

## **IC 14-33-12**

### **Chapter 12. Improvements Benefiting Only Certain Property**

#### **IC 14-33-12-1**

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

Sec. 1. This chapter applies if the board determines at the time of the adoption of the district plan that the characteristics of the district are such that the district plan can best be implemented in certain parts by the development of works of improvement that are:

- (1) of benefit solely to abutting or proximate properties in the district; and
- (2) not of benefit to all the property in the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-12-2**

##### **Districts subject to chapter**

Sec. 2. (a) In a district subject to this chapter:

- (1) the district plan must so state; and
- (2) notice to this effect shall be made a part of all notices regarding the approval and implementation of the district plan.

(b) At the hearing on the district plan, the court shall make a finding on this question.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-12-3**

##### **Appraisers**

Sec. 3. (a) Concurrent with the preparation of detailed construction drawings, specifications, and refined cost estimates necessary to implement the district plan, the board shall employ competent appraisers to do the following:

- (1) Appraise the real property that will be benefited by the implementation of the district plan.
- (2) Assign to each property the property's proportional share of the estimated cost of the improvement, including necessary engineering and legal fees.

(b) The appraisers shall report the information determined under subsection (a) in written tabular form to the board.

(c) The board shall tentatively adopt the findings of the appraisers in the same resolution by which the detailed construction drawings, specifications, and refined cost estimates are adopted. Notice of the hearing shall be mailed to the owner of each tract of real property found to be benefited.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-12-4**

##### **Filing resolution; notice**

Sec. 4. (a) Upon confirmation of the resolution, the board shall file the resolution together with the detailed construction drawings, specifications, refined cost estimates, and appraisers' findings in court.

(b) The court shall set a date for a hearing and order notice that the court considers necessary, but publication must at least be made in each county having land in the district in accordance with IC 5-3-1 as if the notice affected county business.

(c) At the hearing the court shall order the resolution approved, rescinded, or modified.

*As added by P.L. 1-1995, SEC. 26.*

#### **IC 14-33-12-5**

##### **Powers and duties**

Sec. 5. (a) After approval by the court, the board shall let contracts or otherwise construct the works of improvement as implemented. The board shall exercise the same powers and discharge the same duties concerning the works of improvement as prescribed by statute for the board of public works, the board of finance, and other officers of a municipality concerning the following:

- (1) Liens for street improvements.
- (2) The payment of street improvement assessments by installments.
- (3) The issuance of Barrett Law bonds and coupons to anticipate the collection of assessments.

(b) The duties of the treasurer of a county in which there is real property affected also apply to the following:

- (1) The lien.
- (2) The collection and enforcement of the lien.
- (3) The payment of assessments for the construction of works of improvement under:
  - (A) this chapter; and
  - (B) IC 13-3-3-86 (before its repeal).

(c) Statutes concerning:

- (1) the enforcement of assessment liens for street improvements in actions of a municipality enforcing the liens and attorney's fees in those actions;
- (2) the procedure;
- (3) the conduct of sales by the sheriff under decrees of foreclosure;
- (4) the execution of certificates and deeds; and
- (5) all matters of a similar nature regarding street improvements and collection of assessments in a municipality, including the rights of contractors, assignees, and bondholders;

apply to the enforcement of assessments made for the construction of works of improvement under this chapter or under IC 13-3-3-86 (before its repeal) as well as the collection of bonds or coupons issued under this chapter or under IC 13-3-3-86 (before its repeal).

(d) The board may do the following:

- (1) Issue the bonds in anticipation of the collection of assessments and coupons evidencing interest at any rate directly to the contractor at the completion of the work.
- (2) Issue directly to engineers and attorneys bonds and coupons in payment of fees incident to the work of improvement.

(e) Notwithstanding other statutes incorporated into this chapter, a person who agrees to pay the person's assessment in installments after the bonds are issued:

- (1) must pay interest for the full term of ten (10) years; and
- (2) may prepay the principal and remaining interest due.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-12-6**

##### **Mutually exclusive provisions**

Sec. 6. (a) The provisions of this chapter concerning:

- (1) assessments;
- (2) the nature of the resulting lien;
- (3) collection; and
- (4) issuing bonds and coupons in anticipation of the collection of the assessment;

are mutually exclusive from other sections of this article that relate to the same subject matter.

(b) The construction and incidental engineering and legal fees of that part of works of improvement contained in the district plan shall be paid for and financed according to this chapter and other statutes incorporated into this chapter and not according to other provisions of this article only if all the following conditions are met:

- (1) The board determines and states as a part of the district plan that certain parts of the works of improvement will be of benefit solely to abutting or proximate properties and not of benefit to all the property in the district.
- (2) Notice of the determination is given as is provided in this chapter.
- (3) The court makes an affirmative finding to this effect at the hearing on the district plan.

(c) If the conditions described in subsection (b) are not met, the costs and financing of the construction of the works of improvement shall be done according to other provisions of this article.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-12-7**

##### **Inapplicable provisions**

Sec. 7. Other provisions of this article concerning assessments and bond issues do not apply to this chapter. In addition, provisions of this chapter concerning assessments and bond issues do not apply to other chapters of this article.

*As added by P.L.1-1995, SEC.26.*