

IC 36-2-3.5

Chapter 3.5. Division of Powers of Certain Counties

IC 36-2-3.5-1

Application of chapter

Sec. 1. This chapter applies to:

- (1) a county having a population of:
 - (A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
 - (B) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); and
- (2) any other county not having a consolidated city, if both the county executive and the county fiscal body adopt identical ordinances providing for the county to be governed by this chapter beginning on a specified effective date.

As added by Acts 1981, P.L.11, SEC.147. Amended by Acts 1981, P.L.307, SEC.1; P.L.12-1992, SEC.154; P.L.119-2012, SEC.183.

IC 36-2-3.5-2

Executive and legislative branches; separation of powers

Sec. 2. The powers of the county are divided between the executive and legislative branches of its government. A power belonging to one (1) branch of the county's government may not be exercised by the other branch.

As added by Acts 1981, P.L.11, SEC.147.

IC 36-2-3.5-3

Board of commissioners as executive; county council as legislative and fiscal body

Sec. 3. The board of commissioners elected under IC 36-2-2 is the county executive. The county council elected under IC 36-2-3 is the county legislative body as well as the county fiscal body.

As added by Acts 1981, P.L.11, SEC.147.

IC 36-2-3.5-4

Executive powers and duties

Sec. 4. (a) All powers and duties of the county that are executive or administrative in nature shall be exercised or performed by its executive, except to the extent that these powers and duties are expressly assigned to other elected officers.

(b) The executive shall:

- (1) report the state of the county annually before March 1 to the county legislative body and to the people of the county;
- (2) recommend annually before March 1 to the legislative body whatever action or program it considers necessary for the improvement of the county and the welfare of its residents;
- (3) submit to the legislative body an annual budget in accordance with IC 36-2-5;

- (4) establish the procedures to be followed by all county departments, offices, and agencies under its jurisdiction to the extent these procedures are not expressly assigned to other elected officers;
 - (5) administer all statutes applicable to the county, and its ordinances and regulations, to the extent these matters are not expressly assigned to other elected officers;
 - (6) supervise the care and custody of all county property;
 - (7) supervise the collection of revenues and control all disbursements and expenditures, and prepare a complete account of all expenditures, to the extent these matters are not expressly assigned to other elected officers;
 - (8) review, analyze, and forecast trends for county services and finances, and programs of all county governmental entities, and report and recommend on these to the legislative body by March 15 each year;
 - (9) negotiate contracts for the county;
 - (10) make recommendations concerning the nature and location of county improvements, and provide for the execution of those improvements;
 - (11) supervise county administrative offices except for the offices of elected officers; and
 - (12) perform other duties and functions that are imposed on it by statute or ordinance.
- (c) The executive may:
- (1) order any agency under its jurisdiction to undertake any task for any other agency under its jurisdiction on a temporary basis, if necessary for the proper and efficient administration of county government;
 - (2) approve or veto ordinances passed by the legislative body, in the manner prescribed by IC 36-2-4-8; and
 - (3) establish and administer centralized budgeting, centralized personnel selection, and centralized purchasing.

As added by Acts 1981, P.L.11, SEC.147.

IC 36-2-3.5-5

Legislative powers and duties

Sec. 5. (a) All powers and duties of the county that are legislative in nature shall be exercised or performed by its legislative body.

(b) The legislative body may:

- (1) establish the committees that are necessary to carry out its functions;
- (2) employ legal and administrative personnel necessary to carry out its functions;
- (3) pass all ordinances, orders, resolutions, and motions for the government of the county, in the manner prescribed by IC 36-2-4;
- (4) receive gifts, bequests, and grants from public or private

sources;

(5) conduct investigations into the conduct of county business for the purpose of correcting deficiencies and insuring adherence to law and county policies and regulations; and

(6) establish, by ordinance, new county departments, divisions, or agencies whenever necessary to promote efficient county government.

As added by Acts 1981, P.L.11, SEC.147.

IC 36-2-3.5-6

Elections; stay upon failure to divide county into districts; court orders

Sec. 6. (a) A court may issue an order, before final hearing, to stay an election if there is sufficient evidence to withstand a motion for summary judgment that the county has not been divided into districts that comply with IC 36-2-2-4 or IC 36-2-3-4. A preliminary hearing on the question may be held upon the court's own motion.

(b) Final judgment on the merits in such a case shall be made within thirty (30) days of the stay of election order. If the redistricting is found not to be in compliance with law, the court shall retain jurisdiction and shall order the proper officials to submit within thirty (30) days a redistricting plan complying with law. If the proper officials fail to comply with the order, the court shall order the Indiana election commission to divide the county into districts in compliance with law.

As added by Acts 1981, P.L.11, SEC.147. Amended by P.L.2-1996, SEC.288.