate, and maintain the convention center and its programs. It may do the following:

(1) Receive and collect money due to or otherwise related to the convention center; employ an executive manager, an associate manager, and other agents and employees that are considered necessary for the fulfillment of its duties, and fix the compensation of all employees. However, a contract of employment or other arrangement must be terminable at the will of the board of managers, except that a contract may be entered into with an executive manager for a period not exceeding four (4) years and subject to extension or renewal for similar or shorter periods.
(2) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of the convention center.
(3) Lease a part of the convention center from time to time to any association, corporation, or individual, with or without the right to sublet.
(4) Fix charges and establish rules governing the use and operation of the convention center.
(5) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations; accept funds, loans, or advances on the terms and conditions that the board of managers considers necessary or desirable from the federal government, the state, or any of their

agencies or political subdivisions and, to the extent that surplus earnings may be made available for the purposes of this chapter, any available surplus earnings of the public utilities owned and operated by the city.

(6) Receive and collect all money due to the use or leasing of the convention center or any part of it and from concessions or other contracts and expend those monies for proper purposes.

(7) Provide coverage for its employees under IC 22-3 and IC 22-4.

(8) Purchase public liability and other insurance that it considers necessary.

(9) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including enforcement of them.

(10) Maintain and repair the convention center and employ a building superintendent and other employees that are necessary to properly maintain the convention center.

(11) Prepare and publish descriptive materials and literature relating to the convention center and specifying the advantages of the convention center; do all other acts and things that the board of managers considers necessary to promote and publicize the convention center and serve the commercial, industrial, and cultural interests of Indiana and all its citizens by the use of the convention center; and assist and cooperate with the state and other public, governmental, and private agencies and groups of citizens for those purposes.

(12) Supervise, manage, operate, and maintain any other public facility owned or leased by the city or by an agency of it when so directed by a resolution adopted by the city legislative body and approved by the city executive.

(13) Exercise other powers and perform other duties not in conflict with this chapter that are specified by ordinance of the city legislative body.

(14) Perform all other acts necessarily incidental to its duties and the powers listed in this section.

As added by Acts 1982, P.L.218, SEC.4. Amended by P.L.8-1993, SEC.521.

IC 36-10-10-31

Board of managers; preparation and approval of annual budget; approval of expenditures

Sec. 31. (a) The board of managers shall prepare a budget for each calendar year governing the projected operating expenses, the estimated income, and reasonable reserves. It shall submit that budget for review, approval, or addition to the city legislative body.

(b) The board of managers may not make expenditures except as provided in the approved budget, and all additional expenditures are subject to approval by the city legislative body.

(c) Payments to the users of the convention center or a part of it that constitute a contractual share of box office receipts are not

considered an operating expense or an expenditure within the meaning of this section, and the board of managers may make those payments without approval of the city executive or of the city legislative body.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-32
Board of managers; controller and assistant controller; duties

Sec. 32. (a) The city controller shall serve as controller of the board of managers and is the official custodian of all funds and assets of the board of managers for proper safeguarding and accounting. The controller shall, with the approval of the board of managers, appoint an assistant controller to act as auditor for the board of managers.

(b) The assistant controller is the official custodian of all books of account and other financial records of the board of managers and has the other powers and duties that are delegated by the city controller and the lesser powers and duties that the board of managers prescribes. The assistant controller, and any other employee or member of the board of managers authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of him in an amount and with surety and other conditions that are prescribed and approved by the board of managers.

(c) The assistant controller shall keep an accurate account of:

(1) all money due the convention center and the board of managers; and

(2) all money received, invested, and disbursed;

in accordance with generally recognized governmental accounting principals and procedures. All accounting forms and records shall be prescribed or approved by the state board of accounts. The assistant controller shall issue all warrants for the payment of money from the funds of the board of managers in accordance with procedures prescribed by the board of managers, but a warrant may not be issued for the payment of any claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the city controller or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(d) If the board of managers or the city has entered into any agreement to lease convention center facilities from the civic center building authority, the controller or assistant controller shall pay the lease rental to the authority within a reasonable period before the date on which principal or interest on any bonds outstanding issued under this chapter becomes due. The assistant controller shall submit to the board of managers at least annually a report of his accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which the disbursements were made. The board of

managers may require that the report be prepared by a designated, independent certified public accountant. Handling and expenditure of funds is subject to audit and supervision by the state board of accounts.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-10-33
Board of managers; conflicts of interest

Sec. 33. Persons serving on the board of managers shall disclose any pecuniary interest, direct or indirect, in any employment, financing agreement, or other contract made under this chapter before any action is taken on it by the board of managers. Any manager having a pecuniary interest may not vote on the matter. Real property acquired under this chapter in which a manager has a pecuniary interest may be acquired by the board of managers only by gift or condemnation.
As added by Acts 1982, P.L.218, SEC.4.

IC 36-10-11
Chapter 11. Gary Building Authority

IC 36-10-11-1
Application of chapter

Sec. 1. This chapter applies to a city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.12-1992, SEC.197; P.L.170-2002, SEC.177; P.L.119-2012, SEC.242.

IC 36-10-11-2
Definitions

Sec. 2. As used in this chapter:

"Authority" refers to a building authority created under this chapter.

"Building" means a structure or a part of a structure used for a civic center or a facility that is owned by the city and used by a professional sports franchise, including the site, landscaping, parking, heating facilities, sewage disposal facilities, and other related appurtenances and supplies necessary to make the building suitable for use and occupancy.

"Governmental entity" means a state agency, state university, or political subdivision.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.136.

IC 36-10-11-3
Creation; procedure; issuance of general obligation bonds by city for construction of civic center prohibited

Sec. 3. (a) The city legislative body may adopt an ordinance to create a separate municipal corporation under this chapter known as the "_____ Building Authority" (inserting the name of the city) to finance, construct, equip, operate, and lease land and buildings to the governmental entities within the county in which the authority is created.

(b) The clerk of the city shall certify a copy of the ordinance and file the copy with the county recorder of the county in which the authority is created. When certified and filed, the ordinance is evidence in a civil action of the creation of the authority.

(c) The city may not issue general obligation bonds of the city to finance the cost, in whole or in part, of the construction or acquisition of any building for use as a civic center. For purposes of this section, the city includes any governmental entity that contains any territory of the city.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.2-1995, SEC.139.

IC 36-10-11-4
Trustees; appointment; terms; vacancies; oath

Sec. 4. (a) Within fifty (50) days after the adoption of the ordinance, the city executive shall appoint three (3) trustees and the city legislative body shall appoint two (2) trustees of the authority. All of the trustees must be at least twenty-one (21) years of age and residents of the city for at least five (5) years before appointment.

(b) Initial terms of the trustees are as follows:

(1) The legislative body's appointees for terms of two (2) years.

(2) One (1) of the executive's appointees for a term of three (3) years.

(3) Two (2) of the executive's appointees for terms of four (4) years.

At the expiration of a term, the appointing authority shall appoint a successor for a four (4) year term. Each trustee serves until his successor is appointed and qualified.

(c) If a trustee dies, resigns, ceases to be a resident of the city, fails to qualify for office within ten (10) days after he receives notice of his appointment, or is removed for cause, the appointing authority shall appoint another person as trustee for the remainder of that term.

(d) Each trustee, before entering upon his duties, shall take and subscribe an oath of office to be endorsed upon his certificate of appointment. The certificate shall be filed with the city clerk.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-5

Trustees; removal; procedure

Sec. 5. A trustee may be removed from office for good cause by an order of the judge of the circuit or superior court of the county in which the authority is located, subject to the procedure of this section. A complaint stating the preferred charges may be filed by any person against a trustee. The cause shall be placed on the advanced calendar and be tried as other civil causes are tried by the court without the intervention of a jury.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-6

Trustees; meetings; selection of directors and officers

Sec. 6. The trustees originally appointed shall meet within thirty (30) days after their appointment. At this meeting the trustees shall appoint the directors of the authority and shall elect the following officers from among their number:

(1) President.

(2) Vice president.

(3) Secretary.

The officers serve until the first Monday in January following their election. The trustees shall meet annually on the first Monday in January to reorganize, to appoint directors, and to transact business. Additional meetings may be called by the president or set at regular intervals by the trustees.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-7
Trustees; rules; reimbursement of expenses

Sec. 7. The trustees may adopt the rules that they consider necessary for the proper conduct of their proceedings. Trustees serve without pay but are entitled to reimbursement for any expenses necessarily incurred in the performance of their duties.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-8
Trustees; conflicts of interest

Sec. 8. A trustee may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. A transaction in which any trustee has a pecuniary interest is void.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-9
Trustees; appointment of board of directors; qualifications; tenure; conflicts of interest

Sec. 9. The trustees shall appoint by majority vote a board of five (5) directors. The directors must meet the same qualifications, subscribe to the same oath, and receive the same reimbursements as trustees. The directors serve for one (1) year following their appointment and until their successors are appointed and qualified. A director may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. Any transaction in which any director has a pecuniary interest is void. Vacancies shall be filled by the trustees. The trustees may remove a director for cause at any time.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-10
Board of directors; meetings; officers; bylaws; quorum; approval of actions

Sec. 10. (a) Not later than thirty (30) days after the directors are appointed, and on the first Monday of each following February they shall hold a meeting for the purpose of organization. They shall elect the following officers from among their members:

(1) President.
(2) Vice president.
(3) Secretary.
(4) Treasurer.

The officers shall perform the duties usually pertaining to those offices. The officers serve from the date of their election until their successors are elected and qualified.

(b) The directors may adopt bylaws and rules necessary for the proper conduct of their proceedings, the carrying out of their duties, and the safeguarding of the funds and property of the authority. In addition to the annual meeting, other regular and special meetings shall be held at the times that they determine and upon public notice that they fix, either by resolution or in accordance with the

provisions of the bylaws. A majority of the directors constitutes a quorum. A majority is necessary to authorize any action.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-11
Preliminary expenses; payment; reimbursement

Sec. 11. (a) All necessary preliminary expenses actually incurred in the:

(1) making of surveys;
(2) estimates of cost and receipts;
(3) employment of engineers or other employees;
(4) giving of notices;
(5) taking of options; and
(6) all other expenses necessary to be paid before the issue and delivery of bonds or the negotiation of the loan under this chapter;

may be met and paid out of funds provided by the city from funds on hand or derived from taxes levied for that purpose.

(b) The funds of the city from which payments are made shall be fully reimbursed and repaid by the board out of the first proceeds of the sale of bonds or the loan negotiated by the authority before any other disbursements are made. The amount advanced shall be a first charge against the proceeds resulting from the sale of the bonds or the negotiation of the loan until the loan has been repaid.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-12
Board of directors; powers

Sec. 12. The board of directors may finance, construct, and lease buildings for the joint or separate use of one (1) or more of the governmental entities within the county in which the authority has been created. The board of directors also may:

(1) sue and be sued;
(2) appropriate, purchase, lease, rent, and hold any land, materials, and personal property in connection with buildings constructed or to be constructed under this chapter;
(3) acquire by gift, devise, or bequest real and personal property and hold, use, expend, or dispose of that property for the purposes authorized by this chapter;
(4) enter upon any lots or lands for the purpose of surveying or examining them for the purposes of this chapter;
(5) collect rentals payable as provided for in a lease; and
(6) make and enter into all contracts and agreements necessary or incidental for the performance of its duties and the execution of its powers under this chapter.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-13
Lease to governmental entity of property controlled by authority; sublease; term; renewal

Sec. 13. (a) A governmental entity within the county and the authority may enter into a lease for all or part of a building under the control of the authority. A governmental entity may also sublease the leased premises to other governmental entities within the county.

(b) A lease may be entered into before the actual acquisition of a site and the construction of the building. A lease may not provide for the payment of any lease rental by the lessee until the building is ready for occupancy.

(c) A lease or sublease may not be for a period longer than forty (40) years, but may be renewed for a maximum of forty (40) years. An option to renew may be included in the original lease.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-14

Lease; option to purchase

Sec. 14. (a) An option to purchase on the dates of each year fixed in the lease, before the expiration of the lease, may also be included in the original lease. The price must be computed by a method set out in the lease. The option may be given to one (1) or more lessees acting jointly or severally.

(b) A lease may not obligate a governmental entity to purchase the leased building or pay creditors or bondholders of the authority.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-15

Lease; notice and hearing; authorization of execution

Sec. 15. (a) When the authority and a governmental entity have agreed upon the lease, and before the final execution of the lease, a notice shall be published under IC 5-3-1 of a hearing to be held by the fiscal body of the governmental entity. The hearing shall be held on a day at least ten (10) days after the publication of notice. The proposed lease and any plans and specifications must be open to inspection by the public during the ten (10) day period and at the hearing.

(b) The notice must state:

(1) the date, place, and time of the hearing;

(2) a brief summary of the principal terms of the lease, including the character and location of the property to be leased;

(3) the estimated lease rental to be paid; and

(4) the period of the lease.

(c) All interested persons are entitled to be heard at the hearing concerning the necessity for the execution of the lease and whether the lease rental is fair and reasonable. The hearing may be adjourned to a later date fixed before adjournment. Following the hearing the fiscal body may either:

(1) authorize the execution of the original lease; or

(2) authorize the execution of the lease with modifications that are agreed to by the authority.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-16

Lease; execution; notice; limitation on annual rental; approval by department of local government finance; transfer of net revenue

Sec. 16. (a) The lease shall be executed on behalf of the governmental entity by an officer authorized by law to execute contracts for the entity and on behalf of the authority by both the president or vice president of the board and the secretary of the board of directors.

(b) Notice of the execution of the lease shall be given by the governmental entity by publication as provided in IC 5-3-1.

(c) A lease may not be executed with annual lease rental exceeding an aggregate of two hundred seventy-five thousand dollars ($275,000) unless the fiscal body of the lessee governmental entity finds that the estimated annual net income to the lessee governmental entity from the civic center, plus any other nonproperty tax funds made available annually for the payment of the lease rental, will not be less than the amount of the excess.

(d) The lease is subject to approval by the department of local government finance under IC 6-3.5. The lease may be executed before approval; however, if the department of local government finance does not approve the lease, it is void. The department of local government finance may not approve the lease under IC 6-3.5-1.1-8 unless it finds that the condition prescribed in subsection (c) is satisfied.

(e) All net revenues of the leased building, together with any other funds made available for the payment of lease rental, shall be transferred at least annually by the lessee to a fund for payment of lease rental.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.73-1983, SEC.23; P.L.90-2002, SEC.525.

IC 36-10-11-17

Lease; objections; petition; certification to department of local government finance; hearing; determination

Sec. 17. (a) Ten (10) or more taxpayers whose tax rate will be affected by the lease may file a petition in the office of the county auditor within thirty (30) days after publication of notice of the execution of the lease. The petition must set forth their objections and the facts showing:

(1) that the lease is unnecessary or unwise; or

(2) that the lease rental is not fair and reasonable.

(b) Upon the filing of a petition, the county auditor shall certify a copy, together with other data that is necessary in order to present the questions involved, to the department of local government finance. Upon receipt of a certified petition and information, the department of local government finance shall set a time and place for the hearing of the matter. The hearing shall be held at least five (5) but not more than fifteen (15) days after receipt of the petition by the department of local government finance. Notice of the hearing shall be given by the department of local government finance to the

governmental entity and to the first ten (10) petitioners at least five (5) days before the date of the hearing. The hearing shall determine the necessity of the lease and whether the lease rental is fair and reasonable.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.90-2002, SEC.526.

IC 36-10-11-18

Lease; actions to contest validity or enjoin performance; limitation

Sec. 18. An action to contest the validity of the lease or to enjoin the performance of the lease may not be brought later than thirty (30) days after publication of notice of the execution of the lease or thirty (30) days after the decision of the department of local government finance, whichever is later.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.90-2002, SEC.527.

IC 36-10-11-19

Sale or lease of land by governmental entity to authority

Sec. 19. (a) A governmental entity or entities desiring to have buildings erected on land owned or to be acquired by it may sell or lease the land to the authority. The land may be leased at a nominal lease rental, but the term of the lease may not be less than the term of the lease of the building to the governmental entity.

(b) The governmental entity may also grant an option to the authority to purchase the land within six (6) months after the expiration of the lease on the building if the governmental entity or entities has not exercised an option to purchase the building within the terms of the contract of lease. If the option price on the land is not fixed in the original contract of lease, then the price to be paid for the land under that option shall be determined by appraisal to be made by three (3) appraisers residing in the county appointed by the judge of the circuit court of the county. A sale or lease of land by a governmental entity to the authority shall be authorized by the fiscal body of the entity by ordinance or resolution, which shall be entered in the official records of the fiscal body. The authorization shall be given concurrently with the authorization by the governmental entity of a lease by it of the particular building, or part of it, to be constructed wholly or in part on the land. The deed or lease shall be executed on behalf of the entity by the officer or officers authorized by law to enter into contracts on behalf of the entity and on behalf of the authority by the president or vice president and secretary of the board of directors.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-20

Revenue bonds; issuance; resolution

Sec. 20. (a) In order to procure funds to pay the cost of a building to be built or improved under this chapter, and to repay advances for preliminary expenses made to the authority by the governmental

entity, the board of directors may issue revenue bonds of the authority. The bonds are payable solely from the income and revenues of the particular building financed from the proceeds of the bonds.

(b) The revenue bonds shall be authorized by resolution of the board, bear interest payable semiannually, and mature serially, either annually or semiannually, at the times that are determined by the resolution of the board authorizing the bonds. The maturities of the bonds may not extend over a period longer than the period of the lease of the building for which the bonds are issued. The bonds may and all bonds maturing after ten (10) years from the date of issuance shall be made redeemable before maturity at the option of the authority, to be exercised by the board, at par value together with the premiums and under the terms and conditions that are fixed by the resolution authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium.

(c) The resolution must determine the form of the bonds, including the interest coupons to be attached, and must fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which must be at a state or national bank or trust company within Indiana or may be at one (1) or more state or national banks or trust companies outside Indiana. All bonds must have all the qualities and incidents of negotiable instruments under statute. Provision may be made for the registration of the bonds in the name of the owner as to principal alone.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-21

Bonds; execution and sale

Sec. 21. (a) The bonds shall be executed by the president of the board, and the corporate seal of the authority shall be affixed and attested by the secretary of the board. The interest coupons attached to the bonds shall be executed by placing the facsimile signature of the treasurer on them. The bonds shall be sold by the board at public sale and for not less than the par value. Notice of sale shall be published in accordance with IC 5-3-1.

(b) The board shall award the bonds to the highest bidder as determined by computing the total interest on the bonds from the date of issue to the dates of maturity and deducting the premium bid, if any. If the bonds are not sold on the date fixed for the sale, the sale may be continued from day to day until a satisfactory bid has been received.

(c) Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds.

(d) Before the preparation of definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The total amount of bonds issued by the authority under this section, when added to any loan or loans negotiated under section 22 of this chapter, may not exceed three million dollars ($3,000,000).

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-22
Loans; procedure

Sec. 22. (a) In lieu of authorizing and selling bonds as provided in this section, the board may adopt a resolution authorizing the negotiation of a loan or loans for the purpose of procuring the required funds. The resolution must set out the total amount of the loan desired and the approximate dates on which funds will be required and the amounts of them. The resolution must also set out the terms, conditions, and restrictions relative to the proposed loan or to the submission of proposals that the board considers advisable. Before the consideration of proposals for the making of a loan, a notice shall be published once each week for two (2) weeks in a newspaper published in the county and a newspaper published in the city of Indianapolis setting out the amount and purpose of the proposed loan and a brief summary of other provisions of the resolution, including the time and place where proposals will be considered. The board may accept the proposal that in its judgment is the most advantageous to the authority.

(b) The total amount of loans negotiated by the authority under this section, when added to the amount of bonds issued under section 21 of this chapter, may not exceed three million dollars ($3,000,000).
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-23
Application of bond and loan proceeds; lien

Sec. 23. All money received from the sale of bonds or loans negotiated under this chapter, after reimbursement to the city of all amounts advanced for preliminary expenses as provided in section 11 of this chapter, shall be applied to the payment of the costs of buildings and improvements for which the bonds were issued or the loan was negotiated, including incidental expenses and interest during construction. A lien exists on all monies until so applied in favor of the holders of the bonds, the lenders, or the trustees.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-24
Bonds or loans; trust indenture

Sec. 24. (a) In the discretion of the board of directors, the bonds or loan may be secured by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana having trust powers. The trust indenture may mortgage all or part of the land, buildings, or both for which the bonds are issued or the loan negotiated. The trust indenture may contain the provisions for protecting and enforcing the rights and remedies of the bondholders or lenders that are reasonable and proper, including covenants setting forth the duties of the authority and board of directors in relation to the construction of the buildings and improvement, operation, repair, maintenance, and insurance of

them, and the custody, safeguarding, and application of all money received or to be received by the authority due to the building financed by the issuance of the bonds or the negotiation of the loan. The indenture may set forth the rights and remedies of the bondholders or lenders and trustee and provisions restricting the individual right of action of bondholders or lenders.

(b) Within the limits of this chapter, the board of directors may provide by resolution or in the trust indenture for the payment of the proceeds of the sale of the bonds or the negotiation of the loan to an officer, board, or depository that it determines for the custody of them and for the method of disbursement, with safeguards and restrictions that it determines.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-25

Refunding revenue bonds; issuance

Sec. 25. (a) To procure money to refund bonds issued under section 20 of this chapter, the board of directors may issue refunding revenue bonds. The refunding bonds may not be issued unless:

(1) the issuance will result in a savings of interest cost to the authority; or

(2) the issuance will permit a reduction in the lease rental payable by the lessee of the building financed from the bond proceeds being refunded.

(b) The refunding bonds are subject to the following:

(1) The issuance may not exceed the sum of:

(A) the principal of the bonds being refunded;

(B) any premium required to be paid upon their redemption;

(C) any interest accrued or to accrue to the date of their redemption; and

(D) any expenses that the board estimates will be incurred in the issuance of the refunding bonds.

(2) The bonds may be issued at any time not more than six (6) years prior to the redemption date of the bonds being refunded.

(3) Principal is not payable on the refunding bonds until after the redemption date.

(4) Until the redemption of the bonds being refunded, the interest on the refunding bonds is payable solely from the money placed in escrow in accordance with section 26 of this chapter. Interest or other income earned on the investment of the funds and the principal and interest on the refunding bonds constitute a lien only against the escrowed money.

(5) Upon redemption of all the bonds being refunded, the principal and interest on the refunding bonds is payable solely from and constitute a lien only against the income and revenues of the buildings financed from the proceeds of the bonds being refunded and any other money deposited in the sinking fund for the payment of the refunding bonds.

(c) The refunding bonds shall be issued in the same manner as bonds are issued under section 20 of this chapter and may be secured

by a trust indenture as provided in section 24 of this chapter.

(d) An action to contest the validity of the refunding bonds may not be brought after the fifth day following the receipt of bids for the bonds.

(e) The trust indenture securing the refunding bonds may provide for the transfer by the authority to the sinking fund established by the trust indenture of all or any part of the balance in the sinking fund established in the trust indenture securing, or resolution providing for the issuance of, the bonds being refunded, the transfer to be made concurrently with the redemption of all the bonds being refunded.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-26

Refunding bonds; application of proceeds

Sec. 26. (a) The proceeds of the refunding bonds issued under section 25 of this chapter shall be placed in escrow and applied with any other available money to the payment on the date selected for redemption of the principal, accrued interest, and any redemption premiums of the bonds being refunded. In addition, if provided or permitted in the resolution authorizing the issuance of the refunding bonds or in the trust indenture securing them, the proceeds may also be applied to the payment of any interest on the refunding bonds and any costs of refunding. Pending application, the escrowed proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States, which must mature, or which must be subject to redemption by the holder of them at the option of the holder, not later than the respective dates when the proceeds, together with the accruing interest, will be required for the purposes intended.

(b) In lieu of those investments, all or part of the proceeds may be placed in interest bearing time certificates of deposit with the bank that the board designates. Other similar arrangements may be made with the bank that will assure that the proceeds, together with the accruing interest, will be available when required for the purposes intended, but time certificates of deposit or other similar arrangements must be secured to their full amount by direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of the type permitted for direct investment of the escrow fund.

(c) All interest or other income earned on these investments must first be used to pay the interest on the refunding bonds as it becomes due. Any excess becomes a part of and shall be held in the escrow fund. Any balance remaining in the escrow fund after redemption of all the bonds being refunded shall be deposited in the sinking fund established for the payment of the principal and interest on the refunding bonds.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-27

Refunding bonds; authority to amend lease

Sec. 27. (a) In connection with the issuance of refunding bonds, the authority and the lessee, or lessees, of the building, or buildings, financed from the proceeds of the bonds being refunded may enter into an amendment to the lease modifying the lease:

(1) to provide for a reduction in the amount of lease rental payable by the lessee, or lessees, to be effective upon the redemption of the bonds being refunded;

(2) to provide for an extension of the time set forth in the lease before the option of the lessee, or lessees, to purchase may be exercised to the time that is agreed upon between the authority and the lessee or lessees; or

(3) to provide that the lease rental payable by the lessee, or lessees, after the redemption of all the bonds being refunded is payable to the trustee under the trust indenture securing the refunding bonds.

(b) Proceedings or actions by the lessee and approval by any board, commission, or agency are not required for refunding. The refunding authorized in this chapter does not affect the obligation of the lessee, or lessees, to pay the lease rental under the lease of the building or buildings, except to the extent the lease rental may be reduced by any amendment as authorized by this section.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-28

Refunding bonds; redemption

Sec. 28. For the purposes of sections 25, 26, and 27 of this chapter, bonds are redeemed on the date selected for redemption if:

(1) the full amount necessary to effect complete redemption has been deposited in accordance with the trust indenture securing or resolution providing for the issuance of the bonds; and

(2) all action necessary to redeem the bonds has been taken so that the bonds are no longer considered outstanding under the trust indenture or resolution and are no longer payable from the income and revenues of the particular building, or buildings, financed from the proceeds of the bonds.

As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-29

Governmental entity; tax levy to pay lease rental

Sec. 29. (a) The fiscal body of a governmental entity that has entered into an approved lease under this chapter shall annually levy a tax sufficient to produce each year the necessary revenues that, with other available money, are sufficient to pay the lease rental payable under the lease.

(b) In fixing and determining the amount of the necessary levy to pay the lease rental, the fiscal body may take into consideration amounts that have been transferred to the fund for payment of the lease rental under section 16(e) of this chapter. This chapter does not relieve the governmental entity from the obligation to pay from taxes the lease rental or part of it if other funds are not available for that

purpose. The tax levies are reviewable by other bodies vested by statute with authority to ascertain that the levies are sufficient to raise the amount that, with other money available, will be sufficient to meet the rental payable under the lease.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-30
Tax exemption

Sec. 30. All:

(1) property owned by the authority;
(2) revenues received by the authority; and
(3) bonds or other securities issued by the authority, including the interest on them;

are exempt from taxation in Indiana.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-31
Handling of funds; audit; contract requirements; surety bonds of employees

Sec. 31. (a) Authority funds shall be handled in the same manner as other public funds and shall be audited by the state board of accounts. Contracts let by the authority shall be let in accordance with the general statutes relating to public contracts.

(b) Any employee of the authority authorized to receive or disburse funds or negotiable securities of the authority shall execute a bond payable to the state conditioned upon the faithful performance of his duties and the accounting for all money and property that may come under his control. The cost of the bonds shall be paid out of funds of the authority.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-32
Civil actions against authority; venue

Sec. 32. A civil action against the authority must be brought in the circuit or superior court of the county in which the authority is located.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-11-33
Civic center board of managers; creation; organization

Sec. 33. (a) The fiscal body of the lessee shall adopt an ordinance creating a board of five (5) members to be known as the "Civic Center Board of Managers". The board of managers shall supervise, manage, operate, and maintain a building and its programs.

(b) A person appointed to the board of managers must be at least twenty-one (21) years of age and a resident of the lessee governmental entity for at least five (5) years. If the lessee is a city, three (3) of the managers shall be appointed by the city executive, and two (2) of the managers shall be appointed by the city legislative body. If the lessee is not a city, all five (5) managers shall be

appointed by the fiscal body of the lessee. An officer or employee of a political subdivision may not serve as a manager. The managers serve for terms of three (3) years.

(c) Notwithstanding subsection (b), if the lessee is a city, initial terms of the managers appointed by the executive are as follows:

(1) One (1) manager for a term of one (1) year.

(2) One (1) manager for a term of two (2) years.

(3) One (1) manager for a term of three (3) years.

The initial term of one (1) of the managers appointed by the legislative body is two (2) years, and the other is three (3) years.

(d) Notwithstanding subsection (b), if the lessee is not a city, initial terms of the managers are as follows:

(1) One (1) manager for a term of one (1) year.

(2) Two (2) managers for terms of two (2) years.

(3) Two (2) managers for terms of three (3) years.

(e) A manager may be removed for cause by the appointing authority. Vacancies shall be filled by the appointing authority, and any person appointed to fill a vacancy serves for the remainder of the vacated term. The managers shall be reimbursed for any expenses necessarily incurred in the performance of their duties. The fiscal body of the lessee may adopt an ordinance providing for the payment of a salary or a per diem to a manager who does not hold another lucrative elective or appointive office.

(f) The board of managers shall annually elect officers to serve during the calendar year. The board of managers may adopt resolutions and bylaws governing its operations and procedure and may hold meetings as often as necessary to transact business and to perform its duties. A majority of the managers constitutes a quorum.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.137; P.L.7-2006, SEC.1.

IC 36-10-11-34

Board of managers; powers

Sec. 34. The board of managers may do the following:

(1) Receive and collect money due to or otherwise related to a building; employ an executive manager, an associate manager, and other agents and employees that are considered necessary for the fulfillment of its duties, and fix the compensation of all employees. However, a contract of employment or other arrangement must be terminable at the will of the board of managers, except that a contract may be entered into with an executive manager for a period not exceeding four (4) years and subject to extension or renewal for similar or shorter periods.

(2) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of the a building.

(3) Lease a part of a building from time to time to any association, corporation, or individual, with or without the right to sublet.

(4) Fix charges and establish rules governing the use and operation of a building.
(5) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations; accept funds, loans, or advances on the terms and conditions that the board of managers considers necessary or desirable from the federal government, the state, or any of their agencies or political subdivisions.
(6) Receive and collect all money due to the use or leasing of a building or any part of it and from concessions or other contracts and expend that money for proper purposes.
(7) Provide coverage for its employees under IC 22-3 and IC 22-4.
(8) Purchase public liability and other insurance that it considers necessary.
(9) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including enforcement of them.
(10) Maintain and repair a building and employ a building superintendent and other employees that are necessary to properly maintain a building.
(11) Prepare and publish descriptive materials and literature relating to a building and specifying the advantages of a building; do all other acts and things that the board of managers considers necessary to promote and publicize a building and serve the commercial, industrial, and cultural interests of Indiana and all its citizens by the use of a building; and assist and cooperate with the state and other public, governmental, and private agencies and groups of citizens for those purposes.
(12) Supervise, manage, operate, and maintain any other public facility owned or leased by the lessee governmental entity or by an agency of it when so directed by a resolution adopted by the fiscal body of the entity.
(13) Exercise other powers and perform other duties not in conflict with this chapter that are specified by ordinance or resolution of the fiscal body of the lessee governmental entity.
(14) Perform all other acts necessarily incidental to its duties and the powers listed in this section.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.8-1993, SEC.522; P.L.178-2002, SEC.138.

IC 36-10-11-35
Board of managers; preparation and review of annual budget; approval of expenditures

Sec. 35. (a) The board of managers shall prepare a budget for each calendar year governing the projected operating expenses, the estimated income, and reasonable reserves. It shall submit that budget for review, approval, or addition to the fiscal body of the lessee governmental entity.

(b) The board of managers may not make expenditures except as

provided in the approved budget, and all additional expenditures are subject to approval by the fiscal body of the entity.

(c) Payments to the users of a building or a part of it that constitute a contractual share of box office receipts are not considered an operating expense or an expenditure within the meaning of this section, and the board of managers may make those payments without approval.

As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.139.

IC 36-10-11-36

Board of managers; controller and assistant controller; duties

Sec. 36. (a) The fiscal officer of the lessee governmental entity shall act as controller of the board of managers and is responsible for proper safeguarding and accounting. The controller shall, with the approval of the board of managers, appoint an assistant to act as auditor for the board of managers.

(b) The assistant is the official custodian of all books of account and other financial records of the board of managers and has the other powers and duties that are delegated by the controller and the lesser powers and duties that the board of managers prescribes. The assistant, and any other employee or member of the board of managers authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of him in an amount and with surety and other conditions that are prescribed and approved by the board of managers.

(c) The assistant shall keep an accurate account of:

(1) all money due a building and the board of managers; and

(2) all money received, invested, and disbursed;

in accordance with generally recognized governmental accounting principles and procedures. All accounting forms and records shall be prescribed or approved by the state board of accounts. The assistant shall issue all warrants for the payment of money from the funds of the board of managers in accordance with procedures prescribed by the board of managers, but a warrant may not be issued for the payment of any claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the controller or financial officer or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(d) If the board of managers or the lessee governmental entity has entered into any agreement to lease building facilities from the authority, the controller shall pay the lease rental to the authority within a reasonable period before the date on which principal or interest on any bonds outstanding issued under this chapter becomes due. The assistant shall submit to the board of managers at least annually a report of his accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which the

disbursements were made. The board of managers may require that the report be prepared by a designated, independent certified public accountant. Handling and expenditure of funds is subject to audit and supervision by the state board of accounts.
As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.140.

IC 36-10-11-37
Board of managers; conflicts of interest

Sec. 37. Persons serving on the board of managers shall disclose any pecuniary interest, direct or indirect, in any employment, financing agreement, or other contract made under this chapter before any action is taken on it by the board of managers. Any manager having a pecuniary interest may not vote on the matter. Real property acquired under this chapter in which a manager has a pecuniary interest may be acquired by the board of managers only by gift or condemnation.
As added by Acts 1982, P.L.218, SEC.5.

IC 36-10-12

Chapter 12. Children's Museum in Marion County

IC 36-10-12-1

"Board of school trustees"

Sec. 1. As used in this chapter, "board of school trustees" means the school board of an incorporated town.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-2

"Children's museum"

Sec. 2. As used in this chapter, "children's museum" means a museum located in a county containing a consolidated city, if the museum is:

(1) incorporated under the Indiana law without stock and without purpose of gain to the museum's members; and

(2) organized to maintain in the county a permanent museum containing objects and items:

(A) of interest primarily to children; and

(B) for the encouragement and education of children.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-3

"Incorporated town"

Sec. 3. As used in this chapter, "incorporated town" means an incorporated town located in a county containing a consolidated city.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-4

"Township"

Sec. 4. As used in this chapter, "township" means a school township that is located in a county containing a consolidated city.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-5

"Township board"

Sec. 5. As used in this chapter, "township board" means the township board of a township.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-6

"Township trustee"

Sec. 6. As used in this chapter, "township trustee" means the duly elected trustee of the civil township in which a school township is located.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-7

Financial assistance of township trustee; amount; budget and appropriation

Sec. 7. (a) With the consent of the township board, the township trustee may provide financial assistance to a children's museum. The assistance shall be:

(1) paid from the funds of the school township;

(2) budgeted and appropriated as provided by law; and

(3) in an amount each year not to exceed the product of twenty-five cents ($0.25) multiplied by the ADA (as defined in IC 20-18-2-1.5(a)) of children enrolled in grades 1 through 8 in the public schools of the township as reported in the last preceding annual report to the state superintendent of public instruction.

(b) The assistance under subsection (a) is payable annually. The trustee and the township board may continue the assistance annually if the board of trustees or other governing body of the children's museum has accepted by resolution the provisions of this chapter and has filed a certified copy of the resolution with the township trustee of the township before the date of the first payment.

As added by P.L.1-2005, SEC.47. Amended by P.L.2-2006, SEC.193.

IC 36-10-12-8

Financial assistance of board of school trustees; amount

Sec. 8. (a) The board of school trustees of a town may provide financial assistance to a children's museum. The assistance shall be:

(1) paid from the funds of the school town; and

(2) in an amount each year not to exceed the product of twenty-five cents ($0.25) multiplied by the ADA (as defined in IC 20-18-2-1.5(a)) of children enrolled in grades 1 through 8 in the public schools of the town as reported in the last preceding annual report to the state superintendent of public instruction.

(b) The assistance under subsection (a) is payable annually. The board of school trustees may continue the assistance annually if the board of trustees or other governing body of the children's museum has accepted by resolution the provisions of this chapter and has filed a certified copy of the resolution with the board of school trustees before the date of the first payment.

As added by P.L.1-2005, SEC.47. Amended by P.L.2-2006, SEC.194.

IC 36-10-12-9

Prerequisites for financial assistance

Sec. 9. (a) A children's museum is not entitled to receive financial assistance under sections 7 and 8 of this chapter until the board of trustees or other governing body of the museum agrees with the township trustee or board of school trustees, by proper resolution, to do the following:

(1) To allow the county superintendent of schools of the county to attend all meetings of the board of trustees or other governing body of the children's museum so that the superintendent is advised as to the work done and proposed to be done by the children's museum.

(2) To allow the township trustees of a township or board of

school trustees of a town furnishing financial assistance to the children's museum to nominate individuals eligible for membership on the board of trustees or other governing body of the museum. The children's museum must elect one (1) member from the list or lists of individuals nominated as a member of the board of trustees or other governing body of the children's museum. The member elected under this subdivision represents all townships and towns.

(3) To grant free admission to the children's museum and galleries to all students and teachers of a township or town that furnishes financial assistance to the children's museum.

(4) To allow the use, at reasonable times and in reasonable ways, of the plant, equipment, and facilities of the children's museum to educate the students of the township or town.

(5) To allow the use of the services of the personnel of the children's museum, at reasonable times and in reasonable ways, under the direction of the children's museum, if the services are consistent with the regular established duties of the personnel.

(6) To allow the loan of suitable and available objects and items from the children's museum's collection to a school of the township or town to aid and supplement the curriculum of the school.

(b) A copy of the resolution must be filed in the office of the township trustee or with the secretary of the board of school trustees before the children's museum receives financial assistance under this chapter.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-10

New resolution for financial assistance not required

Sec. 10. After a children's museum qualifies to receive financial assistance from a township or town under this chapter, the board of trustees or the governing body of the children's museum is not required to adopt new resolutions each year. Each original resolution continues and remains in full force and effect until the original resolution is revoked or rescinded by another resolution that is certified and filed under this chapter.

As added by P.L.1-2005, SEC.47.

IC 36-10-12-11

Duration of entitlement of benefits

Sec. 11. A children's museum is entitled to receive the benefits provided under this chapter for as long as the board of trustees or governing body of the children's museum performs or is willing to perform the duties set forth in section 9 of this chapter.

As added by P.L.1-2005, SEC.47.

IC 36-10-13
Chapter 13. Cultural Institutions

IC 36-10-13-1
"Art association"

Sec. 1. As used in this chapter, "art association" means a nonprofit corporation organized under Indiana law to:

(1) maintain a permanent art gallery; and

(2) promote education in the fine and industrial arts;

that owns, possesses, or maintains property for those purposes.
As added by P.L.1-2005, SEC.48.

IC 36-10-13-2
"Cultural institution"

Sec. 2. As used in this chapter, "cultural institution" means a historical society, an art association, or other nonprofit corporation organized under Indiana law to further the cultural development of the public.
As added by P.L.1-2005, SEC.48.

IC 36-10-13-3
"Historical society"

Sec. 3. As used in this chapter, "historical society" means a nonprofit corporation organized under Indiana law to:

(1) maintain a permanent historical museum; and

(2) promote a knowledge of local ancestral heritage and custom;

that owns, possesses, or maintains property for those purposes.
As added by P.L.1-2005, SEC.48.

IC 36-10-13-4
School corporations in certain counties; appropriation for historical society authorized

Sec. 4. (a) This section does not apply to a school corporation in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) The governing body of a school corporation may annually appropriate, from the school corporation's general fund, a sum of not more than five-tenths of one cent ($0.005) on each one hundred dollars ($100) of assessed valuation in the school corporation to be paid to a historical society, subject to section 6 of this chapter.
As added by P.L.1-2005, SEC.48. Amended by P.L.119-2012, SEC.243.

IC 36-10-13-5
School corporations in certain counties; tax levy; historical society fund; appropriation for historical society authorized

Sec. 5. (a) This section applies only to a school corporation in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(b) To provide funding for a historical society under this section, the governing body of a school corporation may impose a tax of not more than five-tenths of one cent ($0.005) on each one hundred dollars ($100) of assessed valuation in the school corporation.

(c) The school corporation shall deposit the proceeds of the tax in a fund to be known as the historical society fund. The historical society fund is separate and distinct from the school corporation's general fund and may be used only to provide funds for a historical society under this section.

(d) Subject to section 6 of this chapter, the governing body of the school corporation may annually appropriate the money in the fund to be paid in semiannual installments to a historical society having facilities in the county.

As added by P.L.1-2005, SEC.48. Amended by P.L.2-2006, SEC.195; P.L.146-2008, SEC.798; P.L.119-2012, SEC.244.

IC 36-10-13-6

Prerequisites for receipt of payment

Sec. 6. Before a historical society may receive payments under sections 4 and 5 of this chapter, the historical society's governing board must adopt a resolution that entitles:

(1) the governing body of the school corporation to appoint the school corporation's superintendent and one (1) history teacher as visitors who may attend all meetings of the society's governing board;

(2) the governing body of the school corporation to nominate two (2) individuals for membership on the society's governing board;

(3) the school corporation to use the society's facilities and equipment for educational purposes consistent with the society's purposes;

(4) the students and teachers of the school corporation to tour the society's museum, if any, free of charge; and

(5) the school corporation to borrow artifacts from the society's collection, if any, for temporary exhibit in the schools.

As added by P.L.1-2005, SEC.48.

IC 36-10-13-7

School corporations in certain counties; tax levy; art association fund; appropriation for art association authorized; prerequisites for receipt of payments

Sec. 7. (a) This section applies to school corporations in a county containing a city having a population of:

(1) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000);

(2) more than one hundred ten thousand (110,000) but less than one hundred fifty thousand (150,000);

(3) more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400);

(4) more than one hundred thousand (100,000) but less than one

hundred ten thousand (110,000); or

(5) more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000).

(b) To provide funding for an art association under this section, the governing body of a school corporation may impose a tax of not more than five-tenths of one cent ($0.005) on each one hundred dollars ($100) of assessed valuation in the school corporation.

(c) The school corporation shall deposit the proceeds of the tax imposed under subsection (b) in a fund to be known as the art association fund. The art association fund is separate and distinct from the school corporation's general fund and may be used only to provide funds for an art association under this section. The governing body of the school corporation may annually appropriate the money in the fund to be paid in semiannual installments to an art association having facilities in a city that is described in subsection (a), subject to subsection (d).

(d) Before an art association may receive payments under this section, the association's governing board must adopt a resolution that entitles:

(1) the governing body of the school corporation to appoint the school corporation's superintendent and director of art instruction as visitors who may attend all meetings of the association's governing board;

(2) the governing body of the school corporation to nominate individuals for membership on the association's governing board, with at least two (2) of the nominees to be elected;

(3) the school corporation to use the association's facilities and equipment for educational purposes consistent with the association's purposes;

(4) the students and teachers of the school corporation to tour the association's museum and galleries free of charge;

(5) the school corporation to borrow materials from the association for temporary exhibit in the schools;

(6) the teachers of the school corporation to receive normal instruction in the fine and applied arts at half the regular rates charged by the association; and

(7) the school corporation to expect exhibits in the association's museum that will supplement the work of the students and teachers of the corporation.

A copy of the resolution, certified by the president and secretary of the association, must be filed in the office of the school corporation before payments may be received.

(e) A resolution filed under subsection (d) is not required to be renewed annually. The resolution continues in effect until rescinded. An art association that complies with this section is entitled to continue to receive payments under this section as long as the art association complies with the resolution.

(f) If more than one (1) art association in a city that is described in subsection (a) qualifies to receive payments under this section, the governing body of the school corporation shall select the one (1) art

association best qualified to perform the services described in subsection (d). A school corporation may select only one (1) art association to receive payments under this section.
As added by P.L.1-2005, SEC.48. Amended by P.L.2-2006, SEC.196; P.L.146-2008, SEC.799; P.L.119-2012, SEC.245.

IC 36-10-13-8
School corporations in certain counties; appropriation for cultural institution authorized; prerequisites for receipt of payments

Sec. 8. (a) This section applies to school corporations in a county:
(1) containing a consolidated city; or
(2) having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Subject to subsection (c), the governing body of a school corporation may annually appropriate sums to be paid to cultural institutions that are reasonably commensurate with the educational and cultural contributions made by the institutions to the school corporation and the school corporation's students.

(c) Before a cultural institution may receive payments under this section, the president and secretary of the cultural institution must file with the school corporation an affidavit stating that the cultural institution meets the following requirements:
(1) The governing board has adopted a resolution that entitles a representative of the school corporation to attend and speak at all meetings of the governing body.
(2) The cultural institution:
(A) admits the public to galleries, museums, and facilities at reasonable times and allows public use of those facilities free of charge; or
(B) provides alternative services free of charge to the public instead of admission to those facilities.
The governing body of the school corporation shall judge whether the alternative services are conducive to the education or cultural development of the public.
(3) The cultural institution has a permanent location in the municipality where the cultural institution conducts the cultural institution's principal educational or cultural purpose.
(4) The cultural institution has no general taxing authority.
The affidavit must be filed at least thirty (30) days before a request for an appropriation under this section.

(d) A cultural institution that complies with this section may continue to receive payments under this section as long as the school corporation appropriates sums for that purpose.
As added by P.L.1-2005, SEC.48.

IC 36-10-14

Chapter 14. Public Playgrounds Maintained by School; Third Class Cities

IC 36-10-14-1

Application

Sec. 1. This chapter applies only to a school corporation in a third class city with a board of school trustees.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-2

"Board"

Sec. 2. As used in this chapter, "board" refers to a board of school trustees in a third class city.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-3

Power; public playground

Sec. 3. The board may establish, maintain, and equip public playgrounds to be used by children during the summer vacation period. The board may use the public school buildings and grounds in the cities as is necessary to carry out this chapter.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-4

Power; levy

Sec. 4. Subject to IC 6-1.1-18-12, the board may levy a tax not exceeding sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of assessed valuation of the property in the city to create a fund to carry out this chapter.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-5

Lease or purchase of nonschool property

Sec. 5. The board may lease or purchase grounds in addition to the school grounds, either adjacent to the school grounds or elsewhere in the city. The board may also, under eminent domain statutes, condemn ground to be used for these purposes and pay for condemned ground out of the school revenues of the city not otherwise appropriated.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-6

Management of property

Sec. 6. The board:

(1) has full control of all playgrounds, including the preservation of order on playgrounds; and

(2) may adopt suitable rules and bylaws for the control of playgrounds. The board may enforce the rules by suitable penalties.

As added by P.L.2-2006, SEC.197.

IC 36-10-14-7
Personnel

Sec. 7. (a) The board may select and pay for directors and assistants.

(b) The directors and assistants, while on duty and to preserve order and the observance of the rules and bylaws of the board, have all the powers of police officers of the city.

(c) The compensation for the directors and assistants shall be:

(1) fixed by the board; and

(2) paid from school revenues not otherwise appropriated.

As added by P.L.2-2006, SEC.197.

IC 36-10-15
Chapter 15. Wolf Lake Memorial Park

IC 36-10-15-1
Administration of Wolf Lake Memorial Park

Sec. 1. The common council of the city of Hammond shall administer the operation of Wolf Lake Memorial Park in the same manner as other city parks located in the city.

As added by P.L.220-2011, SEC.686.

IC 36-10-15-2
Dedication of real property; vesting of rights in City of Hammond

Sec. 2. All that part of the real property known as Wolf Lake Memorial Park located in North Township, Lake County, Indiana, that:

(1) on March 14, 1957, was held by the state; and

(2) was not in use and occupied on March 15, 1957, by a toll road project constructed and maintained under IC 8-15-2;

is dedicated as a public recreation area. The use, possession, operation, maintenance, and development of the dedicated real property is vested perpetually in the city of Hammond, Indiana, subject to the limitations set forth in this chapter.

As added by P.L.220-2011, SEC.686.

IC 36-10-15-3
Administration of property as public park

Sec. 3. The real property dedicated by this chapter:

(1) shall be administered, operated, maintained, and developed as a public park in the city; and

(2) shall not be withdrawn from the city as long as the use and possession of the real property by the city is consistent with the dedication and all other provisions of this chapter.

As added by P.L.220-2011, SEC.686.

IC 36-10-15-4
Withdrawal of dedication; conditions

Sec. 4. If the city:

(1) converts the dedicated real property or any part of the property to a use other than as a public park in the city; or

(2) dumps or deposits or suffers or permits to be dumped or deposited garbage, refuse, or other worthless matter in or upon the dedicated real property or any part of the property, except as is necessary and incidental to the public park use;

the general assembly may withdraw all of the dedicated real property from the city without compensation to the city.

As added by P.L.220-2011, SEC.686.

IC 36-11

ARTICLE 11. COUNTY ONSITE WASTE MANAGEMENT DISTRICTS

IC 36-11-1

Chapter 1. Definitions and Applicability

IC 36-11-1-1

Applicability

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-1-2

"District"

Sec. 2. "District" means a county onsite waste management district established under this article.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-1-3

"Governing body"

Sec. 3. "Governing body" means the county executive of the county in which the district is located or proposed to be located.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-1-4

"System"

Sec. 4. "System" means a sewage disposal system (as defined in IC 13-11-2-201).

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-2
Chapter 2. Purposes of Districts

IC 36-11-2-1
District functions

Sec. 1. A district may be established under this article to perform one (1) or more of the following functions related to onsite waste management:

(1) Inventory of systems.
(2) Inspection of systems.
(3) Monitoring the:
  (A) performance; and
  (B) maintenance;
of systems.
(4) Establishing:
  (A) standards for installation and inspection of systems that are no less stringent than standards established by the state department of health; and
  (B) procedures for enforcement of the standards.
(5) Seeking grants for:
  (A) system maintenance; and
  (B) any other activities described in this article.
(6) Establishing rates and charges for the operation of the district.
(7) Establishing policies and procedures for the use of grants and other revenue of the district for installation, maintenance, and other activities of the district relating to systems in the district.
(8) Seeking solutions for disposal of septage from systems.
(9) Education and training of system service providers and system owners.
(10) Coordination of activities of the district with activities of:
  (A) local health departments;
  (B) the department of environmental management;
  (C) the department of natural resources; and
  (D) the state department of health.
(11) Other functions as determined by the governing body of the district.

Enforcement of standards by a district under subdivision (4) does not affect the authority of the department of environmental management, the state department of health, or a local health department.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3

Chapter 3. Establishment or Dissolution of Districts

IC 36-11-3-1

Initiation by governing body

Sec. 1. (a) The establishment of a district may be initiated only by the governing body.

(b) The dissolution of a district may be initiated only by the governing body.

(c) A notice of intent to establish or dissolve a district must be filed in:

(1) the office of the executive of each governmental entity having territory within the proposed district or the district proposed for dissolution;

(2) the department of environmental management; and

(3) the state department of health.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-2

Contents of notice of intent

Sec. 2. A notice of intent to establish a district under this chapter must state the following:

(1) The proposed name of the district.

(2) The place in which the district's principal office is to be located.

(3) The following information:

(A) The need for the proposed district.

(B) The purpose to be accomplished.

(C) How the district will be conducive to the public health, safety, convenience, or welfare.

(4) An accurate description of the territory to be included in the district, which does not have to be given by metes and bounds or by legal subdivisions.

(5) The plan for financing the cost of the operations of the district until the district is in receipt of revenue from its operations.

(6) Estimates of the following:

(A) The costs of accomplishing the purpose of the district.

(B) The sources of the funding of those costs.

(C) The rates and charges that will be required.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-3

Notice of intent to dissolve

Sec. 3. A notice of intent to dissolve a district under this chapter must state the reasons why the district is not needed.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-4

Territory of district

Sec. 4. The district may include area that is not contiguous, but the territory must be so situated that the public health, safety, convenience, or welfare will be promoted by the establishment of the area described as a single district.
As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-5
Inclusion in district of area located within a municipality

Sec. 5. (a) Except as provided in subsection (b), the description of the area to be included in a district may not include a municipality.

(b) The description of the area to be included in a district may include area located within a municipality if the municipal legislative body has adopted an ordinance or resolution designating that area to be included in the district.

(c) The governing body shall:

(1) identify any area located within a municipality in the county that the governing body believes should be part of the area of the district; and

(2) request that the municipality adopt an ordinance or resolution under subsection (b) to include the area identified under subdivision (1) in the district.

(d) A municipal legislative body that has previously adopted an ordinance or resolution under subsection (b) may adopt an ordinance or resolution to exclude from the district all or part of the area previously designated for inclusion in the district.
As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-6
Public hearings; qualifications of hearing officer; hearing officer compensation

Sec. 6. Upon the filing of a notice of intent to establish or dissolve a district under this chapter, the governing body shall appoint a hearing officer to preside over public hearings concerning the establishment or dissolution of a district. The hearing officer does not have to be a state or county employee and may not be a member of the county legislative body. If the hearing officer is not a full-time state or county employee, the hearing officer is entitled to be paid reasonable:

(1) expenses; and

(2) per diem;

for each day or part of a day in actual attendance at a meeting or hearing or in performance of duties.
As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-7
Scheduling of hearing; notice

Sec. 7. (a) The hearing officer shall fix a date, time, and place inside or within ten (10) miles of the proposed district for the hearing on any matter for which a hearing is authorized under this chapter.

(b) The hearing officer shall provide notice of the hearing:

(1) under IC 5-3-1; and
(2) by certified mail, return receipt requested, mailed at least two (2) weeks before the hearing to:
(A) the department of environmental management; and
(B) the state department of health.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-8
Objection and participation in hearing by resident of district

Sec. 8. A person that resides in or partially resides in an area affected by the proposed establishment or dissolution of a district:
(1) may, on or before the date set for the hearing, file a written objection to the proposed establishment or dissolution of the district; and
(2) may be heard at the hearing.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-9
Findings and recommendations of hearing officer; matters to be considered by the hearing officer

Sec. 9. (a) After the hearing on the proposed establishment or dissolution of the district, which may be adjourned periodically, the hearing officer shall make findings and recommendations as to whether:
(1) the establishment of the district should be:
(A) approved;
(B) approved with modifications; or
(C) denied; or
(2) the dissolution of the district should be:
(A) approved; or
(B) denied.

(b) The hearing officer shall consider, at a minimum, the following in making findings and recommendations concerning the establishment of a proposed district:
(1) Whether the proposed district complies with the conditions of this chapter for establishment of a district.
(2) Whether the proposed district appears capable of accomplishing its purpose or purposes in an economically feasible manner.

(c) The hearing officer shall consider, at a minimum, whether the district is needed in making findings and recommendations concerning the proposed dissolution of a district.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-10
Action by ordinance of the governing body after the hearing; notice to objectors

Sec. 10. Following a hearing under this chapter, if the governing body determines that the findings of the hearing officer show that:
(1) the proposed district appears capable of accomplishing the

purpose or purposes of the district in an economically feasible manner, a district may be established; or

(2) there is no need for the district, the district may be dissolved;

by adoption of an ordinance by the governing body. The governing body shall give notice by mail of the adoption of an ordinance to establish a district to each person who filed a written objection under section 8 of this chapter.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-11

Notice of adoption of an ordinance

Sec. 11. The district shall provide notice of the adoption of an ordinance under section 10 of this chapter to:

(1) local health departments;

(2) the department of environmental management;

(3) the department of natural resources; and

(4) the state department of health.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-12

District not an independent municipal corporation

Sec. 12. A district established under this chapter is not an independent municipal corporation.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-13

Information to be included in ordinance to establish a district

Sec. 13. An ordinance adopted under section 10 of this chapter to establish a district must state the following:

(1) The name of the district.

(2) The need for the district.

(3) The purpose to be accomplished by the district.

(4) An accurate description of the territory included in the district, which does not have to be given by metes and bounds or by legal subdivisions.

(5) Estimates of the costs of the operations of the district.

(6) The plan for financing the cost of the operations of the district by the county or counties in which the district is located.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-14

Petition to county legislative body objecting to establishment of district; hearing; notice of action on objection

Sec. 14. (a) If the governing body adopts an ordinance under section 10 of this chapter to establish a district, a person who filed a written objection under section 8 of this chapter against the establishment of the district may file an objecting petition in the office of the county auditor. The petition must be filed not more than thirty (30) days after the date the notice of the adoption of the

ordinance is mailed to the person under section 8 of this chapter. The petition must state the person's objections and the reasons why the person believes the establishment of the district is unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the county legislative body. Upon receipt of the certified petition and other data, the county legislative body shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) days and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the county where the petition arose.

(d) The county legislative body shall give notice of the hearing to the petitioner and the governing body by mail at least five (5) days before the date of the hearing. After the hearing, the county legislative body shall approve or deny the establishment of the district. The decision by the county legislative body:

(1) is final with respect to the establishment of the district against which the objecting petition was filed; and

(2) does not limit the authority of the governing body to initiate new proceedings to establish a district.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-4

Chapter 4. Governing Body of a District

IC 36-11-4-1

Governing body; adoption of ordinances

Sec. 1. The governing body of a district may take action by adoption of an ordinance.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-5

Chapter 5. Powers and Duties of Districts

IC 36-11-5-1

District rights, powers, and duties

Sec. 1. Upon establishment of the district, the district may exercise all the rights, powers, and duties conferred upon the district by this article.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-5-2

District powers

Sec. 2. A district may do the following:

(1) Make contracts for the services necessary for the operations of the district, including management of the district by any public or private entity.

(2) Adopt, amend, and repeal bylaws for the administration of the district's affairs.

(3) Fix, alter, charge, and collect reasonable rates and other charges, to be imposed by the governing body, in the area served by the district with respect to every person whose premises are, whether directly or indirectly, served by the district, for the following purposes:

(A) To fulfill the terms of contracts made by the district.

(B) To pay the other expenses of the district.

(4) Refuse the services of the district if the rates and other charges are not paid by the user.

(5) Control and supervise all licenses, money, contracts, accounts, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.

(6) Make provision for, contract for, or sell the district's byproducts or waste.

(7) Adopt and enforce rules:

(A) to establish procedures for the governing body's actions; or

(B) for any other lawful subject necessary to the operation of the district and the exercise of the power granted.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-5-3

District contracts and obligations

Sec. 3. A district may make contracts or incur obligations only if the contracts or obligations are payable solely from:

(1) revenue the district is permitted to raise under this article; or

(2) federal, state, or other grants or contributions.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-5-4

District action to benefit a property with available sanitary sewer

Sec. 4. (a) Except as provided in subsection (b), a district may not make expenditures or take any other action for the benefit of a property served by a system if there is an available sanitary sewer within three hundred (300) feet of the property line.

(b) A district may make expenditures or take other action for the benefit of a property referred to in subsection (a) if the sanitary system operator refuses connection.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-6

Chapter 6. District Plan

IC 36-11-6-1

District plan contents

Sec. 1. A district plan for the operation of the district must include:

(1) a detailed statement of the activities under IC 36-11-2-1 that the district plans to undertake; and

(2) a timetable for the activities under subdivision (1).

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7. Amended by P.L.1-2003, SEC.103.

IC 36-11-7

Chapter 7. Payment of District Expenses

IC 36-11-7-1

Record of district finances

Sec. 1. Each district must keep proper records showing the district's finances.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-7-2

Advancements or donations of money to a district

Sec. 2. A local, state, or federal agency or person may advance or give a district money to be used by the district for the following purposes:

(1) The preparation of a plan for the operation of the district.

(2) Other purposes of the district until the district is in receipt of revenue from its operations or from the county in which the district is located.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-7-3

Repayment of money advanced by a county

Sec. 3. When a district receives revenue from its operations or from the county in which the district is located, the district shall repay any money advanced to the advancing agency in the manner agreed.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-7-4

Use of county revenue for operation of a district

Sec. 4. The governing body of a district may provide for the use of revenue of the county for operation of the district.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-8

Chapter 8. Territorial Authority of Sewage Disposal Companies

IC 36-11-8-1

District does not limit formation and operation of sewage disposal company or certificate of territorial authority

Sec. 1. This article does not limit the following:

(1) The formation and operation under IC 8-1-2-89 of a sewage disposal company to provide sewage disposal service to an area within a district.

(2) The granting of a certificate of territorial authority under IC 8-1-2-89 encompassing a part of the area within the district.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-9

Chapter 9. Rates and Charges

IC 36-11-9-1

Manner of imposition by governing body; approval by county legislative body

Sec. 1. (a) Except as provided in subsection (b), the governing body may determine and impose rates and charges of the district based on the following:

(1) A flat charge for each system.

(2) Variable charges based on the capacity of a system.

(3) Other factors that the governing body determines are necessary to establish just and equitable rates and charges.

(b) In:

(1) a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000);

rates and charges may be imposed or changed under this chapter only after approval by the county legislative body.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7. Amended by P.L.119-2012, SEC.246.

IC 36-11-9-2

Billing and collecting rates and charges

Sec. 2. Unless the governing body finds and directs otherwise, the district is considered to benefit every:

(1) lot;

(2) parcel of land; or

(3) building;

served by a system. The rates or charges shall be billed and collected accordingly.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-9-3

Amount of rates and charges

Sec. 3. (a) Just and equitable rates and charges are those that produce sufficient revenue to pay all expenses incidental to the operation of the district.

(b) Rates and charges too low to meet the financial requirements described in subsection (a) are unlawful.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-9-4

Establishment of rates and charges after public hearing

Sec. 4. The governing body shall establish the rates and charges after a public hearing at which all:

(1) the owners of systems; and

(2) others interested;

have an opportunity to be heard concerning the proposed rates and charges.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-9-5

Publication of proposed rates and charges; adjournment of hearing

Sec. 5. After introduction of the ordinance initially fixing rates and charges but before the ordinance is finally adopted, notice of the hearing setting forth the proposed schedule of the rates and charges must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in the county. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-9-6

Passage of ordinance; schedule of rates and charges available to public

Sec. 6. (a) The ordinance establishing the initial rates and charges, either as:

(1) originally introduced; or

(2) modified and amended;

shall be passed and put into effect after the hearing. However, the governing body must approve any modification or amendment of the rates and charges.

(b) A copy of the schedule of the rates and charges established must be:

(1) kept on file in the office of the district; and

(2) open to public inspection.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-9-7

Change in rates and charges

Sec. 7. A change of the rates and charges may be made in the same manner as the rates and charges were originally established.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-10
Chapter 10. Liens for Rates and Charges

IC 36-11-10-1
Lien for rates and charges

Sec. 1. The rates and charges made, assessed, or established under this article against:

(1) a lot;
(2) a parcel of land; or
(3) a building;

that is served by the district are a lien against the lot, parcel of land, or building.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-10-2
Date lien attaches; precedence of lien; enforcement

Sec. 2. Except as provided in section 5 of this chapter, a lien attaches on the date the rates and charges become sixty (60) days delinquent. The lien:

(1) is superior to and takes precedence over all other liens except a lien for taxes; and
(2) shall be enforced under this article.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-10-3
Penalty on delinquent rates and charges; civil action for recovery

Sec. 3. If rates and charges are not paid within the time fixed by the governing body, the rates and charges become delinquent, and a penalty of ten percent (10%) of the amount of the rates and charges attaches to the rates and charges. The governing body may recover:

(1) the amount due;
(2) the penalty; and
(3) reasonable attorney's fees;

in a civil action in the name of the district.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-10-4
Collection of rates, charges, and penalties

Sec. 4. The rates and charges, together with the penalty, are collectible in the manner provided by this article.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-10-5
No enforcement against subsequent owner unless lien recorded before conveyance; billing of rates and charges to seller

Sec. 5. (a) A rate or charge is not enforceable as a lien against a subsequent owner of property unless the lien for the rate or charge was recorded with the county recorder before the conveyance to the subsequent owner.

(b) If the property is conveyed before the lien can be filed, the

officer of the district who is charged with the collection of the rate or charge shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not less than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.
As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-10-6
Release of liens

Sec. 6. (a) The district shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser.

(b) The demand must state the following:

(1) That the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner.

(2) That the purchaser has not been paid by the seller for the delinquent fees.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-11

Chapter 11. Enforcement of Delinquencies

IC 36-11-11-1

Application of chapter

Sec. 1. This chapter applies only to fees or penalties that have been due and unpaid for at least ninety (90) days.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-11-2

Enforcement of delinquent fees and penalties

Sec. 2. A district may enforce delinquent fees and penalties in the manner described in IC 36-9-23.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7. Amended by P.L.131-2005, SEC.8.

IC 36-12

ARTICLE 12. LIBRARIES

IC 36-12-1

Chapter 1. Definitions and General Provisions

IC 36-12-1-1

Application of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.1-2005, SEC.49.

IC 36-12-1-2

"Indiana library and historical board"

Sec. 2. "Indiana library and historical board" refers to the Indiana library and historical board established by IC 4-23-7-2.

As added by P.L.1-2005, SEC.49.

IC 36-12-1-3

"Library board"

Sec. 3. "Library board" means the fiscal and administrative body of a public library.

As added by P.L.1-2005, SEC.49.

IC 36-12-1-4

"Library district"

Sec. 4. "Library district" means the territory within the corporate boundaries of a public library.

As added by P.L.1-2005, SEC.49.

IC 36-12-1-5

"Public library"

Sec. 5. "Public library" means a municipal corporation that:

(1) provides library services; and

(2) is organized under:

(A) IC 36-12-2;

(B) IC 36-12-4;

(C) IC 36-12-5;

(D) IC 36-12-6; or

(E) IC 36-12-7.

As added by P.L.1-2005, SEC.49.

IC 36-12-1-6

"School board"

Sec. 6. "School board" means the governing body as set forth in IC 20-18-2-5.

As added by P.L.1-2005, SEC.49.

IC 36-12-1-7

"School corporation"

Sec. 7. "School corporation" has the meaning set forth in IC 20-33-5-1.
As added by P.L.1-2005, SEC.49.

IC 36-12-1-8
Policy; services

Sec. 8. (a) The state shall encourage the establishment, maintenance, and development of public libraries throughout Indiana as part of the provision for public education of Indiana.

(b) Public libraries provide free library services in order to meet the educational, informational, and recreational interests and needs of the public.

(c) Library services include:

(1) collecting and organizing books and other library materials; and

(2) providing reference, loan, and related services to library patrons.

(d) Library services are provided by public libraries supported by public funds.
As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.19.

IC 36-12-1-9
Classification of public libraries

Sec. 9. Public libraries are classified as either:

(1) Class 1 libraries, which comprise:

(A) all public libraries established after March 13, 1947; and

(B) all public libraries established before March 14, 1947, that have filed a resolution of conversion under section 10 of this chapter; or

(2) Class 2 public libraries, which comprise all public libraries established before March 14, 1947, that have not filed a resolution of conversion under section 10 of this chapter.
As added by P.L.1-2005, SEC.49.

IC 36-12-1-10
Conversion of Class 2 library to Class 1 library; procedure; appointment of library board; tax levies

Sec. 10. (a) A Class 2 library may convert to Class 1 status if the Class 2 library board passes the following resolution of conversion:

"_____ Public Library, by action of its library board, resolves to convert to a Class 1 library district subject to IC 36-12-2.".

(b) The resolution of conversion:

(1) must describe the territory included in the library district; and

(2) is irrevocable.

(c) The resolution of conversion must be signed by a majority of library board members. Not later than five (5) days after approving the resolution of conversion, the library board shall file a copy of the resolution of conversion:

(1) in the office of the county recorder in the county where the administrative office of the public library is located; and
(2) with the Indiana state library.

(d) The library board shall give notice of the resolution of conversion to all officials who have appointive powers under IC 36-12-2.

(e) The officials under subsection (d) shall appoint a library board for the public library. Members of the old library board shall continue to serve as library board members until:
(1) a majority of the new library board has been appointed; and
(2) the new appointees have taken an oath of office to serve on the library board.

(f) Upon the:
(1) filing of the resolution of conversion;
(2) appointments under IC 36-12-2; and
(3) oath of office of the new library board under IC 36-12-2-19;
any current tax levies continue under authority granted to the Class 2 library until the next succeeding calendar year, at which time the tax provisions for Class 1 libraries under IC 36-12-3-12 apply.

(g) The obligation of a political subdivision to levy and collect taxes for library purposes remains effective after the conversion.
As added by P.L.1-2005, SEC.49.

IC 36-12-1-11
Class 2 libraries; operation under IC 36-12-7; election to adopt other provisions

Sec. 11. (a) Class 2 libraries shall operate under the applicable provisions of IC 36-12-7.

(b) The library boards of Class 2 libraries may elect to adopt:
(1) IC 36-12-2-22;
(2) IC 36-12-2-24;
(3) IC 36-12-2-25; and
(4) IC 36-12-3.

(c) Class 2 libraries that elect only the sections set forth in subsection (b) retain the status of Class 2 libraries.

(d) The library board of the Class 2 libraries that elect only the sections set forth in subsection (b) shall file with the Indiana state library a copy of the part of the library board's minutes showing passage of the board's resolution to elect:
(1) IC 36-12-2-22;
(2) IC 36-12-2-24;
(3) IC 36-12-2-25; and
(4) IC 36-12-3.

(e) The election of IC 36-12-2-22, IC 36-12-2-24, IC 36-12-2-25, and IC 36-12-3 is irrevocable.
As added by P.L.1-2005, SEC.49.

IC 36-12-1-12
Policy for Internet or other computer network use

Sec. 12. (a) This section applies to a board of a public library that

allows library patrons to use library software to access the Internet or other computer network.

(b) As used in this section, "computer network" has the meaning set forth in IC 35-43-2-3.

(c) The board of a public library shall adopt a policy concerning the appropriate use of the Internet or other computer network by library patrons in all areas of the library.

(d) The board shall make the policy adopted under subsection (c) readily available to all library patrons.

(e) The board of a public library shall annually review the policy adopted under subsection (c).

As added by P.L.1-2005, SEC.49.

IC 36-12-1-13

Township trustees of certain counties paying cost of resident's library card

Sec. 13. A township trustee of a township that is:

(1) located in a county having a population of more than thirty-four thousand three hundred (34,300) but less than thirty-five thousand (35,000); and

(2) not served by a public library;

may pay the cost of a library card at the nearest library for a resident of the township upon request of the resident.

As added by P.L.1-2005, SEC.49. Amended by P.L.119-2012, SEC.247.

IC 36-12-2

Chapter 2. Class 1 Public Libraries: Organization and Board Members

IC 36-12-2-1

Application of chapter

Sec. 1. This chapter applies only to Class 1 public libraries.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-2

Municipal corporation; taxing unit

Sec. 2. (a) A Class 1 public library is a municipal corporation, known as _____ Public Library.

(b) In the name of the Class 1 public library under subsection (a), the public library may:

(1) contract and be contracted with; and

(2) sue and be sued in court.

(c) Each public library constitutes an independent taxing unit for purposes of IC 6-1.1-1-21.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-3

Corporate boundaries; annexation

Sec. 3. (a) The corporate boundaries of the public library must be described in the resolution of establishment, conversion, transfer, or merger filed:

(1) in the office of the county recorder in the county where the administrative office of the public library is located; and

(2) with the Indiana state library.

(b) If the corporate boundaries of a unit and a Class 1 public library are coextensive, territory annexed by the unit becomes part of the library district if the annexed territory is not already part of another library district. Whenever a public library annexes territory under this subsection, the library board shall file a statement describing the annexed territory:

(1) in the office of the county recorder in the county where the administrative office of the public library is located; and

(2) with the Indiana state library.

If the territory annexed by a unit is already a part of another library district, the territory remains a part of the other library district unless the library boards of both public libraries pass a resolution of transfer under section 4 of this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-4

Transfer of territory; procedure

Sec. 4. One (1) public library may transfer a part of the territory of the library to another public library according to the following procedure:

(1) The library boards of each public library must pass a

resolution of transfer signed by a majority of the entire membership of each library board agreeing to the transfer.

(2) The library boards of each public library must include a description of the transferred territory in the respective resolutions of each public library.

(3) Each of the library boards must file a copy of the resolution of transfer:

(A) in the office of the county recorder in the county where the administrative office of the respective public library is located; and

(B) with the Indiana state library.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-5

Establishment of library; authorization; petition or remonstrance; procedure; duties of clerk of circuit court

Sec. 5. (a) The legislative body of a municipality, township, county, or part of a county, any of which is not already taxed for public library purposes, that has:

(1) a population of at least ten thousand (10,000); or

(2) an assessed valuation that is at least as high as the median of the most recent certified assessed valuation of the ten (10) library taxing districts closest in population to ten thousand (10,000);

may establish a public library for the residents of the municipality, township, county, or part of the county.

(b) The establishment of the public library may be initiated either by:

(1) the legislative body passing a written resolution; or

(2) filing a petition with the legislative body that has been signed by at least twenty percent (20%) of the registered voters of the municipality, township, county, or part of a county, as determined by the last preceding general election.

(c) Not later than ten (10) days after a petition is filed under subsection (b)(2), the municipality, township, county, or part of a county shall give notice of the filing of the petition in two (2) newspapers of general circulation in the county, one (1) of which is published in the municipality where the library is to be located, if a newspaper is published in the municipality.

(d) Not later than ten (10) days after the publication of the petition under subsection (c), a registered voter in the municipality, township, county, or part of a county where the public library is proposed to be established may file with the respective municipality, township, or county a remonstrance that:

(1) is signed by registered voters in the municipality, township, county, or part of the county where the public library is proposed to be established; and

(2) states that the registered voters who have signed the remonstrance are opposed to the establishment of the public library.

(e) The following apply to a petition that is filed under subsection (b)(2) or a remonstrance that is filed under subsection (d):

(1) The petition or remonstrance must show the following:

(A) The date on which each individual signed the petition or remonstrance.

(B) The residence of each individual on the date the individual signed the petition or remonstrance.

(2) The petition or remonstrance must include an affidavit of the individual circulating the petition or remonstrance stating that each signature on the petition or remonstrance:

(A) was affixed in the individual's presence; and

(B) is the true signature of the individual who signed the petition or remonstrance.

(3) Several copies of the petition or remonstrance may be executed. The total of the copies constitute a petition or remonstrance. A copy must include an affidavit as described in subdivision (2). An individual who signed the petition, remonstrance, or copy may file the petition, the remonstrance, or a copy. All copies constituting a petition or remonstrance must be filed on the same day.

(4) The clerk of the circuit court in the county where the municipality, township, county, or part of a county where the public library that is proposed to be established is located shall do the following:

(A) If a name appears more than one (1) time on a petition or on a remonstrance, the clerk shall strike any duplicates of the name until the name appears only one (1) time on a petition or a remonstrance, or both, if the individual signed both a petition and a remonstrance.

(B) Strike the name from either the petition or the remonstrance of an individual who:

(i) signed both the petition and the remonstrance; and

(ii) personally, in the clerk's office, makes a voluntary written and signed request for the clerk to strike the individual's name from the petition or the remonstrance.

(C) Not more than fifteen (15) days after a petition or remonstrance is filed, certify the number of signatures on the petition or remonstrance that:

(i) are not duplicates; and

(ii) represent individuals who are registered voters in the municipality, township, county, or part of a county where the public library is proposed to be established, on the day the individuals signed the petition or remonstrance.

(D) Establish a record of the clerk's certification in the clerk's office and file:

(i) the original petition;

(ii) the original remonstrance, if any; and

(iii) a copy of the clerk's certification;

with the legislative body of the municipality, township, or county.

The clerk of the circuit court may only strike an individual's name from a petition or remonstrance as set forth in clauses (A) and (B).

(f) At the first meeting of the legislative body held at least ten (10) days after the publication of the petition, the legislative body shall compare the petition and any remonstrance. Whenever:

(1) a remonstrance has not been filed; or

(2) a greater number of voters have signed the petition than have signed the remonstrance against the establishment of the public library;

the legislative body shall establish by written resolution the public library with a library district coextensive with the boundaries of the unit or part of a county, whichever is applicable.

(g) The establishment of the public library is effective as of the date the written resolution is passed. The legislative body shall file a copy of the resolution not later than five (5) days after the resolution is passed:

(1) with the county recorder in the county where the administrative office of the public library is located; and

(2) with the Indiana state library.

(h) The legislative body shall give notice to the officials who have the power to appoint members of the library board for the new public library under section 9 of this chapter. The officials shall appoint the library board for the new public library under section 9 of this chapter as soon as possible after the officials are notified.

(i) When the number of registered voters who have signed a remonstrance against the establishment of the public library is equal to or greater than the number who have signed the petition in favor of the establishment of the public library, the legislative body shall dismiss the petition. Another petition to establish a public library may not be initiated until one (1) year after the date the legislative body dismissed the latest unsuccessful petition.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-5.5
Repealed

(*Repealed by P.L.84-2012, SEC.20.)*

IC 36-12-2-6
Establishment of library; petition or remonstrance; affidavit; duties of clerk of circuit court

Sec. 6. (a) The following apply to a petition or remonstrance filed under section 5 of this chapter:

(1) The petition or remonstrance must show the following:

(A) The date on which each individual signed the petition or remonstrance.

(B) The residence of each individual on the date the individual signed the petition or remonstrance.

(2) The petition or remonstrance must include an affidavit of the individual circulating the petition or remonstrance stating

that each signature on the petition or remonstrance:

(A) was affixed in the individual's presence; and

(B) is the true signature of the individual who signed the petition or remonstrance.

(3) The clerk of the circuit court or the board of registration shall do the following:

(A) Strike all names appearing more than one (1) time on the petition or remonstrance.

(B) Certify the number of signatures on the petition or remonstrance that:

(i) are not duplicates; and

(ii) represent individuals who are registered voters in the county, the part of the county, or the municipality.

(b) The clerk of the circuit court shall complete the certification required by subsection (a) not later than fifteen (15) days after the petition or remonstrance is filed.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-7

Library board appointee; residency

Sec. 7. (a) Except as provided in subsection (b), an appointee to a library board must:

(1) reside in the library district during the time the appointee is on the library board; and

(2) have resided in the library district served by the public library for at least the two (2) years immediately preceding the appointee's appointment to the library board.

(b) This subsection does not apply to a public library established by a county. If part or all of one (1) or more townships are contracting for service from a public library under IC 36-12-3-7, the appointing authority, in making an appointment under section 9(4) of this chapter, may name a resident of one (1) township to serve on the library board as the appointment of the appointing authority. However, the township appointee ceases to be a member of the library board if the township in which the appointee resides fails to renew the township's contract for library service.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-8

Limitation on terms of service; consecutive terms; computation; exception for certain library districts

Sec. 8. (a) Except as provided in subsection (b), an appointee to a library board may not serve more than four (4) consecutive terms on the library board. An unexpired term of two (2) years or less that an individual serves in filling a vacancy on the library board may not be counted in computing consecutive terms for purposes of this subsection. The consecutive terms are computed without regard to a change in the appointing authority that appointed the member. If:

(1) a member's term is interrupted due to the merger of at least two (2) public libraries under IC 36-12-4; and

(2) the member is reappointed to the merged public library board;

the term that was interrupted may not be considered in determining the number of consecutive terms a member may serve on a library board. An appointee who has served four (4) consecutive terms may be reappointed to the board at least four (4) years after the date the appointee's most recent term ended.

(b) This subsection applies to a library board for a library district having a population of less than three thousand (3,000). If an appointing authority conducts a diligent but unsuccessful search for a qualified individual who wishes to be appointed to serve on the library board:

(1) the appointing authority may reappoint a board member who has served four (4) or more consecutive terms; and

(2) state funds may not be withheld from distribution to the library.

The appointing authority shall file with the library board a written description of the search that was conducted under this subsection. The record becomes a part of the official records of the library board.

As added by P.L.1-2005, SEC.49. Amended by P.L.113-2010, SEC.158.

IC 36-12-2-9

Appointments to library board; membership

Sec. 9. Except as provided in section 15 of this chapter and subject to section 16 of this chapter, seven (7) members of a library board shall be appointed as follows:

(1) One (1) member appointed by the executive of the county in which the library district is located, or if the district is located in more than one (1) county, jointly by the executives of the respective counties.

(2) One (1) member appointed by the fiscal body of the county in which the library district is located, or if the district is located in more than one (1) county, jointly by the fiscal bodies of the respective counties.

(3) Three (3) members appointed by the school board of the school corporation serving the library district. However, if there is more than one (1) school corporation serving the library district:

(A) two (2) members shall be appointed by the school board of the school corporation in which the principal administrative offices of the public library are located; and

(B) one (1) member shall be appointed by a majority vote of the presidents of the school boards of the other school corporations.

(4) One (1) member appointed under section 10(1), 11(b)(1), 12(1), 13(1), or 14(1) of this chapter, as applicable.

(5) One (1) member appointed under section 10(2), 11(b)(2), 12(2), 13(2), or 14(2) of this chapter, as applicable.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-10
Library board serving district located in more than one county; appointments

Sec. 10. This section applies to the appointment of members to the library board of a public library serving a library district that is located in more than one (1) county and is not entirely located within the boundaries of one (1) municipality. For a public library under this section, the appointments under section 9(4) and 9(5) of this chapter shall be made as follows:

(1) One (1) member appointed jointly by the executive of the respective counties.

(2) One (1) member appointed jointly by the fiscal bodies of the respective counties.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-11
Library board serving district created in one county; appointments

Sec. 11. (a) This section applies to the appointment of members to the library board of a public library serving a library district that is located in one (1) county and:

(1) has been established by a county or merged into a county public library;

(2) results from the merger of a public library into a county public library under IC 36-12-4;

(3) is located in part or all of two (2) or more townships and is not entirely located within the boundaries of one (1) municipality; or

(4) is located in part or all of two (2) or more municipalities.

(b) Subject to subsection (c), in a public library described in subsection (a), the appointments under section 9(4) and 9(5) of this chapter shall be made as follows:

(1) One (1) member appointed by the executive of the county in which the library district is located.

(2) One (1) member appointed by the fiscal body of the county in which the library district is located.

(c) This subsection applies to a county containing only two (2) Class 1 public libraries and having a population of more than one hundred twenty-five thousand (125,000) but less than one hundred thirty-five thousand (135,000), or more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000). In a public library that is the result of a merger occurring after December 31, 1979, between a public library and a county contractual public library, the appointments under section 9(4) and 9(5) of this chapter shall be made as follows:

(1) One (1) member appointed by the executive of the municipality in which the principal administrative offices of the public library are located.

(2) One (1) member appointed by the legislative body of the municipality in which the principal administrative offices of the public library are located.

As added by P.L.1-2005, SEC.49. Amended by P.L.119-2012, SEC.248.

IC 36-12-2-12
Library board serving district located in unincorporated areas of township; appointments

Sec. 12. This section applies to the appointment of members to the library board of a public library serving a library district that is entirely located in the unincorporated areas of the township. For a public library under this section, the appointments under section 9(4) and 9(5) of this chapter shall be made as follows:

(1) One (1) member appointed by the executive of the township in which the library district is located.

(2) One (1) member appointed by the legislative body of the township in which the library district is located.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-13
Library board serving district located in one township; appointments

Sec. 13. This section applies to the appointment of members to the library board of a public library serving a library district that is entirely located in one (1) township and includes part or all of only one (1) municipality. For a public library under this section, the appointments under section 9(4) and 9(5) of this chapter shall be made as follows:

(1) One (1) member appointed by the legislative body of the township in which the library district is located.

(2) One (1) member appointed by the legislative body of the municipality in which the library district is located.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-14
Library board serving district located in one municipality; appointments

Sec. 14. This section applies to the appointment of members to the library board of a public library serving a library district that is entirely located within the boundaries of one (1) municipality. For a public library under this section, the appointments under section 9(4) and 9(5) of this chapter shall be made as follows:

(1) One (1) member appointed by the executive of the municipality in which the library district is located.

(2) One (1) member appointed by the legislative body of the municipality in which the library district is located.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-15
Library board serving district in certain counties; appointments

Sec. 15. (a) This section applies to the library board of a library district:

(1) located in a county having a population of more than seventy thousand (70,000) but less than seventy thousand fifty (70,050); and

(2) containing all or part of the territory of each school corporation in the county.

(b) Notwithstanding section 9 of this chapter, the library board has the following members:

(1) One (1) member appointed by the executive of the county in which the library district is located and who is not a member of the county executive.

(2) One (1) member appointed by the fiscal body of the county in which the library district is located and who is not a member of the county fiscal body.

(3) One (1) member appointed by the legislative body of the most populous city in the library district and who is not a member of the city legislative body.

(4) One (1) member appointed by the school board of each school corporation having territory in the library district and who is not a member of a governing body of a school corporation.

(c) An individual who is appointed under subsection (b) to serve as a member of a library board must, before March 1 of each year, report to the member's appointing authority concerning the work of the library board and finances of the library during the preceding calendar year, including the rate of taxation determined under IC 36-12-3-12.

As added by P.L.1-2005, SEC.49. Amended by P.L.119-2012, SEC.249.

IC 36-12-2-16

Library board serving district located partly or fully within consolidated city within one county; appointments

Sec. 16. (a) This section applies to the appointment of members to a library board of a public library serving a library district that is:

(1) partly or fully within the boundaries of a consolidated city; and

(2) fully within the boundaries of one (1) county.

(b) Seven (7) members of a library board shall be appointed in the following order as the terms of previously appointed members expire:

(1) One (1) member appointed by the board of county commissioners of the county in which the library district is located.

(2) One (1) member appointed by the fiscal body of the county in which the library district is located.

(3) One (1) member appointed by the board of county commissioners of the county in which the library district is located.

(4) Two (2) members appointed by the school board of the school corporation in which the principal administrative offices

of the public library are located.

(5) One (1) member appointed by the board of county commissioners of the county in which the library district is located.

(6) One (1) member appointed by the fiscal body of the county in which the library district is located.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-17

Additional members of county contractual library board; appointments

Sec. 17. The four (4) additional members of a county contractual library board required by IC 36-12-6-2 shall be appointed as follows:

(1) Two (2) members appointed by the executive of the county in which the county contractual library district is located.

(2) Two (2) members appointed by the county superintendent of schools, or if there is no county superintendent of schools, by the county auditor of the county in which the library district is located.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-18

Term of library board member

Sec. 18. (a) Subject to subsection (b), the term of a library board member is four (4) years. A member may continue to serve on a library board after the member's term expires until the member's successor is qualified under section 19 of this chapter. The term of the member's successor is not extended by the time that has elapsed before the successor's appointment and qualification. If a member is appointed to fill a vacancy on a library board, the member's term is the unexpired term of the member being replaced.

(b) Except for a library board whose membership is established under section 15 of this chapter, for purposes of establishing staggered terms for the members of a library board, the initial members shall serve the following terms:

(1) One (1) year for one (1) member appointed under section 9(1), 9(5), 16(b)(1), 16(b)(2), or 17(1) of this chapter.

(2) Two (2) years for one (1) member appointed under section 9(3)(A), 9(4), 16(b)(3), 16(b)(4), or 17(2) of this chapter.

(3) Three (3) years for one (1) member appointed under section 9(2), 9(3)(A), 16(b)(4), 16(b)(5), or 17(1) of this chapter.

(4) Four (4) years for one (1) member appointed under section 9(3)(B), 16(b)(6), or 17(2) of this chapter.

(c) When an appointing authority appoints members to terms of different length under subsection (b), the appointing authority shall designate which member serves each term.

(d) A member may not serve more than four (4) consecutive terms as provided in section 8 of this chapter.

As added by P.L.1-2005, SEC.49. Amended by P.L.113-2010, SEC.159.

IC 36-12-2-19
Certificate of appointment; oath of office

Sec. 19. (a) An appointing authority under this chapter shall issue to each appointee to a library board a signed certificate of appointment.

(b) Not more than ten (10) days after the receipt of the certificate of appointment, the appointee shall take an oath of office, before an individual authorized by law to administer the oath, to the effect that the appointee will faithfully discharge the appointee's duties to the best of the appointee's ability.

(c) The appointee shall file the certificate of appointment and the endorsed oath with the records of the public library, which shall be preserved as a public record.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-20
Removal of member; vacancy

Sec. 20. (a) A library board member may be removed at any time by the appointing authority, after public hearing, for any cause:

(1) that interferes with the proper discharge of the member's duties as a member of the board; or

(2) that jeopardizes public confidence in the member.

(b) A vacancy occurs whenever a member is absent from six (6) consecutive regular board meetings for any cause other than illness. The appointing authority shall be notified by the secretary of the board of a vacancy.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-21
Compensation

Sec. 21. A member of a library board shall serve without compensation. A board member may not serve as a paid employee of the public library, except the treasurer as provided in section 22 of this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-22
Treasurer; election; powers and duties; removal; vacancy; surety bond

Sec. 22. (a) The library board shall annually elect a treasurer of the public library. The treasurer may be either:

(1) a member of the library board; or

(2) an employee of the library.

However, the library director appointed under section 24 of this chapter may not also be treasurer.

(b) The library board may fix the rate of compensation for the services of the treasurer.

(c) The treasurer:

(1) is the official custodian of all library funds;

(2) is responsible for the proper safeguarding and accounting of

all library funds;

(3) shall issue warrants approved by the library board in payment of expenses lawfully incurred in behalf of the public library; and

(4) shall make financial reports of library funds and present the reports to the library board every month.

(d) The library board may prescribe the powers and duties of the treasurer consistent with this chapter.

(e) The treasurer may be removed by the board at any regular or special meeting by a majority vote of the entire membership of the board.

(f) The board may elect a successor treasurer if a vacancy occurs in the office.

(g) The treasurer shall give a surety bond for the faithful performance of the treasurer's duty and for the accurate accounting of all money coming into the treasurer's custody. The bond must be:

(1) written by an insurance company licensed to do business in Indiana;

(2) for the term of office of the treasurer;

(3) in an amount determined by the library board;

(4) paid for with the money from the library fund;

(5) payable to the state of Indiana;

(6) approved by the library board; and

(7) deposited in the office of the recorder of the county in which the library district is located.

As added by P.L.1-2005, SEC.49.

IC 36-12-2-23

Library board; meetings; election of officers; quorum

Sec. 23. (a) Upon the creation of a new public library, the library board shall meet not later than ten (10) days after a majority of the appointees have taken an oath of office. The organizational meeting may be called by any two (2) members. At the meeting, the board shall:

(1) elect from the members of the board a president, a vice president, a secretary, and other officers that the board determines are necessary; and

(2) adopt bylaws for the board's procedure and management and for the management of the public library.

Officers of the board shall be elected annually.

(b) Four (4) library board members, who are present in person, constitute a quorum for the transaction of business. However, for a county contractual library board under section 17 of this chapter, a quorum consists of six (6) members. The library board shall meet:

(1) at least monthly; and

(2) at any other time a meeting is necessary.

Meetings may be called by the president or any two (2) board members. All meetings of the board, except necessary executive sessions of the officers, are open to the public.

As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.21.

IC 36-12-2-24

Selection of director; employment and discharge of librarians; reimbursement of interviewing and moving expenses; severance pay

Sec. 24. (a) The library board shall select a librarian who holds a certificate under IC 36-12-11 to serve as the director of the library. The selection shall be made solely upon the basis of the candidate's training and proficiency in the science of library administration. The board shall fix the compensation of the director. The director, as the administrative head of the library, is responsible to the board for the operation and management of the library.

(b) The library board shall employ and discharge librarians and other individuals that are necessary in the administration of the affairs of the library. The board shall:

(1) fix and pay the compensation;

(2) classify and adopt schedules of salaries; and

(3) determine the number and prescribe the duties;

of the librarians and other individuals, with the advice and recommendations of the library director.

(c) In exercising the powers of the library board under this section, the library board may reimburse:

(1) candidates for employment for expenses reasonably incurred while interviewing; and

(2) new employees for the reasonable moving expenses of the employees.

If the library board exercises authority under this subsection, the board shall establish reasonable levels of reimbursement for the purposes of this subsection.

(d) A library board may provide severance pay to a library employee who is involuntarily separated from employment with the library.

(e) A library board may provide severance pay to a library employee who is voluntarily separated from employment with the library if the library board makes the following findings in a public meeting:

(1) The library is subject to financial difficulties and revenue shortfall.

(2) The library:

(A) will not hire an individual to perform the duties of the employee separating from employment at the same or comparable compensation and benefits for at least one (1) year after the date the employee separates from employment with the library;

(B) will hire a permanent or temporary employee for less compensation and benefits to perform the duties of the employee separating from employment; or

(C) will satisfy both the conditions in clauses (A) and (B).

(3) The library will pay the separating employee a stated amount of severance pay.

(4) The library will reduce its expenditures by:

(A) paying the severance pay stated under subdivision (3) to the employee separating from employment; and

(B) fulfilling one (1) or more of the conditions set forth in subdivision (2).

As added by P.L.1-2005, SEC.49. Amended by P.L.63-2011, SEC.1.

IC 36-12-2-25

Local library cards; fees; penalties for loss or damage of library property

Sec. 25. (a) The residents or real property taxpayers of the library district taxed for the support of the library may use the facilities and services of the public library without charge for library or related purposes. However, the library board may:

(1) fix and collect fees and rental charges; and

(2) assess fines, penalties, and damages for the:

(A) loss of;

(B) injury to; or

(C) failure to return;

any library property or material.

(b) A library board may issue local library cards to:

(1) residents and real property taxpayers of the library district;

(2) Indiana residents who are not residents of the library district; and

(3) individuals who reside out of state and who are being served through an agreement under IC 36-12-13.

(c) Except as provided in subsection (d), a library board must set and charge a fee for a local library card issued under subsection (b)(2) and (b)(3). The minimum fee that the board may set under this subsection is the greater of the following:

(1) The library district's operating fund expenditure per capita in the most recent year for which that information is available in the Indiana state library's annual "Statistics of Indiana Libraries".

(2) Twenty-five dollars ($25).

(d) A library board may issue a local library card without charge or for a reduced fee to an individual who is not a resident of the library district and who is:

(1) a student enrolled in or a teacher in a public school corporation or nonpublic school:

(A) that is located at least in part in the library district; and

(B) in which students in any grade preschool through grade 12 are educated; or

(2) a library employee of the district;

if the board adopts a resolution that is approved by an affirmative vote of a majority of the members appointed to the library board.

(e) A library card issued under subsection (b)(2), (b)(3), or (d) expires one (1) year after issuance of the card.

As added by P.L.1-2005, SEC.49. Amended by P.L.91-2009, SEC.1; P.L.113-2010, SEC.160; P.L.84-2012, SEC.22.

IC 36-12-2-26
Dissolution

Sec. 26. (a) Dissolution of a library district is initiated when the legislative body of each municipality, township, or county that is a part of the district and library board of the district adopt identical resolutions proposing to dissolve the district by an affirmative vote of a majority of the voting members of each legislative body and library board.

(b) Copies of the resolutions adopted under subsection (a) shall be filed not later than ten (10) days after the resolution is adopted with:

(1) the state library; and

(2) the county recorder of each county in which the library district is located.

(c) A dissolution does not take effect until:

(1) all legal and fiscal obligations of the library district have been satisfied;

(2) the assets of the district have been distributed; and

(3) a notice is filed with the agencies listed in subsection (b), indicating that the actions described in subdivisions (1) and (2) have been completed and the dissolution is final.

As added by P.L.113-2010, SEC.161.

IC 36-12-3

Chapter 3. Powers and Duties of Class 1 Public Libraries

IC 36-12-3-1

Application of chapter

Sec. 1. This chapter applies only to Class 1 public libraries.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-2

Board compliance with and participation in statewide library card program; reciprocal borrowing agreement

Sec. 2. The library board shall comply with and participate in the statewide library card program described in IC 4-23-7.1-5.1. However, the library board may enter into a reciprocal borrowing agreement with another library board under section 7 of this chapter or IC 36-1-7 to:

(1) provide to; or

(2) receive from;

the other library board library service.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-3

Authority of library board

Sec. 3. The library board shall govern and set policy for all the affairs of the public library. The library board may:

(1) make rules for the discharge of the library board's responsibilities; and

(2) manage and insure all real and personal property belonging to the public library.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-4

Establishment of libraries, branches, or stations; museum

Sec. 4. (a) The library board may establish a sufficient number of:

(1) libraries;

(2) branch libraries; or

(3) stations;

that are conveniently located to serve the residents of the library district within the resources available.

(b) The library board may provide suitable rooms, structures, facilities, furniture, apparatus, and other articles necessary for the thorough organization and efficient management of the libraries.

(c) The library board may provide for the establishment and operation of a museum to serve the residents of the library district.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-5

Real or personal property; acquisition; disposal

Sec. 5. (a) The library board may:

(1) acquire real or personal property by purchase, devise, lease,

condemnation, or otherwise; and

(2) own any real or personal property for purposes of the public library.

(b) The library board may:

(1) sell;

(2) exchange; or

(3) otherwise dispose of;

real and personal property no longer needed for library purposes in accordance with IC 36-1-11 and IC 5-22.

(c) The library board may transfer personal property no longer needed for library purposes for no compensation or a nominal fee to an Indiana nonprofit library organization that is:

(1) tax exempt; and

(2) organized and operated for the exclusive benefit of the library disposing of the property;

without complying with IC 36-1-11 or IC 5-22.

(d) The library board may:

(1) accept gifts of real or personal property; and

(2) hold, mortgage, lease, or sell the property as directed by the terms of the grant, gift, bequest, or devise;

when the action is in the interest of the public library.

As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.23.

IC 36-12-3-6

Purchase and loan of books; dissemination of information

Sec. 6. The library board may provide for the:

(1) purchase and loan of books and other media of communication; and

(2) dissemination of information to the residents of the library district in any manner.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-7

Contracts for library service; tax levy

Sec. 7. (a) A library board may contract to provide or receive library service from the following municipal corporations:

(1) Another public library.

(2) Any unit.

(b) A contract for library service between a public library and another municipal corporation must outline the:

(1) manner and extent of library service; and

(2) amount of compensation for the extension of library service.

(c) This subsection does not apply to municipal corporations described in section 8 of this chapter. A municipal corporation receiving library service shall:

(1) levy a tax sufficient to meet the amount of compensation agreed upon under the contract; and

(2) expend all funds received under a contract for library services chargeable to the contract.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-8
Municipal corporations in certain counties; contracts for library services; tax levy or revenue from other tax

Sec. 8. (a) This section applies to municipal corporations located in a county having a population of more than thirty-five thousand (35,000) but less than thirty-seven thousand (37,000).

(b) A municipal corporation receiving library service under section 7 of this chapter shall:

(1) levy a tax sufficient to meet the amount of compensation agreed on under the contract; or

(2) make the contract payments with revenue derived from a tax being imposed before the contract is approved by the municipal corporation, including the part of local income tax revenue that is not required to be dedicated to providing property tax relief.

(c) A library board providing service shall expend all funds received under a contract for library services chargeable to the contract.

As added by P.L.1-2005, SEC.49. Amended by P.L.119-2012, SEC.250.

IC 36-12-3-9
Bonds; issuance; procedure; liability for indebtedness; tax exemption

Sec. 9. (a) A library board may, by resolution, issue bonds for one (1) or more of the following purposes:

(1) The acquisition or improvement of library sites.

(2) The acquisition, construction, extension, alteration, or improvement of structures and equipment necessary for the proper operation of a library.

(3) To refund outstanding bonds and matured interest coupons and to issue and sell refunding bonds for that purpose.

(b) The library board shall advertise and sell bonds in compliance with IC 5-1-11 at any interest rate. The bonds are payable at the time the board fixes in the authorizing resolution, but all bonds must be payable within a period of not more than twenty (20) years from the date the bonds are issued.

(c) Bonds issued under this section do not constitute a corporate obligation or indebtedness of any other political subdivision. Bonds issued under this section constitute an indebtedness of the library district only. Bonds issued under this chapter, and the interest, are tax exempt. The board shall apply the proceeds from the sale of bonds only:

(1) for the purpose for which the bonds were issued; and

(2) to the extent necessary.

Any remaining balance shall be placed in a sinking fund for the payment of the bonds and the interest on the bonds.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-10
Finances; powers

Sec. 10. The library board may do the following:

(1) Adopt a resolution to make loans or issue notes to refund the loans in anticipation of revenues of the library that are expected to be levied and collected during the term of the loans. The term of a loan made under this subdivision may not be more than five (5) years. Loans under this subdivision must be made in the following manner:

(A) The resolution authorizing the loans must appropriate and pledge to payment of the loans a sufficient amount of the revenues in anticipation of which the loans are issued and out of which the loans are payable.

(B) The loans must be evidenced by warrants or tax anticipation notes of the library in terms designating:

(i) the nature of the consideration;

(ii) the time and place payable; and

(iii) the revenues in anticipation of which the loans are issued and out of which the loans are payable.

(2) Borrow money from other persons.

(3) Issue, negotiate, and sell negotiable notes and bonds of the public library.

(4) Levy, assess, and collect, at the same time and in the same manner as other taxes of the public library are levied, assessed, and collected, a special tax in addition to the tax authorized by section 12 of this chapter, sufficient to pay all yearly interest on the bonded and note indebtedness of the public library.

(5) Provide a sinking fund for the liquidation of the principal of the bond when the principal of the bond becomes due.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-11

Certain funds; establishment

Sec. 11. (a) A library board shall establish funds to keep money and securities of the public library as follows:

(1) All money collected from tax levies, interest on investments, fees, fines, rentals, and other revenues:

(A) shall be deposited into the library operating fund, except as otherwise provided in this section; and

(B) must be budgeted and expended in the manner required by law.

(2) All money received from the sale of bonds or other evidences of indebtedness for the purpose of construction, reconstruction, or alteration of library buildings, except the premium and accrued interest on the bonds, shall be deposited into the construction fund. The money shall be appropriated and expended solely for the purpose for which the indebtedness is created.

(3) All money derived from the taxes levied for the purpose of retiring bonds or other evidence of indebtedness, and any premium or accrued interest that may be received, shall be deposited into the bond and interest redemption fund. The fund

shall be used for no other purpose than the repayment of indebtedness.

(4) Money or securities may be accumulated in any library improvement reserve fund to anticipate necessary future capital expenditures, such as:

(A) the purchase of land;

(B) the purchase and construction of buildings or structures;

(C) the construction of additions or improvements to existing structures;

(D) the purchase of equipment; and

(E) all repairs or replacement of buildings or equipment.

(5) Money or securities accepted and received by the library board as a grant, a gift, a donation, an endowment, a bequest, or a trust may be:

(A) set aside in a separate fund or funds and shall be expended, without appropriation, in accordance with the conditions and purposes specified by the donor; or

(B) set aside in an account with a nonprofit corporation established for the sole purpose of building permanent endowments within a community (referred to as a "community foundation"). The earnings on the funds in the account, either:

(i) deposited by the library; or

(ii) accepted by the community foundation on behalf of the library;

may be distributed back to the library for expenditure, without appropriation, in accordance with the conditions and purposes specified by the donor. A community foundation that distributes earnings under this clause is not required to make more than one (1) distribution of earnings in a calendar year.

(6) All money received in payment for library services or for library purchases made or to be made under the terms of a contract between two (2) or more public libraries under section 7 of this chapter shall be deposited into the contractual service fund. This money shall be:

(A) expended solely for the purposes specified in the contract; and

(B) disbursed without further appropriation.

(b) The library board may invest excess funds in accordance with IC 5-13-9.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-12

Determination of tax rate; continuation of prior appropriation and levy upon failure to meet certain requirements

Sec. 12. (a) The library board shall determine the rate of taxation for the library district that is necessary for the proper operation of the library. The library board shall certify the rate to the county auditor. The county auditor shall certify the tax rate to the county tax

adjustment board in the manner provided in IC 6-1.1. An additional rate may be levied under section 10(4) of this chapter.

(b) If the library board fails to:

(1) give:

(A) a first published notice to the board's taxpayers of the board's proposed budget and tax levy for the ensuing year at least ten (10) days before the public hearing required under IC 6-1.1-17-3; and

(B) a second published notice to the board's taxpayers of the board's proposed budget and tax levy for the ensuing year at least three (3) days before the public hearing required under IC 6-1.1-17-3; or

(2) finally adopt the budget and fix the tax levy not later than September 30;

the last preceding annual appropriation made for the public library is renewed for the ensuing year, and the last preceding annual tax levy is continued. Under this subsection, the treasurer of the library board shall report the continued tax levy to the county auditor not later than September 30.

As added by P.L.1-2005, SEC.49. Amended by P.L.219-2007, SEC.148.

IC 36-12-3-13

Authorization of appropriations by units; deposit of funds

Sec. 13. A township may appropriate general revenue sharing funds that the township receives under the federal State and Local Fiscal Assistance Act of 1972, as amended, to a Class 1 public library. Other units have authority under IC 36-10-2-4 to aid public libraries through any means available. Any general revenue sharing funds received by a public library shall be deposited in any of the funds outlined in section 11 of this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-14

Absence of library board member or employee; authorization; expenses

Sec. 14. When required by the interests of the library, the library board may authorize a member of the library board or an individual employed by the library to be absent from the public library. The library board may pay out of the library's funds the necessary hotel and board bills and transportation expenses of the member or individual while absent in the interest of the public library.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-15

Funds for membership in certain associations; authority to appropriate

Sec. 15. The library board may appropriate funds necessary to provide membership of:

(1) the public library; and

(2) library employees;

in local, state, and national associations of a civic, an educational, a professional, or a governmental nature that have as their purpose the betterment and improvement of library operations.

As added by P.L.1-2005, SEC.49. Amended by P.L.63-2011, SEC.2.

IC 36-12-3-16

Authorization of disbursements; purchases

Sec. 16. (a) The library board may adopt a resolution allowing money to be disbursed under this section for lawful library purposes, including advertising and promoting the programs and services of the library.

(b) With the prior written approval of the library board and if the library board has adopted a resolution under subsection (a), claim payments may be made in advance of library board allowance for any of the following types of expenses:

(1) Property or services purchased or leased from the federal government or the federal government's agencies and the state, the state's agencies, or the state's political subdivisions.

(2) Dues, subscriptions, and publications.

(3) License or permit fees.

(4) Insurance premiums.

(5) Utility payments or connection charges.

(6) Federal grant programs where:

(A) advance funding is not prohibited; and

(B) the contracting party posts sufficient security to cover the amount advanced.

(7) Grants of state funds authorized by statute.

(8) Maintenance and service agreements.

(9) Legal retainer fees.

(10) Conference fees.

(11) Expenses related to the educational or professional development of an individual employed by the library board, including:

(A) inservice training;

(B) attending seminars or other special courses of instruction; and

(C) tuition reimbursement;

if the library board determines that the expenditures under this subdivision directly benefit the library.

(12) Leases or rental agreements.

(13) Bond or coupon payments.

(14) Payroll costs.

(15) State, federal, or county taxes.

(16) Expenses that must be paid because of emergency circumstances.

(17) Expenses incurred to advertise and promote the programs and services of the library.

(18) Other expenses described in a library board resolution.

The library board shall review and allow the claim at the library

board's first regular or special meeting following the payment of a claim under this section.

(c) Each payment of expenses lawfully incurred for library purposes must be supported by a fully itemized invoice or other documentation. The library director shall certify to the library board before payment that each claim for payment is true and correct. The certification must be on a form prescribed by the state board of accounts.

(d) Purchases of books, magazines, pamphlets, films, filmstrips, microforms, microfilms, slides, transparencies, phonodiscs, phonotapes, models, art reproductions, and all other forms of library and audiovisual materials are exempt from the restrictions imposed by IC 5-22.

(e) The purchase of library automation systems must meet the standards established by the Indiana library and historical board under IC 4-23-7.1-11(b).

As added by P.L.1-2005, SEC.49. Amended by P.L.130-2007, SEC.3; P.L.84-2012, SEC.24.

IC 36-12-3-16.5
Electronic funds transfer

Sec. 16.5. (a) As used in this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

(b) A library board may adopt a resolution to authorize an electronic funds transfer method of payment of claims. If a library board adopts a resolution under this subsection, the public library may pay money from its funds by electronic funds transfer.

(c) A public library that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by the public library.

As added by P.L.113-2010, SEC.162.

IC 36-12-3-17
Other powers not limited

Sec. 17. This chapter does not limit other powers granted by any other law not in conflict with this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-3-18
Collections and claims

Sec. 18. (a) A library board or a person designated in writing by the library board may:

(1) collect money or library property; or

(2) compromise the amount of money;

that is owed to the library.

(b) A library board:

(1) shall determine the costs of collecting money or library property under this section; and

(2) may add the costs of collection, including reasonable attorney's fees, to money or library property that is owed and collected under this section.

(c) A library board or the library board's agent that collects money under this section shall deposit the money, less the costs of collection, in the account required by law.

(d) A library board may compromise claims made against the library.

As added by P.L.1-2005, SEC.49. Amended by P.L.113-2010, SEC.163.

IC 36-12-4

Chapter 4. Merger of Class 1 Public Libraries

IC 36-12-4-1

Application of chapter

Sec. 1. This chapter applies only to Class 1 public libraries.

As added by P.L.1-2005, SEC.49.

IC 36-12-4-2

Authorization to merge; resolution

Sec. 2. (a) A public library may merge with any other public library.

(b) The merger of at least two (2) public libraries must be initiated by a majority of the entire membership of each library board signing a resolution initiating the planning of a merger.

As added by P.L.1-2005, SEC.49.

IC 36-12-4-3

Planning committee; plan for merger; adoption

Sec. 3. (a) Not more than thirty (30) days after a resolution calling for the planning of a merger is signed under section 2 of this chapter, each library board seeking to merge under this chapter shall appoint three (3) individuals to serve on a planning committee to develop a plan for the merger of the libraries.

(b) The plan for the merger must include the following information:

(1) A designation of the primary library that:

(A) is one (1) of the libraries seeking to merge; and

(B) will continue to exist as a legal entity following the merger.

(2) A description of the services to be offered by the merged library.

(3) The terms and conditions upon which the transfer of property among the merging libraries will be achieved.

(4) A schedule for the merger process to begin and conclude.

(5) Any other pertinent matter.

(c) The plan must be completed not later than one (1) year from the date that the resolution calling for the planning of the merger is signed.

(d) Upon completion of the plan described in subsection (b), the plan shall be presented to the library board of each merging library for adoption.

(e) A merger is not considered final unless a majority of the membership of each library board adopts the plan by written resolution.

As added by P.L.1-2005, SEC.49.

IC 36-12-4-4

Filing resolution; interim board; combination of budgets; new budget and tax levy

Sec. 4. (a) A copy of the resolution adopting the merger described in section 3(e) of this chapter must be filed with:

(1) the county recorder in each county in which merging library districts are located; and

(2) the Indiana state library.

(b) After the resolution adopting the merger is filed, each library board that is not the board of the primary library shall appoint four (4) members to serve with the primary library board on an interim board.

(c) The interim board has the same duties and powers of a public library board under IC 36-12-3.

(d) After the resolution adopting the merger is filed, the budgets of the merging libraries shall be:

(1) combined for the remainder of the current year; and

(2) administered by the interim board.

(e) The interim board described in subsection (b) is dissolved on December 31 of the year in which the merger takes place.

(f) The members of a merged library board shall be appointed under IC 36-12-2, and the terms of office for the members of the merged library board begin January 1 following the dissolution of the interim board.

(g) If a merger takes place after December 31 but before July 1 of the ensuing year, the interim library board described in subsection (b) shall present a new budget and tax rate to the department of local government finance to receive a new tax levy for the merged library district.

(h) If a merger takes place after June 30 but before January 1 of the ensuing year, the merged library board described in subsection (f) shall present a new budget and tax rate to the department of local government finance to receive a new tax levy for the merged library district.

As added by P.L.1-2005, SEC.49.

IC 36-12-4-5
Repealed

(*Repealed by P.L.84-2012, SEC.25.)*

IC 36-12-5

Chapter 5. Expansion of Class 1 Public Libraries

IC 36-12-5-1

Application of chapter

Sec. 1. (a) Sections 2, 3, and 4 of this chapter apply only to Class 1 public libraries that seek to expand into not more than one (1) township of a county.

(b) Sections 5 through 12 of this chapter apply to Class 1 public libraries that seek to expand into more than one (1) township of a county by an alternative method to the method under sections 2 through 4 of this chapter.

(c) The expansion of a library district may occur by:

(1) the legislative body passing a resolution; or

(2) the petition and remonstrance process;

as provided in this chapter.

As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.26.

IC 36-12-5-2

Proposal of expansion; filing

Sec. 2. (a) The library board of a public library may file a proposed expansion with the township trustee and legislative body of the township. The proposal must state that the public library seeks to combine with a certain township or any part of a township not being taxed for public library service to form a single library district.

(b) When a township trustee and legislative body receive a proposal of expansion under this section, the legislative body may agree to the expansion proposal by written resolution.

As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.27.

IC 36-12-5-3

Proposal of expansion; intent to file petition for acceptance; notice; petition or remonstrance; procedure; affidavit; duties of clerk of circuit court

Sec. 3. (a) The library board of a public library may file with the township trustee and legislative body with a proposal of expansion and an intent to file a petition for acceptance of the proposal of expansion. Not later than ten (10) days after the filing, the township trustee shall publish notice of the proposal of expansion in the manner provided in IC 5-3-1 in a newspaper of general circulation in the township. Beginning the first day after the notice is published, and during the period that ends sixty (60) days after the date of the publication of the notice, an individual who is a registered voter of the affected township or part of the affected township subject to expansion may sign one (1) or both of the following:

(1) A petition for acceptance of the proposal of expansion that states that the registered voter is in favor of the establishment of an expanded library district.

(2) A remonstrance in opposition to the proposal of expansion that states that the registered voter is opposed to the

establishment of an expanded library district.

(b) A registered voter of the township or part of the township may file a petition or a remonstrance, if any, with the clerk of the circuit court in the county where the township is located. A petition for acceptance of the proposal of expansion must be signed by at least twenty percent (20%) of the registered voters of the township, or part of the township, as determined by the most recent general election.

(c) The following apply to a petition that is filed under this section or a remonstrance that is filed under subsection (b):

(1) The petition or remonstrance must show the following:

(A) The date on which each individual signed the petition or remonstrance.

(B) The residence of each individual on the date the individual signed the petition or remonstrance.

(2) The petition or remonstrance must include an affidavit of the individual circulating the petition or remonstrance, stating that each signature on the petition or remonstrance:

(A) was affixed in the individual's presence; and

(B) is the true signature of the individual who signed the petition or remonstrance.

(3) Several copies of the petition or remonstrance may be executed. The total of the copies constitute a petition or remonstrance. A copy must include an affidavit described in subdivision (2). A signer may file the petition or remonstrance, or a copy of the petition or remonstrance. All copies constituting a petition or remonstrance must be filed on the same day.

(4) The clerk of the circuit court in the county in which the township is located shall do the following:

(A) If a name appears more than one (1) time on a petition or on a remonstrance, the clerk must strike any duplicates of the name until the name appears only one (1) time on a petition or a remonstrance, or both, if the individual signed both a petition and a remonstrance.

(B) Strike the name from either the petition or the remonstrance of an individual who:

(i) signed both the petition and the remonstrance; and

(ii) personally, in the clerk's office, makes a voluntary written and signed request for the clerk to strike the individual's name from the petition or the remonstrance.

(C) Certify the number of signatures on the petition and on any remonstrance that:

(i) are not duplicates; and

(ii) represent individuals who are registered voters in the township or the part of the township on the day the individuals signed the petition or remonstrance.

The clerk of the circuit court may only strike an individual's name from a petition or a remonstrance as set forth in clauses (A) and (B).

(d) The clerk of the circuit court shall complete the certification

required under subsection (c) not more than fifteen (15) days after the petition or remonstrance is filed. The clerk shall:

(1) establish a record of certification in the clerk's office; and

(2) file the original petition, the original remonstrance, if any, and a copy of the clerk's certification with the legislative body.

As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.28.

IC 36-12-5-4

Comparison of petition and remonstrance; acceptance or rejection of expansion

Sec. 4. (a) Not more than forty (40) days after the certification of a petition and a remonstrance, if any, under section 3 of this chapter, the township legislative body shall compare the petition and any remonstrance.

(b) If a remonstrance has not been filed or a greater number of voters have signed the petition than have signed the remonstrance, the legislative body shall agree to the expansion by written resolution. Not more than ten (10) days after the written resolution establishing an expanded library district is adopted, the legislative body shall submit a copy of the resolution for filing:

(1) in the office of the county recorder in the county where the administrative office of the public library is located; and

(2) with the Indiana state library.

The expansion is effective as of the date the written resolution is filed.

(c) When an equal or greater number of registered voters have signed a remonstrance against the establishment of an expanded library district than the number who have signed the petition in favor of the expansion, the legislative body shall dismiss the petition. Another petition to establish the expanded library district may not be initiated until one (1) year after the date the legislative body dismissed the latest unsuccessful petition.

As added by P.L.1-2005, SEC.49.

IC 36-12-5-5

Proposal of expansion; filing

Sec. 5. (a) The library board of a public library may file a proposed expansion with the legislative body of the county. The proposal must state that the public library seeks to combine with more than one (1) township or parts of more than one (1) township not being taxed for public library service to form a single library district.

(b) Whenever the legislative body of a county receives a proposal of expansion under this section, the legislative body may agree to the expansion proposal by written resolution.

As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.29.

IC 36-12-5-6

Proposal of expansion; intent to file petition for acceptance; notice; petition or remonstrance

Sec. 6. (a) The library board of a public library may file with the legislative body of a county with a proposal of expansion and an intent to file a petition for acceptance of the proposal of expansion. Not later than ten (10) days after the intent is filed, the county auditor shall publish notice in the manner provided in IC 5-3-1 of the proposal of expansion in a newspaper of general circulation in the county. Beginning the first day after the notice is published, and during the period that ends sixty (60) days after the date of the publication of the notice, an individual who is a registered voter of an affected township or an affected part of a township subject to the expansion may sign one (1) or both of the following:

(1) A petition for acceptance of the proposal of expansion.

(2) A remonstrance petition in opposition to the proposal of expansion.

(b) Registered voters shall file a petition or a remonstrance, if any, with the clerk of the circuit court in the county where the townships are located. A petition for acceptance of the proposal of expansion must be signed by at least twenty percent (20%) of the registered voters of the townships or parts of townships, as determined by the most recent general election.

As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.30.

IC 36-12-5-7

Petition or remonstrance; procedure; affidavit; duties of clerk of circuit court

Sec. 7. (a) The following apply to a petition or remonstrance that is filed under section 6 of this chapter:

(1) The petition or remonstrance must show the following:

(A) The date on which each individual signed the petition or remonstrance.

(B) The residence of each individual on the date the individual signed the petition or remonstrance.

(2) The petition or remonstrance must include an affidavit of the individual circulating the petition or remonstrance, stating that each signature on the petition or remonstrance:

(A) was affixed in the individual's presence; and

(B) is the true signature of the individual who signed the petition or remonstrance.

(3) Several copies of the petition or remonstrance may be executed. The total of the copies constitutes a petition or remonstrance. A copy must include an affidavit described in subdivision (2). A signer may file a petition or remonstrance, or a copy of a petition or remonstrance. All copies constituting a petition or remonstrance must be filed on the same day.

(4) The clerk of the circuit court of the county containing the townships or parts of townships shall do the following:

(A) If a name appears more than one (1) time on a petition or on a remonstrance, the clerk must strike any duplicates of the name until the name appears only one (1) time on a petition or a remonstrance, or both, if the individual signed

both a petition and a remonstrance.

(B) Strike the name from a petition or remonstrance of an individual who personally, in the clerk's office, makes a written and signed request for the clerk to strike the individual's name.

(C) Certify the number of signatures on the petition and remonstrance, if any, that:

(i) are not duplicates; and

(ii) represent individuals who are registered voters in the townships or parts of townships on the day the individuals signed the petition or remonstrance.

The clerk of the circuit court may only strike an individual's name from a petition or a remonstrance as set forth in clauses (A) and (B).

(b) The clerk of the circuit court shall complete the certification required under subsection (a) not more than fifteen (15) days after the petition or remonstrance is filed.

As added by P.L.1-2005, SEC.49.

IC 36-12-5-8

Duties of clerk of circuit court; record of certification

Sec. 8. The clerk of the circuit court shall establish a record of the clerk's certification in the clerk's office and shall file the original petition, the original remonstrance, if any, and a copy of the certification with the legislative body.

As added by P.L.1-2005, SEC.49.

IC 36-12-5-9

Remonstrance; filing

Sec. 9. A registered voter may file with the clerk of the circuit court a remonstrance that:

(1) is signed by registered voters in townships or parts of townships not already taxed for library purposes; and

(2) states that registered voters who have signed the remonstrance are opposed to the establishment of the expanded library district.

As added by P.L.1-2005, SEC.49.

IC 36-12-5-10

Comparison of petition and remonstrance; acceptance or rejection of expansion

Sec. 10. (a) Not more than forty (40) days after the certification of a petition and remonstrance under section 7 of this chapter, the county legislative body shall compare the petition and any remonstrance.

(b) If:

(1) a remonstrance has not been filed; or

(2) a greater number of registered voters have signed the petition than have signed the remonstrance;

the county legislative body shall agree to the expansion by written

resolution. The expansion is effective on the date the written resolution is filed.

(c) If the number of registered voters who have signed a remonstrance against the establishment of an expanded library district is equal to or greater than the number who have signed the petition in favor of the expansion, the legislative body shall dismiss the petition. Another petition to establish the expanded library district may not be initiated until one (1) year after the date the legislative body dismissed the latest unsuccessful petition.

As added by P.L.1-2005, SEC.49.

IC 36-12-5-11

Filing copy of resolution establishing expanded district

Sec. 11. Not more than ten (10) days after a written resolution establishing an expanded library district is adopted, the legislative body shall send a copy of the resolution to be filed:

(1) in the office of the county recorder in each county where the library district is located; and

(2) with the Indiana state library.

As added by P.L.1-2005, SEC.49.

IC 36-12-5-12

Library board; appointments from townships; expiration of prior term

Sec. 12. (a) If not more than two (2) townships or parts of not more than two (2) townships are added to a library taxing district, at least one (1) of the initial appointments made to the library board by the county commissioners or the county council must be from one (1) of the townships.

(b) If more than two (2) townships or parts of more than two (2) townships are added to a library district, at least two (2) of the initial appointments made to the library board by the county commissioners or the county council must be from the townships that are added to the library district.

(c) An appointment under this section may not be made before the expiration of a term in effect at the time the expansion is final.

As added by P.L.1-2005, SEC.49.

IC 36-12-6

Chapter 6. County Contractual Libraries

IC 36-12-6-1

Application of chapter; name of library established

Sec. 1. (a) This chapter applies only to Class 1 public libraries that have been established as county contractual libraries before July 1, 1992.

(b) A county contractual library established under this chapter shall operate under the name of _____ County Contractual Public Library.

As added by P.L.1-2005, SEC.49.

IC 36-12-6-2

Library board; appointment; residency; powers and duties

Sec. 2. Four (4) citizens who have resided at least two (2) years in the county contractual library district shall be appointed to a library board under IC 36-12-2-17. The four (4) members, and the members of the library board of the public library extending service, comprise a separate library board that shall exercise all powers and duties pertaining to library service. The library board of the county contractual public library shall be known and designated as the Board of Trustees of _____ County Contractual Public Library. The members of the library board of the public library extending service to the county shall continue:

(1) as a separate board; and

(2) to exercise all powers and duties pertaining to library service to the board's original library district.

As added by P.L.1-2005, SEC.49.

IC 36-12-6-3

Powers and duties of library boards

Sec. 3. The county contractual library board has all the powers and duties of other library boards under IC 36-12-3.

As added by P.L.1-2005, SEC.49. Amended by P.L.130-2007, SEC.4.

IC 36-12-6-4

Township contracting with county contractual library; tax levies

Sec. 4. (a) If a township or part of a township is contracting with a library that is extending service through a county contractual library, the township or part of a township:

(1) shall cease to levy a separate tax for library purposes; and

(2) becomes a part of the county contractual library district.

(b) The tax levy for county contractual library purposes shall then be levied in the township or part of a township that has become part of the county contractual library district.

(c) A township that ceases to levy a tax for public library purposes in any year becomes a part of the township's county library district or county contractual library district, if either library district exists at the time the township levy is discontinued. The county library or

county contractual library tax shall then be levied in the townships.
As added by P.L.1-2005, SEC.49.

IC 36-12-7
Chapter 7. Class 2 Public Libraries

IC 36-12-7-1
Application of chapter
Sec. 1. This chapter applies only to Class 2 public libraries.
As added by P.L.1-2005, SEC.49.

IC 36-12-7-2
Board compliance with and participation in statewide library card program; reciprocal borrowing agreement
Sec. 2. The library board shall:
(1) comply with; and
(2) participate in;
the statewide library card program described in IC 4-23-7.1-5.1. However, the library board may enter into a reciprocal borrowing agreement with another library board under IC 36-1-7 or IC 36-12-3-7 to provide to or receive from the other library board library service.
As added by P.L.1-2005, SEC.49.

IC 36-12-7-3
Use of local library; fees; fines
Sec. 3. (a) The residents or real property taxpayers of the library district taxed for the support of the library may use the facilities and services of the public library without charge for library or related purposes. However, the library board may:
(1) fix and collect fees and rental charges; and
(2) assess fines, penalties, and damages for the:
(A) loss of;
(B) injury to; or
(C) failure to return;
any library property or material.
(b) A library board may issue local library cards to:
(1) residents and real property taxpayers of the library district;
(2) Indiana residents who are not residents of the library district; and
(3) individuals who reside out of state and who are being served through an agreement under IC 36-12-13.
(c) Except as provided in subsection (d), a library board must set and charge a fee for a local library card issued under subsection (b)(2) and (b)(3). The minimum fee that the board may set under this subsection is the greater of the following:
(1) The library district's operating fund expenditure per capita in the most recent year for which that information is available in the Indiana state library's annual "Statistics of Indiana Libraries".
(2) Twenty-five dollars ($25).
(d) A library board may issue a local library card without charge or for a reduced fee to an individual who is not a resident of the

library district and who is:

(1) a student enrolled in or a teacher in a public school corporation or nonpublic school:

(A) that is located at least in part in the library district; and

(B) in which students in any grade preschool through grade 12 are educated; or

(2) a library employee of the district;

if the board adopts a resolution that is approved by an affirmative vote of a majority of the members appointed to the library board.

(e) A library card issued under subsection (b)(2), (b)(3), or (d) expires one (1) year after issuance of the card.

As added by P.L.1-2005, SEC.49. Amended by P.L.113-2010, SEC.164; P.L.84-2012, SEC.31.

IC 36-12-7-4

Board of 1901 city or town library; residency; appointment of members; vacancy; certificates of appointment; oath; free use; report

Sec. 4. (a) The library board of any public library established as a 1901 city or town library consists of qualified and experienced individuals at least eighteen (18) years of age who have been residents of the municipality where the library is located for at least two (2) years immediately preceding the appointment of the individual. The members shall be appointed for two (2) year terms as follows:

(1) The board of commissioners of the county where the library is located shall appoint one (1) member.

(2) The fiscal body of the county where the library is located shall appoint one (1) member.

(3) The municipal executive shall appoint one (1) member.

(4) The municipal legislative body shall appoint one (1) member.

(5) The school board of the school corporation where the library is located shall appoint three (3) members, who may be members of the school board.

(b) If a vacancy occurs on the library board for any cause, the appointing authority shall fill the vacancy. The appointing authority may at any time, for cause shown, remove a member of the library board and appoint a new member to fill the vacancy caused by the removal.

(c) The library board members shall serve without compensation.

(d) All appointments to membership on the library board must be evidenced by certificates of appointment signed by the appointing authority. Certificates of appointment shall be:

(1) handed to; or

(2) mailed to the address of;

the appointee. Not later than ten (10) days after receiving the certificates of appointment, an appointee shall take an oath of office, before the clerk of the circuit court, that the appointee will faithfully discharge the appointee's duties as a member of the library board to

the best of the appointee's ability. The appointee shall file the certificate, with the oath endorsed on it, with the clerk of the circuit court of the county in which the library is located.

(e) Not later than five (5) days after all the members of the library board have been appointed and have taken the oath of office, the members shall meet and organize by electing one (1) member as president, one (1) member as vice president, and one (1) member as secretary. The members shall also select committees or an executive board to carry on the work of the board if the members determine that committees or an executive board is necessary.

(f) The facilities of a public library established as a 1901 city or town library are open and free for the use and benefit of all of the residents of the library district.

(g) The fiscal officer of the municipality operating a public library under this section shall prepare and file with the municipal legislative body, before January 16 each year, an itemized statement, under oath, of all the receipts and disbursements of the library board for the year ending December 31 immediately preceding the preparing and filing of the report. The report must contain an itemized statement of:

(1) the sources of all receipts;
(2) all disbursements made; and
(3) the purpose for which each was made.

The annual report may be inspected by the citizens of the municipality and township in which the library is located.

As added by P.L.1-2005, SEC.49.

IC 36-12-7-5

1881 city or county incorporation libraries; corporate existence and powers; tax exemption; art gallery; reading rooms; public park

Sec. 5. (a) A public library established as an 1881 city or county incorporation library that has filed the appropriate incorporation instrument in the proper recorder's office is a corporation and possesses all the rights, powers, and privileges given to corporations by common law to:

(1) sue and be sued;
(2) borrow money and secure the payment of the money by notes, mortgages, bonds, or deeds of trust upon the personal or real property of the public library;
(3) purchase, rent, lease, hold, sell, and convey real estate for the benefit of the corporation, and to erect and maintain suitable buildings to accomplish library purposes; and
(4) receive and accept donations, either of money or real estate, either by gift or devise, and to hold, use, mortgage, sell, and convey these donations for the benefit of the corporation, in the manner provided in the deed of gift or devise.

(b) The real and personal property of the corporation that is established as an 1881 city or county incorporation public library:

(1) is exempt from taxation for state, county, and municipal

purposes; and

(2) remains exempt so long as the public library is used exclusively for the general benefit of the inhabitants of the city or county in which the library is located.

(c) The corporation may establish and maintain a gallery of art and public reading rooms in connection with the corporation's library. The corporation may also maintain a public park either in connection with the corporation's library building or separate from the library building.

As added by P.L.1-2005, SEC.49.

IC 36-12-7-6

1852 subscription libraries; corporate existence and powers; organization; tax levy

Sec. 6. (a) A public library established as an 1852 subscription library is a municipal corporation and possesses the power to:

(1) sue and be sued; and

(2) receive by donation books, money, paper, or other real or personal property for the library.

(b) The shareholders of the 1852 subscription library are the inhabitants of the municipality who have subscribed money for the establishment of the library. The shareholders shall annually elect seven (7) directors on the first Monday in January. However, if an annual election is omitted, the directors remain in office until the next annual election and until successors are chosen.

(c) The directors shall appoint one (1) director to be president at the meetings. The president may vote only in case of a tie vote. A majority of the directors constitutes a quorum. If a vacancy occurs among the directors, the remaining directors shall elect a new director to fill the vacancy, and the new director shall serve until the next annual election.

(d) The 1852 subscription library is governed by bylaws adopted by the directors of the public library.

(e) The directors may adopt a common seal.

(f) The directors may levy a tax on the shareholders not to exceed one dollar ($1) on each share during one (1) year. In addition, at the annual meeting, the shareholders may increase the tax to a sum not to exceed five dollars ($5) on each share during one (1) year.

(g) The shareholders may:

(1) appoint a treasurer and a librarian; or

(2) remove the treasurer or librarian;

at the pleasure of the shareholders.

As added by P.L.1-2005, SEC.49.

IC 36-12-7-7

Board of 1899 township library; appointment of members; powers and duties; tax levy; free use

Sec. 7. (a) The library board of a library established as an 1899 township library consists of the school township trustee in the township where the library is located and two (2) residents of the

township who are appointed by the board of commissioners of the county where the library is located. Appointments are for a term of four (4) years. Members of the library board serve without compensation.

(b) The library board:

(1) shall control the purchase of books and the management of the library;

(2) shall possess and retain custody of any books remaining in the old township library in the township where the library is located;

(3) may receive donations, bequests, and legacies on behalf of the library; and

(4) may receive copies of all documents of the state available for distribution from the director of the state library.

(c) The 1899 township library is the property of the school township. The school township trustee is responsible for the safe preservation of the township library.

(d) Two (2) or more adjacent townships may unite to maintain a township library. The library is controlled by either:

(1) a combined library board, which consists of each of the uniting township boards appointed under subsection (a); or

(2) the one (1) township library board appointed under subsection (a) of the uniting townships that receives funding for the operation of the uniting township library.

(e) The legislative body of any township that contains a library established as an 1899 township library may levy a tax annually of not more than three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property assessed for taxation in the township. If the legislative body does not levy the tax, a petition signed by at least the number of registered voters required under IC 3-8-6-3 to place a candidate on the ballot may be filed with the circuit court clerk, who:

(1) shall determine if an adequate number of voters have signed the petition; and

(2) if an adequate number of voters have signed the petition, shall certify the public question to the county election board under IC 3-10-9-3. The county election board shall then cause to be printed on the ballot for the township the following question in the form prescribed by IC 3-10-9-4: "Shall a township library tax be levied?".

If a majority of the votes cast on the question in subdivision (2) are in the affirmative, the township trustee shall annually levy a tax of not less than one and sixty-seven hundredths cents ($0.0167) and not more than three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property in the township for the establishment and support of a township library. The township tax shall be levied, assessed, collected, and paid according to the procedure outlined in IC 6-1.1.

(f) The tax levy under subsection (e) shall be discontinued when the question of discontinuing the levy has been submitted to a vote

according to the procedure provided in subsection (e) and the majority of the votes cast on the question is in the negative.

(g) If a public library that is open for the use of all the residents of the township is located in the township, the proceeds of the tax collected under subsection (e) shall be paid to that public library.

(h) In a township outside a city that contains a library:

(1) established by private donations of the value of at least ten thousand dollars ($10,000), including the real estate and buildings used for the library; and

(2) used for the benefit of all the inhabitants of the township;

the township trustee of the township shall annually levy and collect not more than two cents ($0.02) on each one hundred dollars ($100) upon the taxable property within the limits of the township. The money shall be paid to the trustees of the library, to be applied by the trustees for the purchase of books and the payment of the maintenance costs for the library. When it becomes necessary to purchase additional ground for the extension or protection of library buildings already established by private donation, the trustee, with the consent of the county legislative body, may annually levy and collect not more than one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of taxable property of the township for not more than three (3) years successively, to be expended by the trustees for the purchase of property and the construction and enlargement of library buildings.

(i) The 1899 township library is free to all the residents of the township.

As added by P.L.1-2005, SEC.49.

IC 36-12-7-8

Certain libraries established by private donation; tax levy; report

Sec. 8. (a) As used in this section:

(1) "county fiscal body" means the fiscal body of a county in which a private donation library is located;

(2) "library board" means a library board established under IC 20-14 (before its repeal) or this article in a county in which a private donation library is located; and

(3) "private donation library" means a public library:

(A) established by private donation;

(B) located in a city having a population of more than one hundred ten thousand (110,000) but less than one hundred fifty thousand (150,000);

(C) that contains at least twenty-five thousand (25,000) volumes;

(D) that has real property valued at at least one hundred thousand dollars ($100,000); and

(E) that is open and free to the residents of the city.

(b) The library board shall:

(1) levy a tax under IC 6-1.1 in an amount not less than sixty-seven hundredths of one cent ($0.0067) and not more than one and sixty-seven hundredths cents ($0.0167) on each one

hundred dollars ($100) of the assessed valuation of all the real and personal property in the county;

(2) keep the tax levied under subdivision (1) separate from all other funds of the library board; and

(3) use the tax levied under subdivision (1):

(A) if the membership of the trustees of the private donation library includes at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, for distributions of the full amounts of the tax received to the trustees of the private donation library at the time the tax is received by the library board; or

(B) if the membership of the trustees of the private donation library does not include at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, at the discretion of the library board for:

(i) library board purposes; or

(ii) quarterly distributions to the trustees of the private donation library.

(c) If requested by the trustees of the private donation library, the library board shall designate a member of the library board or appoint an individual to serve as a trustee of the private donation library. If requested by the trustees of the private donation library, the county fiscal body shall appoint an individual to serve as a trustee of the private donation library.

(d) The trustees of the private donation library shall annually submit a budget to the library board.

(e) The trustees of the private donation library shall expend amounts received under subsection (b)(3)(A) or (b)(3)(B)(ii) for the support, operation, and maintenance of the private donation library. The trustees shall:

(1) keep the money separate from all other funds;

(2) record:

(A) the amount of money received;

(B) to whom and when the money is paid out; and

(C) for what purpose the money is used;

in a book kept by the trustees; and

(3) make an annual report of the matters referred to in subdivision (2) to the library board.

(f) For purposes of the property tax levy limits under IC 6-1.1-18.5, the tax levied by the library board under subsection (b)(1) is not included in the calculation of the maximum permissible property tax levy for the public library.

As added by P.L.1-2005, SEC.49. Amended by P.L.214-2005, SEC.76; P.L.1-2010, SEC.155; P.L.119-2012, SEC.251.

IC 36-12-7-9

Dissolution

Sec. 9. (a) Dissolution of a library district is initiated when the legislative body of each municipality, township, or county that is a part of the district and library board of the district adopt identical

resolutions proposing to dissolve the district by an affirmative vote of a majority of the voting members of each legislative body and library board.

(b) Copies of the resolutions adopted under subsection (a) shall be filed not later than ten (10) days after the resolution is adopted with:

(1) the state library; and

(2) the county recorder of each county in which the library district is located.

(c) A dissolution does not take effect until:

(1) all legal and fiscal obligations of the library district have been satisfied;

(2) the assets of the district have been distributed; and

(3) a notice is filed with the agencies listed in subsection (b), indicating that the actions described in subdivisions (1) and (2) have been completed and the dissolution is final.

As added by P.L.113-2010, SEC.165.

IC 36-12-7-10
Electronic funds transfer

Sec. 10. (a) As used in this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

(b) A library board may adopt a resolution to authorize an electronic funds transfer method of payment of claims. If a library board adopts a resolution under this subsection, the public library may pay money from its funds by electronic funds transfer.

(c) A public library that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by the public library.

As added by P.L.113-2010, SEC.166.

IC 36-12-7-11
Collection

Sec. 11. (a) A library board or a person designated in writing by the library board may:

(1) collect money or library property; or

(2) compromise the amount of money;

that is owed to the library.

(b) A library board:

(1) shall determine the costs of collecting money or library property under this section; and

(2) may add the costs of collection, including reasonable attorney's fees, to money or library property that is owed and collected under this section.

(c) A library board or the library board's agent that collects money under this section shall deposit the money, less the costs of collection, in the account required by law.

(d) A library board may compromise claims made against the library.
As added by P.L.113-2010, SEC.167.

IC 36-12-7-12
Severance pay

Sec. 12. (a) A library board may provide severance pay to a library employee who is involuntarily separated from employment with the library.

(b) A library board may provide severance pay to a library employee who is voluntarily separated from employment with the library if the library board makes the following findings in a public meeting:

(1) The library is subject to financial difficulties and revenue shortfall.

(2) The library:

(A) will not hire an individual to perform the duties of the employee separating from employment at the same or comparable compensation and benefits for at least one (1) year after the date the employee separates from employment with the library;

(B) will hire a permanent or temporary employee for less compensation and benefits to perform the duties of the employee separating from employment; or

(C) will satisfy both the conditions in clauses (A) and (B).

(3) The library will pay the separating employee a stated amount of severance pay.

(4) The library will reduce its expenditures by:

(A) paying the severance pay stated under subdivision (3) to the employee separating from employment; and

(B) fulfilling one (1) or more of the conditions set forth in subdivision (2).

As added by P.L.63-2011, SEC.3.

IC 36-12-7-13
Funds for membership in certain associations; authority to appropriate

Sec. 13. A library board may appropriate funds necessary to provide membership of:

(1) the public library; and

(2) library employees;

in local, state, and national associations of a civic, an educational, a professional, or a governmental nature that have as their purpose the betterment and improvement of library operations.
As added by P.L.63-2011, SEC.4.

IC 36-12-8
Repealed

(*Repealed by P.L.84-2012, SEC.32.)*

IC 36-12-8.5
Repealed

(*Repealed by P.L.84-2012, SEC.33.)*

IC 36-12-9
Repealed

(*Repealed by P.L.84-2012, SEC.34.)*

IC 36-12-10

Chapter 10. Leasing of Library Property

IC 36-12-10-1

Application of chapter

Sec. 1. This chapter applies to the following public corporations:

(1) A municipal corporation that operates and maintains library facilities.

(2) Any other public corporation, established by statute, that operates and maintains library facilities.

As added by P.L.1-2005, SEC.49.

IC 36-12-10-2

Power to lease library buildings; conditions; joint lease contracts

Sec. 2. (a) A public corporation may lease a library building or buildings for the use of the public corporation or of any joint or consolidated public corporation of which the public corporation is a part or to which the public corporation contributes, under the following conditions:

(1) A lease may not be entered into for a period of more than forty (40) years.

(2) Before a lease is entered into, there must first be filed with the governing authority of the public corporation a petition signed by fifty (50) or more resident taxpayers of the public corporation.

(3) After investigation, the governing authority must determine that a need exists for the library building or buildings.

(4) The governing authority must determine that the public corporation cannot provide the necessary funds to pay the cost or the public corporation's proportionate share of the cost of the library building or buildings required to meet the present needs.

(b) If two (2) or more public corporations propose to enter into a lease jointly, joint meetings of the governing authority of the corporations may be held. Action taken is binding on a public corporation only if the action is approved by the public corporation's governing authority. A lease executed by two (2) or more public corporations as joint lessees must set out the amount of the total lease rental agreed upon to be paid by each. A lessee is entitled to occupancy only if the total rental is paid as stipulated in the lease. All rights of joint lessees under the lease must be proportionate to the amount of lease rental paid by each.

As added by P.L.1-2005, SEC.49.

IC 36-12-10-3

Authorized purposes of leases; limitations on profit; disposition of excess funds

Sec. 3. (a) A public corporation may enter into a lease under this chapter only with a nonprofit corporation organized under Indiana law for the sole purpose of:

(1) acquiring real property;

(2) building, improving, constructing, or renovating a suitable library building or buildings, including the necessary equipment and appurtenances;
(3) leasing the library facilities to the public corporation or corporations; and
(4) collecting the rentals and applying the proceeds from the rentals in the manner provided in this chapter.

(b) The lessor corporation shall act entirely without profit to the corporation and the corporation's officers, directors, and members but is entitled to the return of capital actually invested, which includes:
(1) incorporation and organization expenses;
(2) financing costs;
(3) carrying charges;
(4) legal, contractors', and architects' fees; and
(5) any other capital cost.

The lessor corporation is also entitled to sums sufficient to pay interest on outstanding securities or loans, and the cost of maintaining the corporation's existence and keeping the corporation's property free of encumbrance.

(c) Upon receipt of any amount of lease rental by the lessor corporation above the amount necessary to meet incidental corporate expenses and to pay interest on corporate securities or loans, the excess funds shall be applied to the redemption and cancellation of the corporation's outstanding securities or loans as soon as this may be done.

As added by P.L.1-2005, SEC.49.

IC 36-12-10-4
Provisions of lease

Sec. 4. (a) All contracts of lease must provide that:
(1) the public corporation or corporations have an option to renew the lease for a further term, with like conditions; or
(2) the property covered by the lease may be purchased after six (6) years from the execution of the lease and before the expiration of the term of the lease, on the date or dates in each year that are fixed, at a price equal to the amount required to enable the lessor corporation owning the site to:
(A) liquidate by paying all indebtedness, with accrued and unpaid interest; and
(B) recover the expenses and charges of liquidation.

(b) However, the purchase price prescribed by subsection (a)(2) may not exceed the capital actually invested in the property by the lessor corporation represented by outstanding securities or indebtedness plus the cost of transferring the property and liquidating the lessor corporation.

(c) A lease may not provide that any public corporation is under an obligation to purchase the leased library facilities or under an obligation in respect to the creditors, members, or other security holders of the lessor corporation.

As added by P.L.1-2005, SEC.49.

IC 36-12-10-5
Submission of plans and specifications to certain state agencies; approval

Sec. 5. (a) The lessor corporation proposing to provide a library building or buildings, including necessary equipment and appurtenances, shall submit to the lessee or lessees, before the execution of a lease, preliminary plans, specifications, and estimates for the building or buildings.

(b) The final plans and specifications shall be submitted to the state department of health, state fire marshal, and any other agencies that are designated by law to pass on plans and specifications for library buildings. The final plans and specifications must be approved by these agencies and the lessee or lessees in writing before the construction of the building or buildings.
As added by P.L.1-2005, SEC.49.

IC 36-12-10-6
Authorized provisions of lease; payment of taxes, insurance, and repairs

Sec. 6. The lease may provide that, as a part of the lease rental for the library building or buildings, the lessee or lessees shall agree to:

(1) pay all taxes and assessments levied against or on account of the leased property;

(2) maintain insurance on the property for the benefit of the lessor corporation; and

(3) assume all responsibilities for repair and alterations with regard to the building or buildings during the term of the lease.

As added by P.L.1-2005, SEC.49.

IC 36-12-10-7
Leases in anticipation of completion of building; bond

Sec. 7. (a) The public corporation or corporations may, in anticipation of the acquisition of real property and any necessary construction of a library building or buildings, including the necessary equipment and appurtenances, enter into a lease with the lessor corporation before actual acquisition of real property and any construction of the building or buildings. However, the lease may not provide for the payment of lease rental by the lessee or lessees until the building or buildings are complete and ready for occupancy, at which time the stipulated lease rental payments may begin.

(b) The contractor must be required under the lease to furnish to the lessor corporation a bond satisfactory to the corporation conditioned upon the final completion of the building or buildings within a period that may be provided in the contract.
As added by P.L.1-2005, SEC.49.

IC 36-12-10-8
Notice and hearing on terms and conditions of proposed lease

Sec. 8. (a) When the lessor corporation and the public corporation or corporations have agreed upon the terms and conditions of a lease proposed to be entered into under this chapter and before the final execution of the lease, notice of a hearing shall be given by publication to all interested persons. The hearing shall be held before the governing authority, on a day not earlier than ten (10) days after the publication of the notice.

(b) The notice of the hearing shall be published one (1) time in a newspaper of general circulation printed in the English language in the district of the public corporation or in each public corporation district if the proposed lease is a joint lease. If a newspaper is not published in the district, the notice shall be published in any newspaper of general circulation published in the county. The notice must name the date, place, and time of the hearing and set forth a brief summary of the principal terms of the lease agreed upon, including:

(1) the location;

(2) the name of the proposed lessor corporation and character of the property to be leased;

(3) the rental to be paid; and

(4) the number of years the contract is to be in effect.

The proposed lease, drawings, plans, specifications, and estimates for the library building or buildings must be available for inspection by the public during the ten (10) day period under subsection (a) and at the meeting. All interested persons are entitled to be heard at the hearing regarding the necessity for the execution of the lease, and whether the rental provided for in the lease to be paid to the lessor corporation is a fair and reasonable rental for the proposed building or buildings. The hearing may be adjourned to a later date or dates, and following the hearing, the governing authority may either authorize the execution of the lease as originally agreed upon or may make modifications that have been agreed upon by the lessor corporation. The lease rentals as set out in the published notice may not be increased. The cost of the publication of the notice shall be paid by the lessor corporation.

As added by P.L.1-2005, SEC.49.

IC 36-12-10-9

Notice of lease signing; appeal to department of local government finance; limitation on actions to contest validity of lease

Sec. 9. (a) If the execution of the lease as originally agreed upon, or as modified by agreement, is authorized by the library board, the library board shall give notice of the signing of the lease by publication one (1) time in a newspaper of general circulation printed in the English language in the district of the public corporation or in each public corporation district if the proposed lease is a joint lease. If a newspaper is not published in the district, the notice shall be published in any newspaper of general circulation published in the county.

(b) Fifty (50) or more taxpayers in the public corporation or

corporations who will be affected by the proposed lease and who are of the opinion that the execution of the lease is not necessary or that the proposed rental is not a fair and reasonable rental may file a petition in the office of the county auditor of the county in which the public corporation or corporations are located. The petition must be filed not later than thirty (30) days after the publication of notice of the execution of the lease and must set forth objections and facts showing that the execution of the lease is unnecessary or unwise or that the lease rental is not fair and reasonable, as the case may be.

(c) Upon the filing of a petition, the county auditor shall immediately certify to the department of local government finance a copy of the petition, together with other data that may be necessary to present the questions involved. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for a hearing of the matter not less than five (5) or more than thirty (30) days after the department's receipt of the petition and information. The hearing shall be held in the public corporation or corporations or in the county where the public corporations are located.

(d) Notice of the hearing shall be given by the department of local government finance to the members of the library board and to the first ten (10) taxpayer petitioners on the petition by a letter signed by the department of local government finance. The postage of the notice shall be prepaid, and the notice shall be addressed to the persons at their usual place of residence and mailed at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal regarding the necessity for the execution of the lease and whether the rental is fair and reasonable is final. A lease may be amended by the parties by following the procedure under this chapter.

(e) An action to contest the validity of the lease or an amendment to the lease or to enjoin the performance of any of the terms and conditions of the lease must be brought not later than thirty (30) days after publication of notice of the execution of the lease or an amendment to the lease by the library board of the public corporation or corporations. If an appeal has been taken to the department of local government finance, action must be brought not later than thirty (30) days after the decision of the department.

As added by P.L.1-2005, SEC.49.

IC 36-12-10-10

Title to real property; sale; procedure

Sec. 10. (a) The lessor corporation shall hold in fee simple the real property on which the library building or buildings exists or will be constructed. A public corporation or corporations proposing to lease the library building or buildings, either alone or jointly with another public corporation that owns the property, may sell the property to the lessor corporation in fee simple.

(b) Before a sale under this section may take place, the governing authority of the public corporation shall file a petition with the

circuit court of the county in which the public corporation is located requesting the appointment of:

(1) one (1) disinterested freeholder of the public corporation as an appraiser; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to determine the fair market value of the real property. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the property. Upon their appointment, the three (3) appraisers shall fix the fair market value of the real property and report this amount to the circuit court not later than two (2) weeks from the date of their appointment. The public corporation may then sell the real property to the lessor corporation for an amount not less than the amount fixed as the fair market value by the appraisers. The amount shall be paid in cash upon delivery of the deed by the public corporation to the lessor corporation.

As added by P.L.1-2005, SEC.49. Amended by P.L.113-2006, SEC.24.

IC 36-12-10-11

Authority of lessor corporation to issue stocks, bonds, and other securities; sale procedure

Sec. 11. (a) A corporation qualifying as a lessor corporation under this chapter may, in furtherance of the corporation's purposes, issue and sell bonds and other securities. Mortgage bonds issued by a lessor corporation that are a first lien on the leased property are legal and proper investments for state banks and trust companies, insurance companies, and fiduciaries. The bonds may be callable, with or without premiums, with accrued and unpaid interest upon notice provided in the mortgage indenture.

(b) All bonds and other securities issued by the lessor corporation must be advertised and sold in accordance with IC 5-1-11 at any interest rate.

(c) The approval of the securities division of the secretary of state is not required in connection with the issuance and sale of bonds or other securities of a public corporation.

As added by P.L.1-2005, SEC.49.

IC 36-12-10-12

General obligation bonds

Sec. 12. A public corporation may issue the corporation's general obligation bonds to procure funds to pay the cost of acquisition of real property. The bonds must be authorized, issued, and sold in accordance with IC 6-1.1-20.

As added by P.L.1-2005, SEC.49.

IC 36-12-10-13

Tax levy to pay lease rentals

Sec. 13. A public corporation that executes a lease under this chapter shall annually levy a special tax, in addition to other taxes

authorized by law, sufficient to produce each year the necessary funds with which to pay the lease rental stipulated to be paid by the public corporation under the lease. A levy under this section shall be reviewed in accordance with IC 6-1.1-17. The first tax levy shall be made at the first annual tax levy period following the date of the execution of the lease. The first annual levy must be sufficient to pay the estimated amount of the first annual lease rental payment to be made under the lease.
As added by P.L.1-2005, SEC.49.

IC 36-12-10-14
Tax exemptions

Sec. 14. All property owned by a lessor corporation contracting with a public corporation or corporations under this chapter and all stock and other securities, including the interest or dividends issued by a lessor corporation, are exempt from all state, county, and other taxes, excluding the financial institutions tax and the inheritance taxes.
As added by P.L.1-2005, SEC.49.

IC 36-12-11

Chapter 11. Library Certification Board

IC 36-12-11-1

Application of chapter

Sec. 1. This chapter applies to both Class 1 and Class 2 libraries.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-2

"Board"

Sec. 2. As used in this chapter, "board" refers to the Indiana library and historical board established by IC 4-23-7-2.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-3

"Director"

Sec. 3. As used in this chapter, "director" refers to the director of the Indiana state library appointed under IC 4-23-7.1-37.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-4

"Practitioner"

Sec. 4. As used in this chapter, "practitioner" means an individual certified under this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-5

Powers and duties of board

Sec. 5. The board shall do the following:

(1) Prescribe and define grades of public library service and prescribe the qualifications that individuals must possess who are employed in each of the grades of public library service, giving due consideration to the population served and the income and salary schedule of each library.

(2) Make available the requirements for certification of all grades upon request and without charge to all prospective applicants.

(3) Issue certificates to candidates who apply for certificates and who, by reason of their academic or technical training and experience, are found to be suitable individuals to certify.

(4) Prescribe and define the qualifications of a library director, a head of a department or branch, or a professional assistant of a public library.

(5) Adopt rules under IC 4-22-2 that the board determines are necessary to administer this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-6

Certification requirements

Sec. 6. All library directors, library department or branch heads,

and professional assistants, except those who are employed at school libraries or libraries of educational institutions, must hold a certificate under section 7 of this chapter.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-7
Public library service; application for certification

Sec. 7. (a) An individual who:

(1) desires to be certified as a librarian in a designated division, grade, or type of public library service; and

(2) possesses the qualifications prescribed in the rules of the board as essential to enable an individual to apply for a certificate;

may apply to the board for a certificate in any grade or grades of public library service.

(b) The application must be:

(1) made on a form prescribed and supplied by the board; and

(2) accompanied by the fee set by the board under section 11 of this chapter.

(c) If the application is found to be satisfactory, the applicant is entitled to a certificate in the grade or grades of public library service for which the applicant applied.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-8
Private or school library service; application for certification

Sec. 8. (a) An individual who is actively engaged or expects to engage actively in:

(1) a grade or class of private library service; or

(2) the library service of a school or another educational institution;

whether the individual is or expects to be a library director, or the head of a department or branch of a private library or of the library of a school or an educational institution, may apply for a certificate of a grade or class.

(b) If an individual is found to be competent and qualified, the individual shall be granted the certificate applied for in the same manner and subject to the same conditions as are provided for the certification of librarians in public libraries under section 7 of this chapter.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-9
Reciprocity with other states

Sec. 9. To prevent unjust and arbitrary exclusions by other states of certified librarians who have complied with the requirements of Indiana law, the board may adopt rules necessary for the reciprocal recognition of certificates for librarians issued by other states whose qualifications for library service are at least as high as the qualifications in Indiana. To effect this section, the board shall

consider the recommendations of the American Library Association.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-10
Library certification account

Sec. 10. All fees collected under this chapter constitute a separate account of the state general fund, known as the library certification account, which shall be used to defray expenses incurred in the administration of this chapter. The balance in this account at the end of any fiscal year does not revert to the state general fund but is carried forward and available for the succeeding fiscal year.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-11
Fees

Sec. 11. (a) The board shall adopt rules under IC 4-22-2 to set fees to be paid by an individual who applies for certification under section 7 of this chapter. If the board has not set a fee by rule for a particular type of application, the fee is one dollar ($1).

(b) Payment of fees set under this section may be made by any of the following:

(1) Cash.
(2) A draft.
(3) A money order.
(4) A cashier's check.
(5) A certified check.
(6) A personal check.

If an individual pays a fee with an uncertified personal check and the check does not clear the bank, the board may void the certificate for which the check was received.

(c) Unless specified by the rules of the board, a fee is not refundable or transferable.

(d) Fees shall be paid to the library certification account established under section 10 of this chapter.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-12
Repealed

(*Repealed by P.L.84-2012, SEC.35.)*

IC 36-12-11-13
Repealed

(*Repealed by P.L.84-2012, SEC.36.)*

IC 36-12-11-14
Complaints; form; filing

Sec. 14. All complaints concerning a practitioner must be written, signed by the complainant, and initially filed with the director. Except for an employee of the attorney general's office acting in an official capacity, a complaint may be filed by any individual,

including a member of the board.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-15
Director; duties and powers; complaints

Sec. 15. The director has the following duties and powers:

(1) The director may investigate any written complaint against a practitioner. The director shall limit the investigation to aspects of the practitioner's activities that appear to violate this chapter or rules adopted under this chapter.

(2) The director shall notify the practitioner of the:

(A) nature and ramifications of the complaint; and

(B) duty of the director to investigate and attempt to resolve the complaint through negotiation.

(3) The director may:

(A) subpoena witnesses; or

(B) send for and compel the production of books, records, papers, and documents;

in relation to an investigation under this chapter. The circuit or superior court located in the county where a subpoena is to be issued shall enforce the subpoena.

(4) If, after investigating, the director determines the complaint has merit, the director shall notify the complainant, practitioner, and the board. The director has forty-five (45) days to attempt to resolve the complaint through negotiation.

(5) If, after investigating, the director determines the complaint has no merit, the director shall notify the complainant, practitioner, and the board that the complaint has been dismissed.

As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.37.

IC 36-12-11-16
Complaints; resolution; dismissal; board determination

Sec. 16. (a) If the director is unable to satisfactorily resolve a complaint that the director has determined to have merit under section 15 of this chapter, the director shall notify the board, which shall take jurisdiction of the complaint.

(b) If a complaint is dismissed by the director under section 15 of this chapter, the complainant may file a written appeal with the board within thirty (30) days after the date of dismissal. The board shall then take jurisdiction of the complaint.

(c) During the forty-five (45) days after the board receives notification or appeal under subsection (a) or (b), the director shall not conduct an investigation or take any action, unless requested by the board. When the forty-five (45) day period has elapsed, the board shall make the determination whether:

(1) the complaint should be:

(A) dismissed;

(B) prosecuted; or

(C) investigated further; or

(2) a resolution to the complaint should be negotiated.

If the board determines that further investigation or negotiation is warranted, the board may, at a later date, prosecute or dismiss the complaint.

As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.38.

IC 36-12-11-17
Repealed

(*Repealed by P.L.84-2012, SEC.39.)*

IC 36-12-11-18
Repealed

(*Repealed by P.L.84-2012, SEC.40.)*

IC 36-12-11-19
Repealed

(*Repealed by P.L.84-2012, SEC.41.)*

IC 36-12-11-20
Attorney General; investigation and prosecution

Sec. 20. If the board requests, the attorney general shall investigate and prosecute the matter before the board on behalf of the state.

As added by P.L.1-2005, SEC.49. Amended by P.L.84-2012, SEC.42.

IC 36-12-11-21
Disciplinary proceedings; ultimate authority

Sec. 21. (a) IC 4-21.5 applies to proceedings to discipline a practitioner under this chapter.

(b) The board is the ultimate authority under IC 4-21.5.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-22
Confidentiality of complaint; disclosure of information

Sec. 22. (a) A complaint and information pertaining to the complaint are confidential until the attorney general files notice with the board of intent to prosecute the practitioner.

(b) Unless required to do so under law or in furtherance of an investigation, an individual employed by the office of the attorney general, the board, or the director may not disclose or further the disclosure of information concerning a complaint.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-23
Disciplinary actions; conditions

Sec. 23. A practitioner may be disciplined under section 26 of this chapter if after a hearing the board finds any of the following:

(1) The practitioner has:

(A) employed or knowingly cooperated in fraud or material deception in order to obtain a certificate issued under this

chapter;

(B) engaged in fraud or material deception in the course of professional services or activities; or

(C) advertised services in a false or misleading manner.

(2) The practitioner has been convicted of a crime that has a direct bearing on the practitioner's ability to practice competently.

(3) The practitioner has knowingly violated a rule adopted by the board.

(4) The practitioner has continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction or severe dependency upon alcohol or other drugs that endangers the public by impairing a practitioner's ability to practice safely.

(5) The practitioner has engaged in a course of lewd or immoral conduct in connection with the practitioner's practice.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-24

Physical and mental examination

Sec. 24. The board may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-25

Failure to comply with order to submit to physical or mental examination; suspension

Sec. 25. Failure of a practitioner to comply with a board order to submit to a physical or mental examination renders the practitioner liable to the summary suspension procedures under section 27 of this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-11-26

Sanctions

Sec. 26. The board may impose any of the following sanctions, singly or in combination, if the board finds a practitioner has committed an offense under section 23 of this chapter:

(1) Permanently revoke the practitioner's certificate.

(2) Suspend the practitioner's certificate.

(3) Censure the practitioner.

(4) Issue a letter of reprimand.

(5) Place the practitioner on probation status and require the practitioner to:

(A) report regularly to the board upon the matters that are the basis of the probation;
(B) limit practice to those areas prescribed by the board; or
(C) continue or renew professional education under a practitioner approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

The board may withdraw the probation if the board finds that the deficiency that required disciplinary action has been remedied.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-27
Suspension of certificate; renewal

Sec. 27. The board may summarily suspend a practitioner's certificate for ninety (90) days in advance of final adjudication or during the appeals process if the board finds that the practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-28
Reinstatement of certificate

Sec. 28. The board may reinstate a certificate that has been suspended under this chapter if after a hearing the board is satisfied that the applicant is able to practice with reasonable skill and safety. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.
As added by P.L.1-2005, SEC.49.

IC 36-12-11-29
Consistency in application of sanctions; reliance on precedent

Sec. 29. The board shall seek to achieve consistency in the application of sanctions authorized in this chapter, and significant departures from prior decisions involving similar conduct shall be explained in the board's findings or orders.
As added by P.L.1-2005, SEC.49.

IC 36-12-12
Chapter 12. Library Capital Projects Fund

IC 36-12-12-0.2
Application of prior statute

Sec. 0.2. The addition of IC 20-14-13 (before its repeal, now codified in this chapter) by P.L.343-1989(ss) applies to property taxes first due and payable after December 31, 1989.
As added by P.L.220-2011, SEC.688.

IC 36-12-12-1
"Emergency"

Sec. 1. As used in this chapter, "emergency" means:

(1) when used with respect to repair or replacement, a fire, flood, windstorm, mechanical failure of any part of a structure, or other unforeseeable circumstance; and

(2) when used with respect to site acquisition, the unforeseeable availability of real property for purchase.

As added by P.L.1-2005, SEC.49.

IC 36-12-12-2
Capital projects fund

Sec. 2. (a) A library district may establish a capital projects fund.

(b) With respect to a facility used or to be used by the library district, the fund may be used to pay for the following:

(1) Planned construction, repair, replacement, or remodeling.

(2) Site acquisition.

(3) Site development.

(4) Repair, replacement, or site acquisition that is necessitated by an emergency.

(c) Money in the fund may be used to pay for the purchase, lease, or repair of equipment to be used by the library district.

(d) The fund may be used to pay for the purchase, lease, upgrading, maintenance, or repair of computer hardware or software.
As added by P.L.1-2005, SEC.49.

IC 36-12-12-3
Plan of revenues and expenditures; hearing; notice

Sec. 3. (a) Before a library board may collect property taxes for a capital projects fund in a particular year, the library board must, after January 1 and before May 15 of the immediately preceding year, hold a public hearing on a proposed plan, pass a resolution to adopt a plan, and submit the plan for approval or rejection by the fiscal body designated in section 4 of this chapter.

(b) The department of local government finance shall prescribe the format of the plan. A plan must apply to at least the three (3) years immediately following the year the plan is adopted. A plan must estimate for each year to which the plan applies the nature and amount of proposed expenditures from the capital projects fund. A plan must estimate:

(1) the source of all revenue to be dedicated to the proposed expenditures in the upcoming budget year; and

(2) the amount of property taxes to be collected in that year and retained in the fund for expenditures proposed for a later year.

(c) If a hearing is scheduled under subsection (a), the governing body shall publish the proposed plan and a notice of the hearing in accordance with IC 5-3-1-2(b).

As added by P.L.1-2005, SEC.49.

IC 36-12-12-4

Approval or rejection of plan by appropriate fiscal body; hearing

Sec. 4. (a) If the library board passes a resolution under section 3 of this chapter, not later than ten (10) days after passing the resolution the board shall transmit a certified copy of the plan to the appropriate fiscal body or fiscal bodies, whichever applies. The appropriate fiscal body is determined as follows:

(1) If the library district is located entirely within the corporate boundaries of a municipality, the appropriate fiscal body is the fiscal body of the municipality.

(2) If the library district is not described by subdivision (1) and the district is located entirely within the boundaries of a township, the appropriate fiscal body is the fiscal body of the township.

(3) If the library district is not described by subdivision (1) or (2), the appropriate fiscal body is the fiscal body of each county in which the library district is located.

(b) The appropriate fiscal body shall hold a public hearing on the plan not later than thirty (30) days after receiving a certified copy of the plan and either reject or approve the plan before August 1 of the year that the plan is received.

As added by P.L.1-2005, SEC.49.

IC 36-12-12-5

Notice; petition of objection by taxpayers

Sec. 5. (a) If the library board passes a resolution under section 3 of this chapter and the appropriate fiscal body or bodies approve the plan, the library board shall publish notice of adoption in accordance with IC 5-3-1-2(i).

(b) Ten (10) or more taxpayers who will be affected by the adopted plan may file a petition with the county auditor of a county in which the library district is located not later than ten (10) days after the publication of the notice of adoption required by subsection (a), setting forth the taxpayers' objections to the proposed plan. The county auditor shall immediately certify the petition to the department of local government finance.

As added by P.L.1-2005, SEC.49. Amended by P.L.137-2012, SEC.124.

IC 36-12-12-6

Notice and hearing; petition of objection by taxpayers

Sec. 6. The department of local government finance shall, within a reasonable time, fix a date for a hearing on the petition filed under section 5(b) of this chapter. The hearing shall be held in a county in which the library district is located. The department of local government finance shall notify:

(1) the library board; and

(2) the first ten (10) taxpayers whose names appear on the petition;

at least five (5) days before the date fixed for the hearing.

As added by P.L.1-2005, SEC.49.

IC 36-12-12-7

Department of local government finance action; appeal

Sec. 7. (a) After a hearing upon the petition under section 6 of this chapter, the department of local government finance shall certify the department's approval, disapproval, or modification of the plan to the library board and the auditor of the county.

(b) A:

(1) taxpayer who signed a petition filed under section 5 of this chapter; or

(2) library district against which a petition under section 5 of this chapter is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the department certifies the department's action under subsection (a).

As added by P.L.1-2005, SEC.49.

IC 36-12-12-8

Appropriations; conform to plan

Sec. 8. Notwithstanding IC 6-1.1-17, the department of local government finance may approve appropriations from the capital projects fund only if the appropriations conform to a plan that has been adopted and approved in compliance with this chapter.

As added by P.L.1-2005, SEC.49. Amended by P.L.1-2006, SEC.587.

IC 36-12-12-9

Amending plan; emergencies; increasing tax rate and borrowing funds

Sec. 9. (a) A library board may amend an adopted and approved plan to:

(1) provide money for the purposes described in section 2(b)(4) of this chapter; or

(2) supplement money accumulated in the capital projects fund for those purposes.

(b) If an emergency arises that results in costs that exceed the amount accumulated in the fund for the purposes described in section 2(b)(4) of this chapter, the library board must immediately apply to the department of local government finance for a determination that

an emergency exists. If the department of local government finance determines that an emergency exists, the library board may adopt a resolution to amend the plan. The amendment is not subject to the deadline and the procedures for adoption described in section 3 of this chapter. However, the amendment is subject to modification by the department of local government finance.

(c) An amendment adopted under this section may require the payment of eligible emergency costs from:

(1) money accumulated in the capital projects fund for other purposes; or

(2) money to be borrowed from other funds of the library board or from a financial institution.

The amendment may also provide for an increase in the property tax rate for the capital projects fund to restore money to the fund or to pay principal and interest on a loan. However, before the property tax rate for the fund may be increased, the library board must submit and obtain the approval of the appropriate fiscal body or bodies, as provided in section 4 of this chapter. An increase to the property tax rate for the capital projects fund is effective for property taxes first due and payable for the year next certified by the department of local government finance under IC 6-1.1-17-16. However, the property tax rate may not exceed the maximum rate established under section 10 of this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-12-10

Tax rate; limit and advertisement

Sec. 10. To provide for the capital projects fund, the library board may, for each year in which a plan adopted under section 3 of this chapter is in effect, impose a property tax rate that does not exceed one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of assessed valuation of the library district. This rate must be advertised in the same manner as other property tax rates.

As added by P.L.1-2005, SEC.49.

IC 36-12-12-11

Interest

Sec. 11. Interest on the capital projects fund, including the fund's pro rata share of interest earned on the investment of total money on deposit, shall be deposited in the fund. The library board may allocate the interest among the accounts within the fund.

As added by P.L.1-2005, SEC.49.

IC 36-12-12-12

Administrative rules

Sec. 12. The department of local government finance may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.1-2005, SEC.49.

IC 36-12-13

Chapter 13. Interstate Library Compact

IC 36-12-13-1

Application of chapter

Sec. 1. This chapter applies to Indiana and any state bordering Indiana that joins in the interstate library compact.

As added by P.L.1-2005, SEC.49.

IC 36-12-13-2

Authorization to enter into agreements under compact; procedure

Sec. 2. (a) The appropriate officials and agencies of the party states or a political subdivision as defined in IC 36-1-2-13 may, on behalf of the party states or political subdivision, enter into agreements under the interstate library compact for cooperative or joint conduct of library services if the party states or political subdivision finds that the distribution of population makes the provision of library service on an interstate basis the most effective way to provide adequate and efficient services.

(b) Agreements under the interstate library compact entered into on behalf of the state shall be made by the compact administrator.

(c) Agreements under the interstate library compact entered into on behalf of one of the state's political subdivisions shall be made after giving notice to the compact administrator and after consulting with the compact administrator about the agreement.

As added by P.L.1-2005, SEC.49.

IC 36-12-13-3

Compact administrator; duties

Sec. 3. The director of the Indiana state library, ex officio, is the compact administrator. The compact administrator shall:

(1) receive copies of all agreements entered into by the state or a political subdivision of the state and other party states or political subdivisions;

(2) consult with, advise, and aid the political subdivisions in the formulation of interstate library compact agreements;

(3) make recommendations to the governor, the general assembly, governmental agencies, and political subdivisions that are desirable to effectuate the purposes of this compact; and

(4) consult and cooperate with the compact administrators of other party states.

As added by P.L.1-2005, SEC.49.

IC 36-12-13-4

Contents of agreement

Sec. 4. An interstate library compact agreement must:

(1) detail the specific nature of the services, facilities, properties, or personnel to which the compact is applicable;

(2) provide for the allocation of costs and other financial responsibilities;

(3) specify the respective rights, duties, obligations, and liabilities; and

(4) stipulate the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters that may be appropriate to the proper effectuation and performance of the agreement.

As added by P.L.1-2005, SEC.49.

IC 36-12-13-5

Effect of compact after notice of repeal

Sec. 5. A compact continues in force and remains binding on each party state until six (6) months after a state has given notice of repeal by the legislature. The repeal of an interstate library compact chapter does not relieve any party to an interstate library compact agreement from the obligation of that agreement before the end of the compact's stipulated period of duration.

As added by P.L.1-2005, SEC.49.

IC 36-12-13-6

Enforcement of compact

Sec. 6. The agencies and officers of this state and political subdivisions of the state shall enforce the compact and do all things appropriate within their power to effect the compact's purpose and intent.

As added by P.L.1-2005, SEC.49.

IC 36-12-14
Repealed

(*Repealed by P.L.146-2008, SEC.815.)*

IC 36-12-15

Chapter 15. Free Public Use of School Libraries

IC 36-12-15-1

"Governing body"

Sec. 1. As used in this chapter, "governing body" has the meaning set forth in IC 20-26-2-2.

As added by P.L.2-2006, SEC.198.

IC 36-12-15-2

Power; city; town; library in connection with schools

Sec. 2. In cities and incorporated towns, a governing body may establish a free public library in connection with the common schools for:

(1) the care, protection, and operation of the library;

(2) the care of books and other materials; and

(3) borrowing and returning books and other materials and penalties for any violations.

However, in any city or incorporated town where there is established a library open to all the people, a tax may not be levied.

As added by P.L.2-2006, SEC.198.

IC 36-12-15-3

Power; levy

Sec. 3. The governing body may levy a tax of not more than one-tenth cent ($0.001) on each one dollar ($1) of taxable property assessed for taxation in a city or incorporated town in each year. The tax shall be placed on the tax duplicate of the city or incorporated town and collected in the same manner as other taxes. The taxes shall be paid to the governing body for the support and maintenance of the public library. The governing body may use tax revenues received under this section and gifts, devises, and grants to:

(1) provide suitable facilities for the library;

(2) purchase books and other materials; and

(3) hire necessary personnel.

As added by P.L.2-2006, SEC.198.

IC 36-12-15-4

Acquisition of property by gift, grant, or devise

Sec. 4. A city or incorporated town in which a free public library is established under this chapter may acquire by purchase or take and hold by gift, grant, or devise any real estate necessary for, or that is donated or devised for, the library. Any revenue derived from the real property shall be used for the library.

As added by P.L.2-2006, SEC.198.