

IC 36-2-3

Chapter 3. County Fiscal Body

IC 36-2-3-1

Application of chapter

Sec. 1. This chapter applies to all counties not having a consolidated city.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.141.

IC 36-2-3-2

County council to be county fiscal body

Sec. 2. (a) The seven (7) member county council elected under this chapter is the county fiscal body. The fiscal body shall act in the name of "The _____ County Council".

(b) Notwithstanding subsection (a), in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), the county council has nine (9) members.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.142; P.L.12-1992, SEC.152; P.L.119-2012, SEC.181.

IC 36-2-3-3

Election of fiscal body; terms

Sec. 3. (a) The fiscal body shall be elected under IC 3-10-2-13. Except in a county having only single-member districts, members elected from districts and at large members, respectively, are to be elected in alternate, succeeding general elections under section 4 of this chapter. In a county having only single-member districts, the terms of the members are staggered as was provided by law before September 1, 1980.

(b) The term of office of a member of the fiscal body is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.143; P.L.5-1986, SEC.35.

IC 36-2-3-4

Election of fiscal body; division of county into districts; single-member district criteria; recertification of districts; filing with circuit court clerk; time for filing; district boundary description prevails over conflicting map

Sec. 4. (a) This subsection does not apply to a county having a population of:

- (1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

Except as provided in section 4.1 of this chapter, the county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) not cross precinct boundary lines;
- (3) contain, as nearly as possible, equal population; and
- (4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) Except as provided by subsection (g), a division under subsection (a), (b), or (c) shall be made:

- (1) during the first year after a year in which a federal decennial census is conducted; and
- (2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e). In a county in which a public question is approved under IC 36-2-2.7-5, a division under subsection (a) shall be made by the county council during the year before county council members will be elected under IC 36-2-2.7-6(8).

(g) This subsection applies during the first year after a year in which a federal decennial census is conducted. If the county executive, county redistricting commission, or county fiscal body determines that a division under subsection (e) is not required, the

county executive, county redistricting commission, or county fiscal body shall adopt an ordinance recertifying that the districts as drawn comply with this section.

(h) Each time there is a division under subsection (e) or (f) or a recertification under subsection (g), the county executive, county redistricting commission, or county fiscal body shall file with the circuit court clerk of the county, not later than thirty (30) days after the division or recertification occurs, a map of the district boundaries:

- (1) adopted under subsection (e) or (f); or
- (2) recertified under subsection (g).

(i) The limitations set forth in this section are part of the ordinance, but do not have to be specifically set forth in the ordinance. The ordinance must be construed, if possible, to comply with this chapter. If a provision of the ordinance or an application of the ordinance violates this chapter, the invalidity does not affect the other provisions or applications of the ordinance that can be given effect without the invalid provision or application. The provisions of the ordinance are severable.

(j) If a conflict exists between:

- (1) a map showing the boundaries of a district; and
- (2) a description of the boundaries of that district set forth in the ordinance;

the district boundaries are the description of the boundaries set forth in the ordinance, not the boundaries shown on the map, to the extent there is a conflict between the description and the map.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.144; Acts 1981, P.L.17, SEC.10; Acts 1981, P.L.5, SEC.2; P.L.10-1988, SEC.237; P.L.13-1988, SEC.14; P.L.5-1989, SEC.88; P.L.12-1992, SEC.153; P.L.122-2000, SEC.21; P.L.230-2005, SEC.83; P.L.119-2012, SEC.182; P.L.271-2013, SEC.47; P.L.77-2014, SEC.17.

IC 36-2-3-4.1

Election of county fiscal body in county with single county executive; division of county into districts; district criteria; redistricting

Sec. 4.1. (a) This section applies only to a county:

- (1) that has a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000); and
- (2) in which a public question under IC 36-2-2.4 making the county executive a single county executive has been approved by the voters of the county.

(b) Effective for the 2018 general election, the county fiscal body shall by ordinance divide the county into nine (9) contiguous, single-member districts that comply with subsection (c). One (1) member of the fiscal body shall be elected by the voters of each of the nine (9) districts.

- (c) Single-member districts established under subsection (b) must:
 - (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
 - (2) not cross precinct boundary lines;
 - (3) contain, as nearly as possible, equal population;
 - (4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section;
 - (5) consider how communities of interest within the county can best be represented; and
 - (6) be drawn so as to provide at least one (1) representative to each distinct community of interest to the extent practicable and not inconsistent with other applicable law.
- (d) A division under subsection (b) shall be made:
 - (1) effective for the 2018 general election; and
 - (2) whenever the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.
- (e) After a division is initially made under subsection (b), another division may be made in any odd-numbered year not described in subsection (d).

As added by P.L.77-2014, SEC.18.

IC 36-2-3-4.5

Territory not included in any district

Sec. 4.5. (a) If any territory in any county is not included in one (1) of the districts established under section 4 of this chapter, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(b) If any territory in any county is included in more than one (1) of the districts established under section 4 of this chapter, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under section 4 of this chapter;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

As added by P.L.3-1993, SEC.258.

IC 36-2-3-4.7

Ordinance for division of county into districts

Sec. 4.7. (a) Whenever the county executive or the county fiscal body divides the county into districts under section 4 of this chapter, the county executive or the county fiscal body shall adopt an ordinance.

(b) The county executive or the county fiscal body shall file a copy of an ordinance adopted under subsection (a) with the circuit

court clerk.

As added by P.L.3-1993, SEC.259.

IC 36-2-3-5

Election of fiscal body; prerequisites; forfeiture of office

Sec. 5. (a) To be eligible to serve as a member of the fiscal body, a person must meet the qualifications prescribed by IC 3-8-1-22.

(b) A member of the fiscal body must reside within:

- (1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and
- (2) the district from which the member was elected, if applicable.

(c) A member who fails to comply with subsection (b) forfeits the office.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.145; Acts 1981, P.L.17, SEC.11; P.L.5-1986, SEC.36; P.L.3-1987, SEC.543; P.L.225-2011, SEC.91; P.L.90-2012, SEC.5.

IC 36-2-3-6

Election of president and president pro tempore; county auditor to serve as clerk; execution of orders by sheriff; employment of legal and administrative personnel

Sec. 6. (a) At its regular meeting required by section 7(b)(1) of this chapter, the fiscal body shall elect a president and president pro tempore from its members.

(b) The county auditor is the clerk of the fiscal body and shall:

- (1) preserve the fiscal body's records in his office;
- (2) keep an accurate record of the fiscal body's proceedings;
- (3) record the ayes and nays on each vote appropriating money or fixing the rate of a tax levy; and
- (4) record the ayes and nays on other votes when requested to do so by two (2) or more members.

(c) The county sheriff or a county police officer shall attend the meetings of the fiscal body, if requested by the fiscal body, and shall execute its orders.

(d) The fiscal body may employ legal and administrative personnel necessary to assist and advise it in the performance of its functions and duties.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.18; Acts 1981, P.L.17, SEC.12; P.L.131-1983, SEC.12.

IC 36-2-3-7

Meetings; location; duties; special meetings; notice; emergency meetings

Sec. 7. (a) The fiscal body shall hold its meetings in the county seat, in the county auditor's office, or in another location provided by the county executive and approved by the fiscal body.

(b) The fiscal body:

- (1) shall hold a regular meeting in January after its election, for the purpose of organization and other business;
- (2) shall hold a regular meeting annually, as prescribed by IC 6-1.1-17, to adopt the county's annual budget and tax rate;
- (3) may hold a special meeting under subsection (c) or (d); and
- (4) in the case of a county subject to IC 36-2-3.5, shall hold meetings at a regularly scheduled time each month that does not conflict with the meetings of the county executive.

(c) A special meeting of the fiscal body may be called:

- (1) by the county auditor or the president of the fiscal body; or
- (2) by a majority of the members of the fiscal body.

At least forty-eight (48) hours before the meeting, the auditor, president, or members calling the meeting shall give written notice of the meeting to each member of the fiscal body and publish, at least one (1) day before the meeting, the notice in accordance with IC 5-3-1-4. This subsection does not apply to a meeting called to deal with an emergency under IC 5-14-1.5-5.

(d) If a court orders the county auditor to make an expenditure of county money for a purpose for which an appropriation has not been made, the auditor shall immediately call an emergency meeting of the fiscal body to discuss the matter. Notwithstanding subsection (c), the meeting must be held within three (3) working days of the receipt of the order by the auditor, and notice of the meeting day, time, and places is sufficient if:

- (1) given by telephone to the members of the fiscal body; and
- (2) given according to IC 5-14-1.5.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.19; Acts 1981, P.L.11, SEC.146; Acts 1981, P.L.17, SEC.13; Acts 1982, P.L.33, SEC.17.

IC 36-2-3-8

Adverse interest; forfeiture

Sec. 8. A member of the fiscal body who purchases a bond, order, claim, or demand against the county for less than its face value shall forfeit it to the county and may not enforce it by legal action.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-3-9

Expulsion of member of fiscal body; declaring seat of member vacant; procedure

Sec. 9. The fiscal body may:

- (1) expel any member for violation of an official duty;
- (2) declare the seat of any member vacant if he is unable or fails to perform the duties of his office; and
- (3) adopt its own rules to govern proceedings under this section, but a two-thirds (2/3) vote is required to expel a member or vacate his seat.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-3-10

Employment of attorney to represent and advise fiscal body

Sec. 10. (a) The fiscal body may employ and fix the compensation of an attorney to represent and advise the fiscal body.

(b) For the purposes of Section 9, Article 2 of the Constitution of the State of Indiana, employment by a county fiscal body as an attorney does not constitute a lucrative office.

As added by P.L.137-1989, SEC.13.