

IC 36-8-19

Chapter 19. Fire Protection Territories

IC 36-8-19-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 8.7 of this chapter by P.L.83-1998 applies only to purchases that occur after June 30, 1998.
As added by P.L.220-2011, SEC.678.

IC 36-8-19-0.3

Legalization of certain resolutions adopted before July 1, 2007

Sec. 0.3. A resolution adopted by a township under this chapter before July 1, 2007, that would have been valid under this chapter, as in effect on July 1, 2007, is legalized and validated.
As added by P.L.220-2011, SEC.679.

IC 36-8-19-1

Application of chapter

Sec. 1. Except as provided in section 1.5 of this chapter, this chapter applies to any geographic area that is established as a fire protection territory.
As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.1; P.L.227-2005, SEC.50.

IC 36-8-19-1.5

Consolidation of fire departments in county containing consolidated city

Sec. 1.5. (a) If the fire department of a township is consolidated under IC 36-3-1-6.1, after the effective date of the consolidation the township may not establish a fire protection territory under this chapter.

(b) A fire protection territory that is established before the effective date of the consolidation in a township in which the township's fire department is consolidated under IC 36-3-1-6.1 becomes part of the geographic area in which the fire department of a consolidated city provides fire protection services.

As added by P.L.227-2005, SEC.51. Amended by P.L.1-2006, SEC.583.

IC 36-8-19-2

"Participating unit" defined

Sec. 2. As used in this chapter, "participating unit" refers to a unit that adopts an ordinance or a resolution under section 6 of this chapter.

As added by P.L.37-1994, SEC.3. Amended by P.L.47-2007, SEC.1.

IC 36-8-19-3

"Provider unit" defined

Sec. 3. As used in this chapter, "provider unit" refers to the participating unit that is responsible for providing the fire protection

services within the territory.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-4

"Territory" defined

Sec. 4. As used in this chapter, "territory" refers to a fire protection territory established under this chapter.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-5

Fire protection territory of contiguous units; establishment; purposes; boundaries

Sec. 5. (a) Subject to subsections (b) and (c), the legislative bodies of at least two (2) contiguous units may establish a fire protection territory for any of the following purposes:

- (1) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the territory.
- (2) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.
- (3) Other purposes or functions related to fire protection and fire prevention.

(b) Not more than one (1) unit within the proposed territory may be designated as the provider unit for the territory.

(c) The boundaries of a territory need not coincide with those of other political subdivisions.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-6

Ordinance or resolution for establishing territory; public hearing requirements

Sec. 6. (a) To establish a fire protection territory, the legislative bodies of each unit desiring to become a part of the proposed territory must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that meets the following requirements:

- (1) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other units desiring to become a part of the proposed territory.
- (2) The ordinance or resolution is adopted after January 1 but before April 1.
- (3) The ordinance or resolution authorizes the unit to become a party to an agreement for the establishment of a fire protection territory.
- (4) The ordinance or resolution is adopted after the legislative body holds a public hearing to receive public comment on the proposed ordinance or resolution. The legislative body must give notice of the hearing under IC 5-3-1.

(b) Before the legislative body of a unit may adopt an ordinance

or a resolution under this section to form a territory, the legislative body must do the following:

- (1) Hold a public hearing, at least thirty (30) days before adopting the ordinance or resolution, at which the legislative body makes available to the public the following information:
 - (A) The property tax levy, property tax rate, and budget to be imposed or adopted during the first year of the proposed territory for each of the units that would participate in the proposed territory.
 - (B) The estimated effect of the proposed reorganization in the following years on taxpayers in each of the units that would participate in the proposed territory, including the expected property tax rates, property tax levies, expenditure levels, service levels, and annual debt service payments.
 - (C) The estimated effect of the proposed reorganization on other units in the county in the following years and on local option income taxes, excise taxes, and property tax circuit breaker credits.
 - (D) A description of the planned services and staffing levels to be provided in the proposed territory.
 - (E) A description of any capital improvements to be provided in the proposed territory.
- (2) Hold at least one (1) additional public hearing before adopting an ordinance or a resolution to form a territory, to receive public comment on the proposed ordinance or resolution.

The public hearings required under this subsection are in addition to the public hearing required under subsection (a)(4). The legislative body must give notice of the hearings under IC 5-3-1.

(c) The notice required for a hearing under subsection (b)(2) shall include all of the following:

- (1) A list of the provider unit and all participating units in the proposed territory.
- (2) The date, time, and location of the hearing.
- (3) The location where the public can inspect the proposed ordinance or resolution.
- (4) A statement as to whether the proposed ordinance or resolution requires uniform tax rates or different tax rates within the territory.
- (5) The name and telephone number of a representative of the unit who may be contacted for further information.
- (6) The proposed levies and tax rates for each participating unit.

(d) The ordinance or resolution adopted under this section shall include at least the following:

- (1) The boundaries of the proposed territory.
- (2) The identity of the provider unit and all other participating units desiring to be included within the territory.
- (3) An agreement to impose:
 - (A) a uniform tax rate upon all of the taxable property within the territory for fire protection services; or

(B) different tax rates for fire protection services for the units desiring to be included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory.

(4) The contents of the agreement to establish the territory.

(e) An ordinance or a resolution adopted under this section takes effect July 1 of the year the ordinance or resolution is adopted.

As added by P.L.37-1994, SEC.3. Amended by P.L.240-2001, SEC.3; P.L.47-2007, SEC.2; P.L.49-2012, SEC.1.

IC 36-8-19-6.3

Restrictions on voting on proposed ordinance or resolution

Sec. 6.3. A member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to become a party to an agreement to join or establish a fire protection territory if that member is also an employee of:

(1) another unit that is a participating unit in the fire protection territory; or

(2) another unit that is proposing to become a participating unit in the fire protection territory.

As added by P.L.172-2011, SEC.159.

IC 36-8-19-6.5

Agreement to change provider unit

Sec. 6.5. (a) The legislative bodies of all participating units in a territory may agree to change the provider unit of the territory from one (1) participating unit to another participating unit. To change the provider unit, the legislative body of each participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that agrees to and specifies the new provider unit. The provider unit may not be changed unless all participating units agree on the participating unit that will become the new provider unit. The participating units may not change the provider unit more than one (1) time in any year.

(b) The following apply to an ordinance or a resolution adopted under this section to change the provider unit of the territory:

(1) The ordinance or resolution must be adopted after January 1 but before April 1 of a year.

(2) The ordinance or resolution takes effect January 1 of the year following the year in which the ordinance or resolution is adopted.

As added by P.L.182-2009(ss), SEC.441.

IC 36-8-19-7

Tax levy rate; different tax rates authorized

Sec. 7. (a) A tax levied under this chapter may be levied at:

(1) a uniform rate upon all taxable property within the territory; or

(2) different rates for the participating units included within the territory, so long as a tax rate applies uniformly to all of a unit's

taxable property within the territory.

(b) If a uniform tax rate is levied upon all taxable property within a territory upon the formation of the territory, different tax rates may be levied for the participating units included within the territory in subsequent years.

As added by P.L.37-1994, SEC.3. Amended by P.L.240-2001, SEC.4; P.L.172-2011, SEC.160.

IC 36-8-19-7.5

Local option and excise tax distributions to participating units

Sec. 7.5. (a) This section applies to:

- (1) county adjusted gross income tax, county option income tax, and county economic development income tax distributions; and
- (2) excise tax distributions;

made after December 31, 2009.

(b) For purposes of allocating any county adjusted gross income tax, county option income tax, and county economic development income tax distributions or excise tax distributions that are distributed based on the amount of a taxing unit's property tax levies, each participating unit in a territory is considered to have imposed a part of the property tax levy imposed for the territory. The part of the property tax levy imposed for the territory for a particular year that shall be attributed to a participating unit is equal to the amount determined in the following STEPS:

STEP ONE: Determine the total amount of all property taxes imposed by the participating unit in the year before the year in which a property tax levy was first imposed for the territory.

STEP TWO: Determine the sum of the STEP ONE amounts for all participating units.

STEP THREE: Divide the STEP ONE result by the STEP TWO result.

STEP FOUR: Multiply the STEP THREE result by the property tax levy imposed for the territory for the particular year.

As added by P.L.182-2009(ss), SEC.442.

IC 36-8-19-8

Fire protection territory fund; establishment; purposes; budget; tax levies

Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

- (1) All receipts from the tax imposed under this section.
- (2) Any money transferred to the fund by the provider unit as authorized under subsection (d).
- (3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.
- (4) Any money transferred to the fund by a participating unit under section 8.6 of this chapter.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory. The provider unit may maintain a reasonable balance, not to exceed one hundred twenty percent (120%) of the budgeted expenses. Except as provided in IC 6-1.1-18.5-10.5, after estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

- (1) the levy in the following year shall be increased by the amount required to be transferred; and
- (2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. Each participating unit must agree to the amount to be transferred by adopting an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies an identical amount to be transferred.

(f) The tax under this section is subject to the tax levy limitations imposed under IC 6-1.1-18.5-10.5.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.2; P.L.82-2001, SEC.4; P.L.240-2001, SEC.5; P.L.47-2007, SEC.3; P.L.128-2008, SEC.7; P.L.182-2009(ss), SEC.443; P.L.183-2014, SEC.27.

IC 36-8-19-8.5

Equipment replacement fund; property tax levy; maximum property tax rate

Sec. 8.5. (a) Participating units may agree to establish an

equipment replacement fund under this section to be used to purchase fire protection equipment, including housing, that will be used to serve the entire territory. To establish the fund, the legislative bodies of each participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township), and the following requirements must be met:

- (1) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other participating units under this section.
- (2) Before adopting the ordinance or resolution, each participating unit must comply with the notice and hearing requirements of IC 6-1.1-41-3.
- (3) The ordinance or resolution authorizes the provider unit to establish the fund.
- (4) The ordinance or resolution includes at least the following:
 - (A) The name of each participating unit and the provider unit.
 - (B) An agreement to impose a uniform tax rate upon all of the taxable property within the territory for the equipment replacement fund.
 - (C) The contents of the agreement to establish the fund.

An ordinance or a resolution adopted under this section takes effect as provided in IC 6-1.1-41.

- (b) If a fund is established, the participating units may agree to:
 - (1) impose a property tax to provide for the accumulation of money in the fund to purchase fire protection equipment;
 - (2) incur debt to purchase fire protection equipment and impose a property tax to retire the loan; or
 - (3) transfer an amount from the fire protection territory fund to the fire equipment replacement fund not to exceed five percent (5%) of the levy for the fire protection territory fund for that year;

or any combination of these options. The property tax rate for the levy imposed under this section may not exceed three and thirty-three hundredths cents (\$0.0333) per one hundred dollars (\$100) of assessed value. Before debt may be incurred, the fiscal body of a participating unit must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies the amount and purpose of the debt. The ordinance or resolution must be identical to the other ordinances and resolutions adopted by the participating units. In addition, the department of local government finance must approve the incurrence of the debt using the same standards as applied to the incurrence of debt by civil taxing units.

(c) Money in the fund may be used by the provider unit only for those purposes set forth in the agreement among the participating units that permits the establishment of the fund.

(d) The requirements and procedures specified in IC 6-1.1-41 concerning the establishment or reestablishment of a cumulative fund, the imposing of a property tax for a cumulative fund, and the increasing of a property tax rate for a cumulative fund apply to:

- (1) the establishment or reestablishment of a fund under this section;
- (2) the imposing of a property tax for a fund under this section;
- and
- (3) the increasing of a property tax rate for a fund under this section.

(e) Notwithstanding IC 6-1.1-18-12, if a fund established under this section is reestablished in the manner provided in IC 6-1.1-41, the property tax rate imposed for the fund in the first year after the fund is reestablished may not exceed three and thirty-three hundredths cents (\$0.0333) per one hundred dollars (\$100) of assessed value.

As added by P.L.326-1995, SEC.3. Amended by P.L.36-2000, SEC.10; P.L.90-2002, SEC.500; P.L.256-2003, SEC.39; P.L.47-2007, SEC.4; P.L.255-2013, SEC.16.

IC 36-8-19-8.6

Transfer of money from participating unit to fire protection territory fund or fire protection territory equipment replacement fund

Sec. 8.6. (a) A participating unit may adopt an ordinance or a resolution to transfer any money belonging to the participating unit to:

- (1) the fire protection territory fund established under section 8 of this chapter;
- (2) the fire protection territory equipment replacement fund established under section 8.5 of this chapter; or
- (3) both funds described in subdivisions (1) and (2).

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

- (1) The amount of money transferred to either fund.
- (2) The source of the money.

(c) The transfer of money from a participating unit to a fire protection territory before July 1, 2008, is legalized.

As added by P.L.128-2008, SEC.8.

IC 36-8-19-8.7

Purchase of firefighting equipment on installment conditional sale or mortgage contract

Sec. 8.7. After a sufficient appropriation for the purchase of firefighting apparatus and equipment, including housing, is made and is available, the participating units, with the approval of the fiscal body of each participating unit, may purchase the firefighting apparatus and equipment for the territory on an installment conditional sale or mortgage contract running for a period not exceeding:

- (1) six (6) years; or
- (2) fifteen (15) years for a territory that:
 - (A) has a total assessed value of sixty million dollars (\$60,000,000) or less, as determined by the department of

local government finance; and
(B) is purchasing the firefighting equipment with funding from the:

- (i) state or its instrumentalities; or
- (ii) federal government or its instrumentalities.

The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year.

As added by P.L.83-1998, SEC.4. Amended by P.L.90-2002, SEC.501; P.L.178-2002, SEC.135.

IC 36-8-19-9

Avoidance of duplication of tax levies; preexisting indebtedness

Sec. 9. (a) The department of local government finance, when approving a rate and levy fixed by the provider unit, shall verify that a duplication of tax levies does not exist within participating units, so that taxpayers do not bear two (2) levies for the same service, except as provided by subsection (b) or (c).

(b) A unit that incurred indebtedness for fire protection services before becoming a participating unit under this chapter shall continue to repay that indebtedness by levies within the boundaries of the unit until the indebtedness is paid in full.

(c) A unit that agreed to the borrowing of money to purchase fire protection equipment while a participating unit under this chapter shall continue to repay the unit's share of that indebtedness by imposing a property tax within the boundaries of the unit until the indebtedness is paid in full. The department of local government finance shall determine the amount of the indebtedness that represents the unit's fair share, taking into account the equipment purchased, the useful life of the equipment, the depreciated value of the equipment, and the number of years the unit benefited from the equipment.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.4; P.L.90-2002, SEC.502.

IC 36-8-19-10

Disbandment of existing fire departments

Sec. 10. This chapter does not require a municipality or township to disband its fire department unless its legislative body consents by ordinance (if the unit is a municipality) or resolution (if the unit is a township) to do so.

As added by P.L.37-1994, SEC.3. Amended by P.L.47-2007, SEC.5.

IC 36-8-19-11

Annexation of territory

Sec. 11. Any area that is part of a territory and that is annexed by a municipality that is not a part of the territory ceases to be a part of the territory when the municipality begins to provide fire protection services to the area.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-12

Adjustments to tax levy; entry year of participants

Sec. 12. In the same year that a tax levy is imposed under this chapter, each respective participating unit's tax levies attributable to providing fire protection services within the unit shall be reduced by an amount equal to the amount levied for fire protection services in the year immediately preceding the year in which each respective unit became a participating unit.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-13

Withdrawal from territory; ordinance or resolution; effect of adoption

Sec. 13. (a) If a unit elects to withdraw from a fire protection territory established under this chapter, the unit must after January 1 but before April 1, adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) providing for the withdrawal. An ordinance or resolution adopted under this section takes effect July 1 of the year that the ordinance or resolution is adopted.

(b) If an ordinance or a resolution is adopted under subsection (a):

(1) the unit's maximum permissible ad valorem property tax levy with respect to fire protection services shall be initially increased by the amount of the particular unit's previous year levy under this chapter; and

(2) additional increases with respect to fire protection services levy amounts are subject to the tax levy limitations under IC 6-1.1-18.5, except for the part of the unit's levy that is necessary to retire the unit's share of any debt incurred while the unit was a participating unit.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.5; P.L.47-2007, SEC.6.

IC 36-8-19-14

Payment of line of duty health care expenses for firefighters

Sec. 14. (a) A provider unit shall pay for the care of a full-time, paid firefighter who:

(1) suffers an injury; or

(2) contracts an illness;

during the performance of the firefighter's duty.

(b) The provider unit shall pay for the following expenses incurred by a firefighter described in subsection (a):

(1) Medical and surgical care.

(2) Medicines and laboratory, curative, and palliative agents and means.

(3) X-ray, diagnostic, and therapeutic service, including during the recovery period.

(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the

fund used by the provider unit for payment of the costs attributable to providing fire protection services in the provider unit.

(d) A provider unit that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The provider unit's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the firefighter against the third party.

As added by P.L.150-2002, SEC.5.

IC 36-8-19-15

Dissolution of fire protection territory; reversion of title to real property

Sec. 15. (a) For purposes of this section, a fire protection territory is dissolved if all participating units withdraw from the fire protection territory as provided in section 13 of this chapter.

(b) When a fire protection territory dissolves, title to any real property transferred to the provider unit reverts to the participating unit that transferred the real property to the provider unit.

As added by P.L.128-2008, SEC.9.