

IC 36-12-7

Chapter 7. Class 2 Public Libraries

IC 36-12-7-1

Application of chapter

Sec. 1. This chapter applies only to Class 2 public libraries.
As added by P.L.1-2005, SEC.49.

IC 36-12-7-2

Board compliance with and participation in statewide library card program; reciprocal borrowing agreement

Sec. 2. The library board shall:

- (1) comply with; and
- (2) participate in;

the statewide library card program described in IC 4-23-7.1-5.1. However, the library board may enter into a reciprocal borrowing agreement with another library board under IC 36-1-7 or IC 36-12-3-7 to provide to or receive from the other library board library service.

As added by P.L.1-2005, SEC.49.

IC 36-12-7-3

Use of local library; fees; fines

Sec. 3. (a) The residents or real property taxpayers of the library district taxed for the support of the library may use the facilities and services of the public library without charge for library or related purposes. However, the library board may:

- (1) fix and collect fees and rental charges; and
- (2) assess fines, penalties, and damages for the:
 - (A) loss of;
 - (B) injury to; or
 - (C) failure to return;

any library property or material.

(b) A library board may issue local library cards to:

- (1) residents and real property taxpayers of the library district;
- (2) Indiana residents who are not residents of the library district; and
- (3) individuals who reside out of state and who are being served through an agreement under IC 36-12-13.

(c) Except as provided in subsection (d), a library board must set and charge a fee for a local library card issued under subsection (b)(2) and (b)(3). The minimum fee that the board may set under this subsection is the greater of the following:

- (1) The library district's operating fund expenditure per capita in the most recent year for which that information is available in the Indiana state library's annual "Statistics of Indiana Libraries".
- (2) Twenty-five dollars (\$25).

(d) A library board may issue a local library card without charge or for a reduced fee to an individual who is not a resident of the

library district and who is:

(1) a student enrolled in or a teacher in a public school corporation or nonpublic school:

- (A) that is located at least in part in the library district; and
- (B) in which students in any grade preschool through grade 12 are educated; or

(2) a library employee of the district;

if the board adopts a resolution that is approved by an affirmative vote of a majority of the members appointed to the library board.

(e) A library card issued under subsection (b)(2), (b)(3), or (d) expires one (1) year after issuance of the card.

As added by P.L.1-2005, SEC.49. Amended by P.L.113-2010, SEC.164; P.L.84-2012, SEC.31.

IC 36-12-7-4

Board of 1901 city or town library; residency; appointment of members; vacancy; certificates of appointment; oath; free use; report

Sec. 4. (a) The library board of any public library established as a 1901 city or town library consists of qualified and experienced individuals at least eighteen (18) years of age who have been residents of the municipality where the library is located for at least two (2) years immediately preceding the appointment of the individual. The members shall be appointed for two (2) year terms as follows:

(1) The board of commissioners of the county where the library is located shall appoint one (1) member.

(2) The fiscal body of the county where the library is located shall appoint one (1) member.

(3) The municipal executive shall appoint one (1) member.

(4) The municipal legislative body shall appoint one (1) member.

(5) The school board of the school corporation where the library is located shall appoint three (3) members, who may be members of the school board.

(b) If a vacancy occurs on the library board for any cause, the appointing authority shall fill the vacancy. The appointing authority may at any time, for cause shown, remove a member of the library board and appoint a new member to fill the vacancy caused by the removal.

(c) The library board members shall serve without compensation.

(d) All appointments to membership on the library board must be evidenced by certificates of appointment signed by the appointing authority. Certificates of appointment shall be:

(1) handed to; or

(2) mailed to the address of;

the appointee. Not later than ten (10) days after receiving the certificates of appointment, an appointee shall take an oath of office, before the clerk of the circuit court, that the appointee will faithfully discharge the appointee's duties as a member of the library board to

the best of the appointee's ability. The appointee shall file the certificate, with the oath endorsed on it, with the clerk of the circuit court of the county in which the library is located.

(e) Not later than five (5) days after all the members of the library board have been appointed and have taken the oath of office, the members shall meet and organize by electing one (1) member as president, one (1) member as vice president, and one (1) member as secretary. The members shall also select committees or an executive board to carry on the work of the board if the members determine that committees or an executive board is necessary.

(f) The facilities of a public library established as a 1901 city or town library are open and free for the use and benefit of all of the residents of the library district.

(g) The fiscal officer of the municipality operating a public library under this section shall prepare and file with the municipal legislative body, before January 16 each year, an itemized statement, under oath, of all the receipts and disbursements of the library board for the year ending December 31 immediately preceding the preparing and filing of the report. The report must contain an itemized statement of:

- (1) the sources of all receipts;
- (2) all disbursements made; and
- (3) the purpose for which each was made.

The annual report may be inspected by the citizens of the municipality and township in which the library is located.

As added by P.L.1-2005, SEC.49.

IC 36-12-7-5

1881 city or county incorporation libraries; corporate existence and powers; tax exemption; art gallery; reading rooms; public park

Sec. 5. (a) A public library established as an 1881 city or county incorporation library that has filed the appropriate incorporation instrument in the proper recorder's office is a corporation and possesses all the rights, powers, and privileges given to corporations by common law to:

- (1) sue and be sued;
- (2) borrow money and secure the payment of the money by notes, mortgages, bonds, or deeds of trust upon the personal or real property of the public library;
- (3) purchase, rent, lease, hold, sell, and convey real estate for the benefit of the corporation, and to erect and maintain suitable buildings to accomplish library purposes; and
- (4) receive and accept donations, either of money or real estate, either by gift or devise, and to hold, use, mortgage, sell, and convey these donations for the benefit of the corporation, in the manner provided in the deed of gift or devise.

(b) The real and personal property of the corporation that is established as an 1881 city or county incorporation public library:

- (1) is exempt from taxation for state, county, and municipal purposes; and
- (2) remains exempt so long as the public library is used

exclusively for the general benefit of the inhabitants of the city or county in which the library is located.

(c) The corporation may establish and maintain a gallery of art and public reading rooms in connection with the corporation's library. The corporation may also maintain a public park either in connection with the corporation's library building or separate from the library building.

As added by P.L.1-2005, SEC.49.

IC 36-12-7-6

1852 subscription libraries; corporate existence and powers; organization; tax levy

Sec. 6. (a) A public library established as an 1852 subscription library is a municipal corporation and possesses the power to:

- (1) sue and be sued; and
- (2) receive by donation books, money, paper, or other real or personal property for the library.

(b) The shareholders of the 1852 subscription library are the inhabitants of the municipality who have subscribed money for the establishment of the library. The shareholders shall annually elect seven (7) directors on the first Monday in January. However, if an annual election is omitted, the directors remain in office until the next annual election and until successors are chosen.

(c) The directors shall appoint one (1) director to be president at the meetings. The president may vote only in case of a tie vote. A majority of the directors constitutes a quorum. If a vacancy occurs among the directors, the remaining directors shall elect a new director to fill the vacancy, and the new director shall serve until the next annual election.

(d) The 1852 subscription library is governed by bylaws adopted by the directors of the public library.

(e) The directors may adopt a common seal.

(f) The directors may levy a tax on the shareholders not to exceed one dollar (\$1) on each share during one (1) year. In addition, at the annual meeting, the shareholders may increase the tax to a sum not to exceed five dollars (\$5) on each share during one (1) year.

(g) The shareholders may:

- (1) appoint a treasurer and a librarian; or
- (2) remove the treasurer or librarian;

at the pleasure of the shareholders.

As added by P.L.1-2005, SEC.49.

IC 36-12-7-7

Board of 1899 township library; appointment of members; powers and duties; tax levy; free use

Sec. 7. (a) The library board of a library established as an 1899 township library consists of the school township trustee in the township where the library is located and two (2) residents of the township who are appointed by the board of commissioners of the county where the library is located. Appointments are for a term of

four (4) years. Members of the library board serve without compensation.

(b) The library board:

- (1) shall control the purchase of books and the management of the library;
- (2) shall possess and retain custody of any books remaining in the old township library in the township where the library is located;
- (3) may receive donations, bequests, and legacies on behalf of the library; and
- (4) may receive copies of all documents of the state available for distribution from the director of the state library.

(c) The 1899 township library is the property of the school township. The school township trustee is responsible for the safe preservation of the township library.

(d) Two (2) or more adjacent townships may unite to maintain a township library. The library is controlled by either:

- (1) a combined library board, which consists of each of the uniting township boards appointed under subsection (a); or
- (2) the one (1) township library board appointed under subsection (a) of the uniting townships that receives funding for the operation of the uniting township library.

(e) The legislative body of any township that contains a library established as an 1899 township library may levy a tax annually of not more than three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property assessed for taxation in the township. If the legislative body does not levy the tax, a petition signed by at least the number of registered voters required under IC 3-8-6-3 to place a candidate on the ballot may be filed with the circuit court clerk, who:

- (1) shall determine if an adequate number of voters have signed the petition; and
- (2) if an adequate number of voters have signed the petition, shall certify the public question to the county election board under IC 3-10-9-3. The county election board shall then cause to be printed on the ballot for the township the following question in the form prescribed by IC 3-10-9-4: "Shall a township library tax be levied?".

If a majority of the votes cast on the question in subdivision (2) are in the affirmative, the township trustee shall annually levy a tax of not less than one and sixty-seven hundredths cents (\$0.0167) and not more than three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property in the township for the establishment and support of a township library. The township tax shall be levied, assessed, collected, and paid according to the procedure outlined in IC 6-1.1.

(f) The tax levy under subsection (e) shall be discontinued when the question of discontinuing the levy has been submitted to a vote according to the procedure provided in subsection (e) and the majority of the votes cast on the question is in the negative.

(g) If a public library that is open for the use of all the residents of the township is located in the township, the proceeds of the tax collected under subsection (e) shall be paid to that public library.

(h) In a township outside a city that contains a library:

(1) established by private donations of the value of at least ten thousand dollars (\$10,000), including the real estate and buildings used for the library; and

(2) used for the benefit of all the inhabitants of the township; the township trustee of the township shall annually levy and collect not more than two cents (\$0.02) on each one hundred dollars (\$100) upon the taxable property within the limits of the township. The money shall be paid to the trustees of the library, to be applied by the trustees for the purchase of books and the payment of the maintenance costs for the library. When it becomes necessary to purchase additional ground for the extension or protection of library buildings already established by private donation, the trustee, with the consent of the county legislative body, may annually levy and collect not more than one and sixty-seven hundredths cents (\$0.0167) on each one hundred dollars (\$100) of taxable property of the township for not more than three (3) years successively, to be expended by the trustees for the purchase of property and the construction and enlargement of library buildings.

(i) The 1899 township library is free to all the residents of the township.

As added by P.L.1-2005, SEC.49.

IC 36-12-7-8

Certain libraries established by private donation; tax levy; report

Sec. 8. (a) As used in this section:

(1) "county fiscal body" means the fiscal body of a county in which a private donation library is located;

(2) "library board" means a library board established under IC 20-14 (before its repeal) or this article in a county in which a private donation library is located; and

(3) "private donation library" means a public library:

(A) established by private donation;

(B) located in a city having a population of more than one hundred ten thousand (110,000) but less than one hundred fifty thousand (150,000);

(C) that contains at least twenty-five thousand (25,000) volumes;

(D) that has real property valued at at least one hundred thousand dollars (\$100,000); and

(E) that is open and free to the residents of the city.

(b) The library board shall:

(1) levy a tax under IC 6-1.1 in an amount not less than sixty-seven hundredths of one cent (\$0.0067) and not more than one and sixty-seven hundredths cents (\$0.0167) on each one hundred dollars (\$100) of the assessed valuation of all the real and personal property in the county;

(2) keep the tax levied under subdivision (1) separate from all other funds of the library board; and

(3) use the tax levied under subdivision (1):

(A) if the membership of the trustees of the private donation library includes at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, for distributions of the full amounts of the tax received to the trustees of the private donation library at the time the tax is received by the library board; or

(B) if the membership of the trustees of the private donation library does not include at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, at the discretion of the library board for:

(i) library board purposes; or

(ii) quarterly distributions to the trustees of the private donation library.

(c) If requested by the trustees of the private donation library, the library board shall designate a member of the library board or appoint an individual to serve as a trustee of the private donation library. If requested by the trustees of the private donation library, the county fiscal body shall appoint an individual to serve as a trustee of the private donation library.

(d) The trustees of the private donation library shall annually submit a budget to the library board.

(e) The trustees of the private donation library shall expend amounts received under subsection (b)(3)(A) or (b)(3)(B)(ii) for the support, operation, and maintenance of the private donation library. The trustees shall:

(1) keep the money separate from all other funds;

(2) record:

(A) the amount of money received;

(B) to whom and when the money is paid out; and

(C) for what purpose the money is used;

in a book kept by the trustees; and

(3) make an annual report of the matters referred to in subdivision (2) to the library board.

(f) For purposes of the property tax levy limits under IC 6-1.1-18.5, the tax levied by the library board under subsection (b)(1) is not included in the calculation of the maximum permissible property tax levy for the public library.

As added by P.L.1-2005, SEC.49. Amended by P.L.214-2005, SEC.76; P.L.1-2010, SEC.155; P.L.119-2012, SEC.251.

IC 36-12-7-9

Dissolution

Sec. 9. (a) Dissolution of a library district is initiated when the legislative body of each municipality, township, or county that is a part of the district and library board of the district adopt identical resolutions proposing to dissolve the district by an affirmative vote of a majority of the voting members of each legislative body and

library board.

(b) Copies of the resolutions adopted under subsection (a) shall be filed not later than ten (10) days after the resolution is adopted with:

- (1) the state library; and
- (2) the county recorder of each county in which the library district is located.

(c) A dissolution does not take effect until:

- (1) all legal and fiscal obligations of the library district have been satisfied;
- (2) the assets of the district have been distributed; and
- (3) a notice is filed with the agencies listed in subsection (b), indicating that the actions described in subdivisions (1) and (2) have been completed and the dissolution is final.

As added by P.L.113-2010, SEC.165.

IC 36-12-7-10

Electronic funds transfer

Sec. 10. (a) As used in this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

(b) A library board may adopt a resolution to authorize an electronic funds transfer method of payment of claims. If a library board adopts a resolution under this subsection, the public library may pay money from its funds by electronic funds transfer.

(c) A public library that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by the public library.

As added by P.L.113-2010, SEC.166.

IC 36-12-7-11

Collection

Sec. 11. (a) A library board or a person designated in writing by the library board may:

- (1) collect money or library property; or
- (2) compromise the amount of money;

that is owed to the library.

(b) A library board:

- (1) shall determine the costs of collecting money or library property under this section; and
- (2) may add the costs of collection, including reasonable attorney's fees, to money or library property that is owed and collected under this section.

(c) A library board or the library board's agent that collects money under this section shall deposit the money, less the costs of collection, in the account required by law.

(d) A library board may compromise claims made against the library.

As added by P.L.113-2010, SEC.167.

IC 36-12-7-12

Severance pay

Sec. 12. (a) A library board may provide severance pay to a library employee who is involuntarily separated from employment with the library.

(b) A library board may provide severance pay to a library employee who is voluntarily separated from employment with the library if the library board makes the following findings in a public meeting:

(1) The library is subject to financial difficulties and revenue shortfall.

(2) The library:

(A) will not hire an individual to perform the duties of the employee separating from employment at the same or comparable compensation and benefits for at least one (1) year after the date the employee separates from employment with the library;

(B) will hire a permanent or temporary employee for less compensation and benefits to perform the duties of the employee separating from employment; or

(C) will satisfy both the conditions in clauses (A) and (B).

(3) The library will pay the separating employee a stated amount of severance pay.

(4) The library will reduce its expenditures by:

(A) paying the severance pay stated under subdivision (3) to the employee separating from employment; and

(B) fulfilling one (1) or more of the conditions set forth in subdivision (2).

As added by P.L.63-2011, SEC.3.

IC 36-12-7-13

Funds for membership in certain associations; authority to appropriate

Sec. 13. A library board may appropriate funds necessary to provide membership of:

(1) the public library; and

(2) library employees;

in local, state, and national associations of a civic, an educational, a professional, or a governmental nature that have as their purpose the betterment and improvement of library operations.

As added by P.L.63-2011, SEC.4.