

IC 20-26-7

Chapter 7. Property and Eminent Domain

IC 20-26-7-0.3

Legalization of certain school corporation actions in acquiring property under deed with reverter clause; school corporation rights in case of reversion

Sec. 0.3. (a) The actions of a school corporation taken before January 1, 1989, in acquiring any interest in real estate or a real estate improvement, under a deed that contains a reverter clause that limits the use of the property by the school corporation, are legalized.

(b) If a reversion occurs under a deed described in subsection (a), the school corporation is entitled to the improvements (or the fair market value of the improvements) made to the property by the school corporation.

As added by P.L.220-2011, SEC.327.

IC 20-26-7-0.4

Issuance of bonds or execution of lease under prior law before May 1, 1995

Sec. 0.4. Notwithstanding P.L.25-1995, if a school corporation has conducted the hearing described in IC 20-5-52 (before its repeal, now codified in this chapter) before May 1, 1995, the school corporation may issue bonds or execute a lease for the school building construction project that was the subject of the hearing in accordance with the requirements for issuing bonds or executing a lease that were in effect before July 1, 1995.

As added by P.L.220-2011, SEC.328.

IC 20-26-7-1

Sale of unneeded property; lease or sale to charter school; procedures

Sec. 1. (a) As used in this section, "charter school" has the meaning set forth in IC 20-24-1-4 and includes a group or entity seeking approval from a sponsor to operate a charter school under IC 20-24-3.

(b) Except as otherwise provided in this section, if a governing body of a school corporation determines that any real or personal property:

- (1) is no longer needed for school purposes; or
- (2) should, in the interests of the school corporation, be exchanged for other property;

the governing body may sell or exchange the property in accordance with IC 36-1-11.

(c) Money derived from the sale or exchange of property under this section shall be placed in any school fund:

- (1) established under applicable law; and
- (2) that the governing body considers appropriate.

(d) A governing body may not make a covenant that prohibits the sale of real property to another educational institution.

(e) This subsection does not apply to a school building that on July 1, 2011, is leased or loaned by the school corporation that owns the school building to another entity, if the entity is not a building corporation or other entity that is related in any way to, or created by, the school corporation or the governing body. Except as provided in subsections (k) through (n), a governing body shall make available for lease or purchase to any charter school any school building owned by the school corporation or any other entity that is related in any way to, or created by, the school corporation or the governing body, including but not limited to a building corporation, that:

(1) either:

(A) is not used in whole or in part for classroom instruction at the time the charter school seeks to lease the building; or
(B) appears on the list compiled by the department under subsection (f); and

(2) was previously used for classroom instruction;
in order for the charter school to conduct classroom instruction.

(f) Not later than August 1 each calendar year, each governing body shall inform the department if a school building that was previously used for classroom instruction is closed, unused, or unoccupied. The department shall maintain a list of closed, unused, or unoccupied school buildings and make the list available on the department's Internet web site. Each school corporation shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department must update the list not later than fifteen (15) days after being notified of a closed, unused, or unoccupied building.

(g) A school building that appears for the first time on the department's list under subsection (f) shall be designated as "Unavailable until (a date two (2) years after the school building first appears on the list)" if the governing body of the school corporation that owns the school building indicates to the department, on a form prescribed by the department, that the school building may be reclaimed during that period for classroom instruction. If a governing body does not indicate that a school building may be reclaimed, the governing body shall designate the school building as "Available" on the department's list. The governing body may change the designation of a building from unavailable to available at any time. If a school building that is designated as unavailable on the department's list remains unused for classroom instruction one (1) year after being reclaimed under this subsection, the governing body shall designate the school building as "Available" on the department's list. A governing body may reclaim a school building only one (1) time under this subsection.

(h) If a charter school wishes to use a school building on the list created under subsection (f), the charter school shall send a letter of intent to the department. Within thirty (30) days after receiving a letter from a charter school, the department shall notify the school corporation of the charter school's intent, and, within thirty (30) days after receiving notification from the department, the school

corporation that owns the school building shall lease the school building to the charter school for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction or for a term at the charter school's discretion, or sell the school building to the charter school for one dollar (\$1). The charter school must begin to use the school building for classroom instruction not later than two (2) years after acquiring the school building. If the school building is not used for classroom instruction within two (2) years after acquiring the school building, the school building shall be placed on the department's list under subsection (f). If during the term of the lease the charter school closes or ceases using the school building for classroom instruction, the school building shall be placed on the department's list under subsection (f). If a school building is sold to a charter school under this subsection and the charter school or any entity related to the charter school subsequently sells or transfers the school building to a third party, the charter school or related entity must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the school building) to the school corporation that initially sold the vacant school building to the charter school. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines.

(i) During the term of a lease under subsection (h), the charter school is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs, and remodeling. The school corporation is responsible for any debt incurred for or liens that attached to the school building before the charter school leased the school building.

(j) Notwithstanding anything to the contrary in this section, and with the sole exception of a waiver provided in subsection (n), when a school building is designated as "Available" under subsection (g), the school building must remain designated as "Available" and may not be sold or otherwise disposed of for at least two (2) years. When the two (2) year period has elapsed, the school corporation may sell or otherwise dispose of the school building in accordance with IC 36-1-11.

(k) Notwithstanding subsection (e), a governing body may request a waiver from the department from the requirements of subsection (e). In order for a governing body to receive a waiver under subsection (n), the governing body must apply to the department, on a form prescribed by the department, for the waiver. The application must include a statement that the governing body believes that a charter school would not be interested in leasing or purchasing the vacant or unused school building.

(l) If the department receives a waiver request under subsection (k), the department, within five (5) days after receiving the waiver request under subsection (k), shall notify each charter school sponsor and statewide organization representing charter schools in Indiana by certified mail of the waiver request received under subsection (k).

The notice must include a copy of the governing body's waiver request.

(m) Not later than thirty (30) days after a charter school sponsor or statewide organization representing charter schools in Indiana receives a notice described in subsection (l), the charter school sponsor or a statewide organization representing charter schools may submit a qualified objection to the governing body's request for a waiver under subsection (k). The qualified objection must be submitted to the department in writing. In order for an objection to be considered a qualified objection by the department, the objection must include:

- (1) the name of the charter school that is interested in leasing or purchasing the vacant or unused school building; and
- (2) a time frame, which may not exceed one (1) year from the date of the objection, in which the charter school intends to begin providing classroom instruction in the vacant or unused school building.

(n) If the department receives a qualified objection under subsection (m), the vacant or unused school building shall remain on the department's list under subsection (f) with the designation with which the building is listed under subsection (g) at the time the department receives the waiver request. If the department does not receive a qualified objection, the department shall grant the governing body's request for a waiver. A governing body that receives a waiver under this subsection may sell or otherwise dispose of the unused or vacant school building in accordance with IC 36-1-11.

As added by P.L.1-2005, SEC.10. Amended by P.L.234-2007, SEC.227; P.L.91-2011, SEC.27; P.L.17-2013, SEC.1; P.L.33-2014, SEC.4.

IC 20-26-7-2

Property damage; insurance proceeds

Sec. 2. A governing body of a school corporation may deposit insurance proceeds received as a result of damage to real or personal property in any school fund:

- (1) established under applicable law; and
- (2) that the governing body considers appropriate.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-3

Conveyance of civic building or property authorized

Sec. 3. Any building or other property owned by a civil township may be conveyed to the corresponding school township in the manner prescribed in section 4 of this chapter.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-4

Petition and procedure for conveyance or transfer of civic building or property

Sec. 4. (a) To transfer or convey a building or other property from a civil township to the corresponding school township, a petition may be filed with the board of commissioners of the county in which the civil township is located that:

- (1) asks for the conveyance or transfer of the building or other property;
- (2) describes the nature of the building or other property to be conveyed or transferred; and
- (3) contains the reasons for the conveyance or transfer.

(b) A petition must be:

- (1) signed by a majority of the legal voters residing in the civil township; and
- (2) filed in the office of the county auditor.

When the petition is filed, the petitioners shall give a bond, with good and sufficient freehold sureties, that is payable to the state, approved by the board of county commissioners, and conditioned to pay all expenses if the board of county commissioners does not authorize the proposed conveyance or transfer.

(c) After a petition is filed, the county auditor shall give notice of the filing of the petition by publication once a week for two (2) consecutive weeks in one (1) newspaper printed and published in the county and of general circulation in the county in which the civil township is located.

(d) The board of commissioners shall:

- (1) hear the petition at the next regular meeting and on the day designated in the notice; and
- (2) determine all matters concerning the petition.

If the board is satisfied as to the propriety of granting the petitioners' request, the board shall make a finding to that effect and the trustee of the civil township shall convey the building or other property belonging to the civil township to the corresponding school township. The school township shall hold, control, and manage the building or other property. Expenses incurred in the conveyance of the property, if the conveyance is authorized, shall be paid out of the general funds of the civil township.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-5

Conveyance of school property to city authorized

Sec. 5. A school corporation (as defined in IC 36-1-2-17) may convey property owned by the school corporation to a civil city or other political subdivision for civic purposes if:

- (1) the governing body adopts a resolution recommending the transfer and conveyance of the school property;
- (2) the civil city or political subdivision agrees to accept the school property;
- (3) the governing body executes a deed for the school property; and
- (4) the conveyance is not for payment or other consideration.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-6

Property acquired by conditional gift or bequest; annexation

Sec. 6. A school corporation that acquires any real property by gift, devise, or bequest shall hold, use, and dispose of the real property under the terms and conditions imposed by the donor or testator.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-7

Property acquired by unconditional gift or bequest; expenditure of principal and interest

Sec. 7. (a) If a common school corporation has acquired or acquires any personal property or real estate by gift, devise, or bequest concerning which the donor or testator, at the time of making the gift, bequest, or devise, does not include conditions or directions concerning the gift, bequest, or devise inconsistent with this section, the principal of the gifts, devises, and bequests is inviolate, but the interest, rents, incomes, issues, and profits thereof may be expended by the school corporation. The interest, rent, incomes, issues, and profits may not be devoted:

- (1) to the payment of any obligation of the corporation incurred before the property was acquired;
- (2) to the payment of the salaries or wages of:
 - (A) teachers of the branches commonly and generally taught in the public schools; or
 - (B) school or library officers or employees; or
- (3) to purchase ordinary school furniture or supplies of the character required by the corporation to be paid for from the current income or revenue coming to it from taxes or by operation of law.

However, the interest, rents, incomes, issues, and profits may be devoted to any public educational or public library or similar purpose for which the managing board or trustee of the corporation believes adequate financial provision has not been made by law.

(b) If:

- (1) the board or trustee desires to invest the principal of the gift, devise, or bequest in the erection or equipping, or both, of a building to be devoted to a special use of a public educational or library character; and
- (2) the expressed will of the donor or testator will not be violated;

the principal may be used for that purpose, notwithstanding any other provision of this chapter. This subsection may not be construed to permit its use for the building or equipping of buildings for ordinary graded or high schools.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-8

Appointment of trustees to manage property acquired by gift or bequest

Sec. 8. (a) If the board of trustees or school commissioners of a corporation governed by sections 6 through 9 of this chapter desires:

(1) to appoint one (1) or more trustees to hold the title to any property, real or personal, acquired by the board or commissioners in the manner mentioned in sections 6 through 9 of this chapter, unless the wish and will of the donor or testator would be violated; and

(2) to invest the principal and pay over only the net interest, rents, issues, incomes, and profits of the fund to the school corporation for use as provided in sections 6 through 9 of this chapter;

the school corporation may name and appoint one (1) or more trustees and to vest in the trustees the title to the property, subject to trust and powers as the school corporation may impose, not inconsistent with the expressed wish or will of the donor or testator or this chapter applicable to the property if a transfer to a trustee has not been made.

(b) However, if:

(1) the managing board of the school corporation consists of less than three (3) persons; and

(2) the school corporation elects to have the property held and managed by trustees;

the corporation shall establish the terms of the trust and make the conveyance, and the judge of the circuit court of the county in which the school corporation is domiciled shall appoint at least three (3) trustees.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-9

Purpose and construction of statutes concerning property acquired by gift or bequest

Sec. 9. (a) It is the main purpose of this chapter that the identity of the principal of gifts, bequests, and devises to the state's public schools may not be lost and that the income from investment of the gifts, bequests, and devises shall be used in giving students the public education and library advantages that could not be enjoyed if only the school and library revenue and income provided by law were available.

(b) Sections 6 through 9 of this chapter may not be construed as a limitation against the investment and reinvestment either by the school corporation itself or the trustees appointed under section 8 of this chapter, as the safety of the fund or the best interests of the recipient school corporation require.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-10

Gifts or conveyances conditioned on matching public funds; bond issue authorized

Sec. 10. (a) If a person gives or bequeaths to trustees an amount of money that exceeds five thousand dollars (\$5,000) to erect a public

school building or seminary in any unincorporated town, and upon the express or implied condition contained in the gift or bequest that an equal amount shall be raised by the citizens of the town or township for a like purpose, the township trustee of the township in which the town is located shall, upon the petition of a majority of the legal voters of the township, prepare, issue, and sell the bonds of the township to secure a loan of not more than fifteen thousand dollars (\$15,000), in anticipation of the revenue for special school purposes, to comply with the condition attached to the gift or devise. The bonds must bear a rate of interest of not more than seven percent (7%) per annum, payable at such time, within seven (7) years after the date, as the trustee determines.

(b) Notwithstanding subsection (a), until all the bonds of any one (1) issue have been redeemed:

- (1) the township trustee may not make another issue; and
- (2) bonds may not be sold at a less rate than ninety-five cents (\$0.95) on the dollar.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-11

Bond issue petition

Sec. 11. The whole number of votes cast for candidates for Congress at the last preceding congressional election in the township is considered to be the whole number of legal voters of the township. A majority of the names of these legal voters must be signed to the petition presented to the township trustee, to which petition shall be attached the affidavit or affidavits, as the trustee considers necessary, of a competent and credible person or persons that the signatures of all the names to the petition are genuine and that the persons who signed the petition are, as the trustee believes, legal voters of the township.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-12

Recording and preservation of bond issue petition; bond issuance

Sec. 12. (a) The township trustee shall:

- (1) record the petition and the attached names in the record book of the township; and
- (2) file and preserve the petition, entering into the record the date and time the petition was filed.

(b) If the township trustee is satisfied that the petition contains the names of a majority of the legal voters of the township, the township trustee shall prepare, issue, and sell bonds of the amount listed in the petition, as provided in section 10 of this chapter.

(c) The township trustee shall accurately keep a record of all proceedings concerning:

- (1) the issue and sale of the bonds;
- (2) to whom and for what amount the bonds are sold;
- (3) the rate of interest; and
- (4) the time when the bonds become due.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-13

Eminent domain; petition for appointment of appraisers

Sec. 13. If:

- (1) the trustees of school corporations of a city or town believe;
- or
- (2) the township trustee of a township believes;

it is necessary to purchase any real estate on which to build a schoolhouse, or for any other purpose connected with the real estate, the township trustee or school trustees, or a majority of them, may file a petition in the circuit court of the county asking for the appointment of appraisers to appraise and assess the value of the real estate.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-14

Eminent domain; appointment of appraisers

Sec. 14. Ten (10) days after a petition is filed under section 13 of this chapter, the court shall appoint:

- (1) one (1) disinterested freeholder residing in the school corporation or township where the real estate is located; and
- (2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to appraise and assess the value of the real estate. One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the real estate.

As added by P.L.1-2005, SEC.10. Amended by P.L.113-2006, SEC.14.

IC 20-26-7-15

Eminent domain; oath of appraisers; payment of damages; trial; appeal

Sec. 15. (a) Before making the appraisal and assessment, the appraisers shall take an oath before the clerk of the court to make a fair, true, and honest appraisal of the real estate.

(b) After taking the oath under subsection (a), the appraisers shall examine the real estate, hear evidence they consider necessary, and make a report of their appraisal to the court not more than five (5) days after their appointment.

(c) After the examination under subsection (b), the township trustee or school trustees of the school corporation, or a majority of them, may pay to the clerk of the court, for the use of the owner or owners of the real estate, the amount assessed.

(d) When the payment is made under subsection (c) and the payment is shown to the court hearing the cause:

- (1) the title to the real estate vests immediately in the school corporation or school township for school purposes;
- (2) the court shall cause the real estate to be conveyed to the school corporation or school township by a commissioner appointed for that purpose; and

(3) the school corporation or school township may immediately take possession of the real estate for the purpose.

(e) When the report of the appraisers is filed, any party to the action, not later than ten (10) days, may except to the amount of the appraisal and valuation of the real estate and a trial may be had on the exception before the court as other civil causes are tried. The court shall fix the amount of the appraisal and assessment, and any party to the action may appeal the judgment of the court as other civil cases are appealed.

(f) If the township trustee or school trustees, or a majority of them, except to the amount of the appraisal and assessment:

(1) the court shall convey the real estate to the school corporation or school township;

(2) the title to the real estate vests immediately in the school corporation or school township for the purposes; and

(3) subsequent proceedings upon the exceptions affect only the amount of the appraisal and assessments.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-16

Eminent domain; offer of reasonable value to owners before petition; costs of subsequent action

Sec. 16. Before the filing of the petition, the township trustee or school trustees, or a majority of them, may offer or tender to the owner or owners of the real estate an amount considered a reasonable value for the real estate. If the amount fixed by the appraisers or by the court later becomes the same or less than the amount tendered:

(1) the cause shall be prosecuted at the cost of the owner or owners of the real estate; and

(2) upon exception to the amount fixed by the appraisers, if the exceptor does not increase the amount of the appraisal and assessment, the action on the exception shall be at the cost of the exceptor.

If an amount has not been tendered by the township trustee or school trustees, or a majority of them, and an exception is not taken, the action shall be prosecuted at the cost of the petitioners.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-17

Purchase or improvement of property and buildings for school purposes; notice to taxpayers; right to appeal

Sec. 17. (a) A school corporation may:

(1) purchase buildings or lands, or both, for school purposes; and

(2) improve the buildings or lands, or both.

(b) An existing building, other than a building obtained under IC 5-17-2 (before its repeal) or IC 4-13-1.7, permitting the purchase of suitable surplus government buildings, may not be purchased for use as a school building unless the building was originally constructed for use by the school corporation and used for that

purpose for at least five (5) years preceding the acquisition as provided in this section through section 19 of this chapter.

(c) Notwithstanding this section through section 19 of this chapter limiting the purchase of school buildings, a school corporation may:

- (1) purchase suitable buildings or lands, or both, adjacent to school property for school purposes; and
- (2) improve the buildings or lands, or both, after giving notice to the taxpayers of the intention of the school corporation to purchase.

The taxpayers of the school corporation have the same right of appeal under the same procedure as provided for in IC 6-1.1-20-5 through IC 6-1.1-20-6.

As added by P.L.1-2005, SEC.10. Amended by P.L.146-2008, SEC.466.

IC 20-26-7-18

Authorization of bonds for purchase or improvement of property and buildings; issuance procedure

Sec. 18. A school corporation may issue and sell bonds under the general statutes governing the issuance of bonds to purchase and improve buildings or lands, or both. All laws relating to approval (if required) in a local public question under IC 6-1.1-20, the filing of petitions, remonstrances, and objecting petitions, giving notices of the filing of petitions, the determination to issue bonds, and the appropriation of the proceeds of the bonds are applicable to the issuance of bonds under sections 17 through 19 of this chapter.

As added by P.L.1-2005, SEC.10. Amended by P.L.146-2008, SEC.467.

IC 20-26-7-19

Authorization of school and civil township bonds for purchase or improvement of property and buildings; issuance procedure

Sec. 19. (a) If:

- (1) a school township whose boundaries are coterminous with the boundaries of the corresponding civil township has occupied as lessee for at least five (5) years a building constructed for its use as a school building;
- (2) the township board finds that it would be in the best interests of the school township and its taxpayers for the school township to purchase the building; and
- (3) the entire amount required to pay the cost of acquisition cannot be provided by the school township on account of the constitutional debt limitation;

the township board, with the approval of the township trustee, may authorize the issuance of bonds by each of the school township and the civil township to provide funds to pay the cost of acquisition of the building.

(b) The amount of the civil township bonds may not exceed the amount required to pay the cost of acquisition over and above the amount that can validly be financed by the school township for that

purpose. The issuance of bonds must be authorized by separate resolutions specifying the amount, terms, and conditions of the bonds to be issued by each of the corporations. The bonds issued are the separate obligations of the corporations, respectively. The bonds must be payable at times and in amounts not later than twenty (20) years after the date of issuance as the township board may determine and shall otherwise be authorized, issued, and sold in accordance with the applicable general laws.

(c) As used in this section, "building" includes the land occupied by the school township for school purposes.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-20

Off-site construction; state policy; definition

Sec. 20. (a) It is the policy of the state to promote the acquisition, construction, and erection of school facilities by the off-site construction method so school corporations might obtain needed school facilities that, in many cases, would be denied by the higher cost of conventional construction.

(b) As used in this section through section 26 of this chapter, "off-site construction" means the fabrication and assembly of the component parts of various materials at a point other than the construction site where the parts are normally fabricated or assembled.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-21

Off-site construction; procedure for advertising for plans and specifications and for bids

Sec. 21. (a) If the governing body or officer of a school corporation determines to erect or build a school building or buildings in which off-site construction techniques are to be used, the governing body or officer shall advertise for plans and specifications and for bids covering the plans and specifications.

(b) A bidder must file the bidder's plans or specifications with its bid.

(c) The advertisement shall be published once each week for two (2) consecutive weeks in two (2) newspapers published in the school corporation. If only one (1) newspaper is published in the boundaries of the school corporation, the advertisement shall be published in that newspaper and in a newspaper of general circulation published in the county where the school corporation is located. If a newspaper is not published in the boundaries of the school corporation, the advertisement shall be published in any two (2) newspapers of general circulation published in the county where the school corporation is located. If only one (1) newspaper is published in the county where the school corporation is located, publication in one (1) newspaper is sufficient.

(d) The advertisement:

(1) must contain a description of the building or buildings to be

erected and the estimated cost; and

(2) may not require plans and specifications or bids to be filed for at least four (4) weeks after the date of the last publication of the advertisement.

(e) Subject to other applicable provisions of sections 20 through 25 of this chapter, the school corporation may accept the bid of the lowest bidder submitting plans and specifications considered satisfactory by the school corporation for a building or buildings.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-22

Off-site construction; bonds

Sec. 22. A school corporation may issue and sell bonds to construct a building or buildings under the general statutes governing the issuance and sale of bonds by school corporations if not in conflict with sections 20 through 25 of this chapter.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-23

Off-site construction; approval of plans and specifications before execution of contract

Sec. 23. (a) Before the execution of a contract under sections 20 through 25 of this chapter, the plans and specifications for a building or buildings, which must be prepared by an architect or engineer registered to practice in Indiana, must be submitted to:

- (1) the state department of health;
- (2) the division of fire and building safety; and
- (3) any other agencies designated by law to pass on plans and specifications for school buildings.

(b) The plans and specifications must be approved by each agency in writing before the execution of the contract.

As added by P.L.1-2005, SEC.10. Amended by P.L.1-2006, SEC.327.

IC 20-26-7-24

Off-site construction; inspection of buildings; affidavit of compliance

Sec. 24. (a) After the completion of a school building or buildings erected or constructed under this chapter and before acceptance by the school corporation, the division of fire and building safety shall examine and inspect the building or buildings to determine if the requirements of the contract and the plans and specifications have been met.

(b) The division of fire and building safety shall immediately report to the school corporation any deviation from any requirements.

(c) Before final payment and settlement is made, the division of fire and building safety must file with the governing body or officer an affidavit that all requirements of the contract and of the plans and specifications have been fully and faithfully met.

As added by P.L.1-2005, SEC.10. Amended by P.L.1-2006, SEC.328.

IC 20-26-7-25

Off-site construction; supplemental effect of provisions

Sec. 25. Sections 20 through 24 of this chapter may not be considered to alter, amend, or repeal any other Indiana statute. However, the provisions of any other statute may not apply to proceedings under sections 20 through 24 of this chapter to the extent that the statute is inconsistent with sections 20 through 24 of this chapter.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-26

Duties and liabilities of school corporations with respect to municipal assessments for public improvements

Sec. 26. (a) A common school corporation:

- (1) has the same powers; and
- (2) is subject to the same duties and liabilities;

concerning municipal assessments for the cost of public improvements affecting the common school corporation's real estate that private owners of real estate possess or to which private owners of real estate are subject.

(b) The real estate of a common school corporation is subject to liens for municipal assessments for public improvements if the real estate:

- (1) had been owned by a private owner; and
- (2) would have been subject to a lien at the time the lien was attached.

(c) A penalty or an attorney's fee concerning a municipal assessment may not be collected from a school corporation.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-27

Inspection of heating systems and fuel lines used for school purposes

Sec. 27. The superintendent of a school corporation shall cause an annual inspection to be conducted of all heating systems and supporting gas, oil, propane, or any other fuel lines used for school purposes.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-27.5

Abatement of certain violations

Sec. 27.5. (a) Notwithstanding any other law, if:

- (1) as a result of an inspection of a school building under IC 22-14-2-11 that is not an inspection to determine compliance with a legal standard for accreditation, the division of fire and building safety of the department of homeland security determines that there is a violation of a fire safety law at the school building;
- (2) the fire safety law that the division determines has been violated at the school building incorporates a standard that:

(A) was not a fire safety law at the time of the construction or renovation of the school building and is being applied retroactively to the building by an employee of the division of fire and building safety; or

(B) previously was not applicable to the building; and

(3) the violation is not a condition that creates an immediate safety hazard and is monitored under daily maintenance and supervision;

the school corporation shall abate the violation before the earlier of one (1) year after the violation determination or six (6) months after the start of the school corporation's next budget year following the violation determination.

(b) The expense of the abatement may be paid out of funds appropriated for such purposes in the budget year following a violation determination under subsection (a).

As added by P.L.132-2007, SEC.6.

IC 20-26-7-28

Record and report of heating system and fuel line inspection

Sec. 28. A report of the inspection described in section 27 of this chapter shall be made to the division of fire and building safety before September 1 of each year. The report shall be made on forms prescribed and approved by the division of fire and building safety.
As added by P.L.1-2005, SEC.10. Amended by P.L.1-2006, SEC.329.

IC 20-26-7-29

Condemnation of school building; exclusive procedure

Sec. 29. A school building may not be condemned and declared unfit for use for school purposes except as provided in sections 30 through 34 of this chapter.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-30

Condemnation of school building; petitions alleging grounds for condemnation

Sec. 30. A petition signed by:

(1) the state department of health;

(2) the state fire marshal; or

(3) at least twenty-five (25) legal residents of the school corporation in which a school building is located, at least fifteen (15) of whom are resident freeholders;

may be filed with the auditor of the county in which the school corporation is located, alleging that the school building designated in the petition is insanitary or otherwise unfit for use for school purposes and should be condemned.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-31

Condemnation of school building; copies of petition; notice of hearing

Sec. 31. If a petition is filed under section 30 of this chapter, the auditor of the county shall do the following:

- (1) Mail one (1) copy of the petition to:
 - (A) the county superintendent of schools; and
 - (B) the township trustee or the president of the board of school trustees or board of school commissioners of the school corporation in which the school building is located.
- (2) Give notice by one (1) publication in each of two (2) newspapers circulating in the school corporation in which the school building is located that a hearing will be held:
 - (A) at a place and at a time designated in the notice;
 - (B) not less than ten (10) days after the date on which the notice is published;
 - (C) before the board of county commissioners and the county council of the county, acting jointly; and
 - (D) at which an interested person may appear in person or by attorney and be heard.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-32

Condemnation of school building; special session of board of commissioners and county council to conduct hearing

Sec. 32. (a) The auditor shall call a special session of the board of county commissioners and the county council to:

- (1) conduct the hearing described in section 31 of this chapter; and
- (2) determine the matter submitted.

(b) The chairman of the county council shall preside at the hearing.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-33

Condemnation of school building; hearing procedure; appeal

Sec. 33. (a) The hearing described in section 31 of this chapter may be adjourned from day to day.

(b) When the hearing has concluded, the board of county commissioners and county council, acting jointly, shall determine from:

- (1) the evidence submitted;
- (2) an inspection of the building; or
- (3) both the evidence and an inspection;

if the building should be condemned.

(c) If the board of county commissioners and county council, acting jointly, determine that the building should be condemned, the board and council shall fix a date when the order of the board and council becomes effective. An appeal from the finding and determination of the board of county commissioners may be made to the circuit or superior court of the county in the same manner as appeals are taken from the board of county commissioners.

As added by P.L.1-2005, SEC.10. Amended by P.L.231-2005,

SEC.32; P.L.1-2006, SEC.330.

IC 20-26-7-34

Physical condition of high school not grounds for revoking or refusing to grant commission; effect on academic standing of students

Sec. 34. (a) The state board may not:

- (1) revoke the commission of a high school; or
- (2) refuse to grant a commission to a high school when properly applied for;

because of the physical condition of any of the buildings in which the high school is conducted or maintained.

(b) The credits or the academic standing of a person who is a pupil in or a graduate of a high school may not be affected or determined by the physical condition of the building in which the pupil attended high school.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-35

Appeal from condemnation finding; procedure

Sec. 35. (a) A decision of the state department of health to build, change, or condemn a school building may be appealed by:

- (1) a township trustee;
- (2) a board of school trustees or board of school commissioners;
- (3) a member of a township board; or
- (4) at least ten (10) residents and taxpayers;

of a township, town, or city in which the matter involving the building, changing, or condemnation of a school building occurred. The appeal may be made to a circuit or superior court of the county in which the township is located. A final appeal may be made to any court of last resort in Indiana.

(b) The appeal must:

- (1) be made in the name of the person making the appeal or in the name of the officer making the appeal; and
- (2) be perfected by filing a complaint or petition:
 - (A) in the office of the clerk of the court to which the appeal is taken;
 - (B) not more than thirty (30) days after the date of final decision by the state department of health that ordered the changing, condemnation, or building of the school building was made; and
 - (C) that sets forth the facts being appealed.

(c) The:

- (1) state department of health; and
- (2) township trustee, board of school commissioners, or board of school trustees if the appeal is made by the residents and taxpayers or by a member of the township board;

shall be named as defendants in the cause of action.

(d) Notice of the filing and pendency of the appeal shall be made by serving a summons, regularly issued by the court where cause of

action is pending, on the state health commissioner at least ten (10) days before the hearing of the cause.

(e) The appeal shall be tried as other civil causes are tried in Indiana. If the appeal is made by private citizens, bond approved by the court shall be given to cover costs and reasonable attorney's fees if the appeal is not sustained.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-36

School building construction or alteration; feasibility study

Sec. 36. Before the governing body exercises power granted by any law to spend more than one million dollars (\$1,000,000) to build, repair, or alter school buildings that would be financed by:

- (1) entering into a lease agreement under IC 20-47-2-11 through IC 20-47-2-14 or IC 20-47-3-9 through IC 20-47-3-12;
- (2) issuing bonds under IC 20-48-1; or
- (3) any other available method;

the governing body may order the preparation and pay the costs of a feasibility study.

As added by P.L.1-2005, SEC.10. Amended by P.L.2-2006, SEC.123.

IC 20-26-7-37

School building construction or alteration; hearing and notice

Sec. 37. (a) If the governing body proposes to construct, repair, or alter a school building at a cost of more than one million dollars (\$1,000,000) that would be financed by:

- (1) entering into a lease agreement under IC 20-47-2-11 through IC 20-47-2-14 or IC 20-47-3-9 through IC 20-47-3-12;
- (2) issuing bonds under IC 20-48-1; or
- (3) any other available method;

the governing body must hold a public hearing at which explanations of the potential value of the proposed project to the school corporation and to the community shall be given and at which interested parties may present testimony and questions.

(b) Notice of the hearing shall be given in accordance with IC 5-3-1. The notice must state that on a given day, time, and place, the governing body will meet to discuss and hear objections and support to the proposed construction.

As added by P.L.1-2005, SEC.10. Amended by P.L.2-2006, SEC.124.

IC 20-26-7-38

School building construction or alteration; resolution

Sec. 38. At the public hearing and before bids for construction of the project are invited, the governing body shall adopt a resolution that specifies the following:

- (1) The educational purpose the building will serve.
- (2) The estimated cost of construction, including the cost of land.
- (3) Any other pertinent information, including the estimated impact on the tax rate and the proposed sources of funding.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-39

Sale or exchange of unneeded school property to state; terms of agreement

Sec. 39. (a) If:

- (1) a school corporation; and
- (2) the state, either in the name of the state or in the name of the trustees of an agency of the state;

each own improved or unimproved real estate that lies within the boundaries of the school corporation and that is not needed or required for the purpose for which it was acquired, the school corporation and the state may sell, trade, exchange, or convey to or with each other the unneeded real estate upon such terms and conditions mutually agreed upon and incorporated in an agreement between the trustees or board of trustees of the school corporation and the state or, if the real estate is held in the name of the trustees of an agency of the state, by the trustees.

(b) A value must be assigned to each parcel of real estate involved in the sale, trade, or exchange in the agreement. The assigned value must be the fair market value of the real estate as determined by three (3) appraisers appointed as follows:

- (1) One (1) to be appointed by the board of trustees of the school corporation.
- (2) One (1) to be appointed by the state or, if the real estate is held in the name of the trustees of an agency of the state, by the trustees.
- (3) One (1) to be appointed by the two (2).

(c) The agreement must provide for payment by the party owning the real estate of the smaller value to the other party of the difference of value of the properties.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-40

Sale or exchange of unneeded school property to state; execution of deed

Sec. 40. Whenever:

- (1) an agreement described in section 39 of this chapter is executed; and
- (2) the payment of any money is made;

deeds of conveyance shall be executed by the trustees or board of trustees of the school corporation and by the state for the transfer of state owned real estate.

As added by P.L.1-2005, SEC.10.

IC 20-26-7-41

Township schools; sale of unused school land

Sec. 41. A township trustee may, whenever:

- (1) a schoolhouse is removed to a different location or a new one erected for the school in a different place; and

(2) the land where the schoolhouse is situated belongs unconditionally to the township, town, or city; sell the land, if the trustee believes it is advantageous to the township, town, or city to do so. The township trustee shall sell the land for the highest price that can be obtained for the land. Upon payment of the purchase money to the township, town, or city, the township trustee shall execute to the purchaser a deed of conveyance, which must be sufficient to vest in the purchaser the title the township, town, or city has to the land. The money derived from the sale becomes a part of the school revenue.

As added by P.L.2-2006, SEC.125.

IC 20-26-7-42

Township schools; subsequent conveyance to correct error in prior conveyance

Sec. 42. (a) If an officer authorized to sell school land sells any lands without a title to the land, the officer or the officer's successor in office may convey other land of equal value that is agreed upon by the officer and the purchaser, purchaser's heirs, or purchaser's assigns. If an agreement is not made, the purchase money, with interest, shall be repaid to the purchaser, purchaser's heirs, purchaser's executors, purchaser's administrators, or purchaser's assigns.

(b) Purchase money may not be repaid until the prosecuting attorney has:

- (1) investigated the facts of the case; and
- (2) certified to the correctness of the claim.

As added by P.L.2-2006, SEC.126.

IC 20-26-7-43

Limitation on eminent domain related to replacing school destroyed by natural disaster

Sec. 43. (a) This section applies to school corporations organized and formed through reorganization under IC 20-23-4, IC 20-23-6, or IC 20-23-7 and school townships under IC 20-23-3.

(b) This section applies only when a school corporation or school township sustains loss by fire, wind, cyclone, or other disaster of all or a major part of its school building or school buildings.

(c) A school corporation or school township seeking to exercise its right of eminent domain under IC 32-24 to obtain land for use in reconstructing or replacing the school building or school buildings may not condemn more than twice the acreage established by the state board as the minimum acreage requirement for the type of school building damaged or destroyed and being reconstructed or replaced. In determining the acreage, land already owned by the school corporation or school township that adjoins any part of the land out of which additional land is sought to be condemned shall be used in computing the total acreage for the reconstruction or replacement of the school building or school buildings under this section. The need for the additional land is subject to judicial review in the court where the condemnation action is filed and may, at the

request of either party, be tried either by the court or a jury before appraisers are appointed with full rights of appeal, by either party, from the interlocutory findings.

As added by P.L.2-2006, SEC.127.

IC 20-26-7-44

Township schools; disposition of gift received to build school

Sec. 44. (a) If:

- (1) a school township has acquired or acquires any personal property or money by gift, devise, or bequest;
- (2) the donor or testator, at the time of making the gift, devise, or bequest does not or did not attach any conditions or directions concerning the way or manner in which the gift, devise, or bequest may or shall be used or expended for the benefit of the public schools of the school township; and
- (3) a petition is signed by at least fifty (50) resident freeholders of the school township and filed before August 2 with the trustee of the school township, requesting the township board to appropriate and transfer all of the gift, devise, or bequest to a capital projects fund or debt service fund to be used for the erection of a new school building or buildings;

the trustee shall give notice to the taxpayers of the school township, by publication, that on the same day on which the township board meets to establish the tax levy for the ensuing year, all persons interested in the proposed petition may appear and be heard.

(b) If the township board grants the petition after the hearing, the township board shall appropriate and transfer all the money of the gift, devise, or bequest to a capital projects fund or debt service fund for the erection of a new school building or buildings.

(c) If any gift, devise, or bequest subject to this section consists of stocks, bonds, or other personal property, the township trustee, with the consent and approval of the township board, may sell the stocks, bonds, or other personal property for not less than the market value of the property on the day on which the property is sold.

As added by P.L.2-2006, SEC.128.

IC 20-26-7-45

Legalization of certain school corporation actions in acquiring property under deed with reverter clause; school corporation rights in case of reversion

Sec. 45. (a) The actions of a school corporation taken before January 1, 1993, in acquiring any interest in real estate or a real estate improvement under a deed that contains a reverter clause that limits the use of the property by the school corporation are legalized.

(b) If a reversion occurs under a deed described in subsection (a), the school corporation is entitled to the improvements or the fair market value of the improvements made to the property by the school corporation.

As added by P.L.220-2011, SEC.329.