

IC 36-7-22

Chapter 22. Economic Improvement Districts

IC 36-7-22-1

Application of chapter

Sec. 1. This chapter applies to all units except townships.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to an economic improvement board established under section 11 of this chapter.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-3

"Economic improvement project" defined

Sec. 3. As used in this chapter, "economic improvement project" means the following:

- (1) Planning or managing development or improvement activities.
- (2) Designing, landscaping, beautifying, constructing, or maintaining public areas, public improvements, or public ways (including designing, constructing, or maintaining lighting, infrastructure, utility facilities, improvements, and equipment, water facilities, improvements, and equipment, sewage facilities, improvements, and equipment, streets, or sidewalks for a public area or public way).
- (3) Promoting commercial activity or public events.
- (4) Supporting business recruitment and development.
- (5) Providing security for public areas.
- (6) Acquiring, constructing, or maintaining parking facilities.
- (7) Constructing, rehabilitating, or repairing residential property, including improvements related to the habitability of the residential property.

As added by P.L.195-1988, SEC.1. Amended by P.L.114-1989, SEC.12; P.L.131-2008, SEC.54.

IC 36-7-22-4

Petition; filing; contents

Sec. 4. A petition for the establishment of an economic improvement district may be filed with the legislative body of the unit. The petition must include the following information:

- (1) The boundaries of the proposed district, including the boundaries of any zones to be established under section 5(b) of this chapter.
- (2) The name and address of each parcel and owner of land within the proposed district and a description of the existing land use and zoning classification of each parcel.
- (3) A detailed description of the economic improvement projects to be carried out within the proposed district, the

estimated cost of these projects, and the benefits to accrue to the property owners within the district.

(4) A plan for the application of assessment revenue to the cost of the economic improvement projects within the district.

(5) A proposed formula for determining the percentage of the total benefit to be received by each parcel of real property within the district, in the manner provided by section 5 of this chapter.

(6) The number of years in which assessments will be levied.

(7) A proposed list of members for the board.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-5

Apportionment of benefits

Sec. 5. (a) The benefits accruing to parcels of real property within an economic improvement district may be apportioned among those parcels on any basis reasonably representative of the diffusion of benefits from the economic improvement project, including the following:

- (1) Proximity of the parcel to the project.
- (2) Accessibility of the parcel to the project.
- (3) True cash value of the parcel.
- (4) True cash value of any improvement on the parcel.
- (5) Age of any improvement on the parcel.
- (6) Other similar factors.

The apportionment of benefits under this subsection may be adjusted by zone or land use as provided in subsections (b) and (c).

(b) If the benefit of the economic development project varies from one (1) area to another within the economic improvement district, up to three (3) zones may be established within the district to delineate the approximate difference in beneficial impact, and benefits may be apportioned accordingly.

(c) In order to encourage the retention or development of various land uses within the district, assessments may be adjusted according to the zoning classification of the property.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-6

Hearing; notice; questions heard

Sec. 6. (a) After receipt of a petition under section 4 of this chapter, the legislative body shall, in the manner provided by IC 5-3-1, publish notice of a hearing on the proposed economic improvement district. The legislative body shall mail a copy of the notice to each owner of real property within the proposed economic improvement district. The notice must include the boundaries of the proposed district, a description of the proposed projects, and the proposed formula for determining the percentage of the total benefit to be received by each parcel of property.

(b) At the public hearing under subsection (a), the legislative body shall hear all owners of real property in the proposed district (who

appear and request to be heard) upon the questions of:

- (1) the sufficiency of the notice;
- (2) whether the proposed economic improvement projects are of public utility and benefit;
- (3) whether the formula to be used for the assessment of special benefits is appropriate; and
- (4) whether the district contains all, or more or less than all, of the property specially benefited by the proposed project.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-7

Ordinance; establishing district

Sec. 7. (a) After conducting a hearing on the proposed economic improvement district, the legislative body may adopt an ordinance establishing the economic improvement district if it determines that:

- (1) the petition meets the requirements of this section and sections 4 and 5 of this chapter;
- (2) the economic improvement projects to be undertaken in the district will provide special benefits to property owners in the district and will be of public utility and benefit;
- (3) the benefits provided by the project will be new benefits that do not replace benefits existing before the establishment of the district; and
- (4) the formula to be used for the assessment of benefits is appropriate.

(b) The legislative body may adopt the ordinance only if it determines that the petition has been signed by:

- (1) a majority of the owners of real property within the proposed district; and
- (2) the owners of real property constituting more than fifty percent (50%) of the assessed valuation in the proposed district.

(c) The signature of a person whose property would be exempt from assessments under the ordinance may not be considered in determining whether the requirements of subsection (b) are met. In addition, the assessed valuation of any property that would be exempt from assessment under the ordinance may not be considered in determining the total assessed valuation in the proposed district.

As added by P.L.195-1988, SEC.1. Amended by P.L.25-1993, SEC.12; P.L.113-2010, SEC.135.

IC 36-7-22-8

Ordinance; amending or modifying petition proposals

Sec. 8. An ordinance adopted under section 7 of this chapter may amend or modify the proposals contained in the petition submitted under section 4 of this chapter. However, if the ordinance will increase the area of the district beyond the area described in the petition, the ordinance may not be adopted until notice of this fact has been published in the manner provided by IC 5-3-1 and mailed to each owner of real property in the additional area proposed to be included in the district.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-9

Ordinance; repeal or amendment

Sec. 9. An ordinance adopted under section 7 of this chapter may be repealed or amended only after notice of the proposed repeal or amendment is published and mailed in the manner provided by section 6 of this chapter.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-10

Ordinance; exemption from special assessments

Sec. 10. An ordinance adopted under section 7 of this chapter may provide that businesses established within the district after the creation of the district are exempt from special assessments for a period not to exceed one (1) year.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-11

Ordinance; economic improvement board

Sec. 11. An ordinance adopted under section 7 of this chapter must establish an economic improvement board to be appointed by the legislative body. The board must have at least three (3) members, and a majority of the board members must own real property within the district. However, if there is only one (1) property owner within a district formed before March 1, 2010, the legislative body shall appoint one (1) member to the economic improvement board who owns real property within the district and not more than two (2) other members who are not required to own real property within the district. After, February 28, 2010, a district formed under this chapter must have at least one (1) parcel of real property that is not owned by an owner of other parcels of real property in the district.

As added by P.L.195-1988, SEC.1. Amended by P.L.113-2010, SEC.136.

IC 36-7-22-12

Assessments; percentage of benefit; notice; hearing; decision; lien; certification; economic improvement districts

Sec. 12. (a) The board shall use the formula approved by the legislative body under section 7(a)(4) of this chapter to determine the percentage of benefit to be received by each parcel of real property within the economic improvement district. The board shall apply the percentage determined for each parcel to the total amount that is to be defrayed by special assessment and determine the special assessment for each parcel.

(b) Promptly after determining the proposed assessment for each parcel, the board shall mail notice to each owner of property to be assessed. This notice must:

- (1) set forth the amount of the proposed special assessment;
- (2) state that the proposed special assessment on each parcel of

real property in the economic improvement district is on file and can be seen in the board's office;

(3) state the time and place where written remonstrances against the special assessment may be filed;

(4) set forth the time and place where the board will hear any owner of assessed real property who has filed a remonstrance before the hearing date; and

(5) state that the board, after hearing evidence, may increase or decrease, or leave unchanged, the special assessment on any parcel.

(c) The notices must be deposited in the mail twenty (20) days before the hearing date. The notices to the owners must be addressed as the names and addresses appear on the tax duplicates and the records of the county auditor.

(d) At the time fixed in the notice, the board shall hear any owner of assessed real property who has filed a written remonstrance before the date of the hearing. The hearing may be continued from time to time as long as is necessary to hear the owners.

(e) The board shall render its decision by increasing, decreasing, or confirming each special assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the board. However, if the total of the special assessments exceeds the amount needed, the board shall make a prorated reduction in each special assessment.

(f) Except as provided in section 13 of this chapter, the signing of the special assessment schedule by a majority of the members of the board and the delivery of the schedule to the county auditor constitute a final and conclusive determination of the benefits that are assessed.

(g) Each special assessment is a lien on the real property that is assessed, second only to ad valorem property taxes levied on that property.

(h) The board shall certify to the county auditor the schedule of special assessments of benefits. For purposes of providing substantiation of the deductibility of a special assessment for federal adjusted gross income tax purposes under Section 164 of the Internal Revenue Code, the board shall, to the extent practicable, supplement the schedule of special assessments provided to the county auditor with a statement that identifies the part of each special assessment that is allocable to interest, maintenance, and repair charges. If the board provides the county auditor with the statement, the county auditor shall show, on the tax statement, the part of the special assessment that is for interest and maintenance and repair items separately from the remainder of the special assessment.

As added by P.L.195-1988, SEC.1. Amended by P.L.131-2008, SEC.55; P.L.1-2009, SEC.166; P.L.113-2010, SEC.137.

IC 36-7-22-13

Ordinance or assessment schedule; action contesting validity

Sec. 13. (a) Any owner of real property in an economic improvement district may file an action contesting the validity of:

- (1) the ordinance adopted under section 7 of this chapter; or
- (2) the assessment schedule adopted under section 12 of this chapter.

(b) An action under this section must be filed:

- (1) in the circuit or superior court of the county in which the economic improvement district is located; and
- (2) within thirty (30) days after adoption of the ordinance or assessment schedule.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-14

Certification of final scheduled assessments

Sec. 14. Within thirty (30) days after the county auditor receives the certification of final scheduled assessments for the completion of the economic improvement project, the auditor shall deliver a copy of the certificate to the county treasurer. Each year, the treasurer shall add the full annual assessment due in that year to the tax statements of the person owning the property affected by the assessment, designating it in a manner distinct from general taxes.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-15

Assessments; payment to board

Sec. 15. Assessments collected under this chapter shall be paid to the board.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-16

Economic improvement fund

Sec. 16. (a) The board shall establish an economic improvement fund and shall deposit in this fund all assessments received under this chapter and any other amounts received by the board.

(b) Money in the economic improvement fund may be used only for the purposes specified in the ordinance establishing the economic improvement district. Any money earned from investment of money in the fund becomes a part of the fund.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-17

Budget

Sec. 17. (a) Before November 1 of each year, the board shall prepare and submit to the fiscal body a budget for the following calendar year governing the board's projected expenditures from the economic improvement fund. The fiscal body may approve, modify, or reject the proposed budget.

(b) The board may make an expenditure from the economic improvement fund only if the expenditure was approved by the fiscal body in its review of the board's budget or was otherwise approved by the fiscal body.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-18**Purchasing materials or equipment; contracting for public works**

Sec. 18. The board must comply with IC 36-1-12 when contracting for public works.

As added by P.L.195-1988, SEC.1. Amended by P.L.1-2010, SEC.150.

IC 36-7-22-19**Lease or contractual agreements**

Sec. 19. The board may enter into lease or contractual agreements, or both, with governmental, not-for-profit, or other private entities for the purpose of carrying out economic improvement projects.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-20**Disposal of assets and liabilities upon repeal of ordinance**

Sec. 20. If the ordinance that established an economic improvement district is repealed, the assets and liabilities of the economic improvement district shall be disposed of in the manner determined by the unit. However, liabilities incurred by the economic improvement district are not an obligation of the unit and are payable only from the special assessments and other revenues of the district.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-21**Annual report**

Sec. 21. The board shall submit an annual report to the legislative body and the fiscal body before February 15 of each year. The report must summarize the board's activities and expenditures during the preceding calendar year.

As added by P.L.195-1988, SEC.1.

IC 36-7-22-22**Powers of the board to finance economic improvement projects**

Sec. 22. The board may:

(1) exercise of any of the powers of a unit under IC 36-7-12-18 or IC 36-7-12-18.5; or

(2) issue revenue bonds;

to finance an economic improvement project.

As added by P.L.131-2008, SEC.56.