

## **IC 36-7-13.5**

### **Chapter 13.5. Shoreline Development**

#### **IC 36-7-13.5-1**

##### **Definitions**

Sec. 1. The following definitions apply throughout this chapter:

(1) "Commission" refers to the Lake Michigan marina and shoreline development commission established by section 2 of this chapter.

(2) "Corridor" means the strip of land in Indiana abutting Lake Michigan and the tributaries of Lake Michigan.

(3) "Environmental fund" refers to the shoreline environmental trust fund established by section 19 of this chapter.

(4) "Environmental grant" means a grant from the environmental fund.

(5) "Qualifying property" means one (1) or more parcels of land in the corridor under common ownership, regardless of whether any improvements are located on the land, with respect to which:

(A) the:

(i) land is unused, if there are no improvements on the land; or

(ii) land and improvements are unused;

(B) all or a part of each parcel of the land is located within five hundred (500) yards of a lake or river; and

(C) there are significant obstacles to redevelopment because of any of the following:

(i) Obsolete or inefficient buildings.

(ii) Aging infrastructure or inefficient utility services.

(iii) Utility relocation requirements.

(iv) Transportation or access problems.

(v) Topographical obstacles.

(vi) Environmental contamination.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.127.*

#### **IC 36-7-13.5-2**

##### **Establishment**

Sec. 2. The Lake Michigan marina and shoreline development commission is established.

*As added by P.L.31-2001, SEC.1. Amended by P.L.33-2008, SEC.1; P.L.197-2011, SEC.128.*

#### **IC 36-7-13.5-3**

##### **Members**

Sec. 3. The commission consists of the following members:

(1) The following voting members:

(A) The mayor of East Chicago.

- (B) The mayor of Gary.
- (C) The mayor of Hammond.
- (D) The mayor of Michigan City.
- (E) The mayor of Portage.
- (F) The mayor of Whiting.
- (G) Two (2) members, each representing and appointed by a different steel company that owns land abutting Lake Michigan with a continuous shoreline of not less than one (1) mile.
- (H) One (1) member to represent and to be appointed by a company that:
  - (i) is not a steel company; and
  - (ii) owns land abutting Lake Michigan with a continuous shoreline of not less than three-tenths (0.3) mile.
- (I) One (1) member appointed jointly by the executives of the following municipalities:
  - (i) Beverly Shores.
  - (ii) Dune Acres.
  - (iii) Ogden Dunes.
- (J) One (1) member appointed jointly by the executives of the following municipalities:
  - (i) Burns Harbor.
  - (ii) Chesterton.
  - (iii) Porter.
- (K) One (1) member appointed by a public utility that owns real property that:
  - (i) is located in the counties contiguous to Lake Michigan; and
  - (ii) has a total assessed value that exceeds the total assessed value of real property in the counties contiguous to Lake Michigan that is owned by any other public utility.
- (L) Two (2) members appointed by the speaker of the house of representatives who:
  - (i) are members of the house of representatives;
  - (ii) represent house districts that have territory within the corridor; and
  - (iii) are not affiliated with the same political party.

If the requirement under item (iii) cannot be satisfied, the speaker may disregard the requirement under item (iii) when appointing members under this clause.
- (M) Two (2) members appointed by the president pro tempore of the senate who:
  - (i) are members of the senate;
  - (ii) represent senate districts that have territory within the corridor; and
  - (iii) are not affiliated with the same political party.

If the requirement under item (iii) cannot be satisfied, the president pro tempore may disregard the requirement under

- item (iii) when appointing members under this clause.
- (2) The following nonvoting members:
- (A) One (1) member to represent the department of environmental management, appointed by the governor.
  - (B) One (1) member to represent the department of natural resources, appointed by the governor.
  - (C) One (1) member to represent the Indiana department of transportation, appointed by the governor.
  - (D) One (1) member appointed by the executive of the Indiana Dunes National Lakeshore.
  - (E) The port director of the Port of Indiana-Burns Harbor.
  - (F) One (1) member appointed by the Lake County Convention and Visitors Bureau.
  - (G) One (1) member appointed by the LaPorte County Convention and Visitors Bureau.
  - (H) One (1) member appointed by the Porter County Convention Recreation and Visitor Commission.

*As added by P.L.31-2001, SEC.1. Amended by P.L.33-2008, SEC.2; P.L.159-2011, SEC.48; P.L.197-2011, SEC.129; P.L.6-2012, SEC.243.*

#### **IC 36-7-13.5-4**

##### **Steel company representatives; designation of member to serve for current member**

Sec. 4. (a) The members of the commission referred to in section 3(1)(G) of this chapter and their designees may not represent the same steel company.

(b) A member of the commission may designate an individual to serve on the commission in the member's place.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.130.*

#### **IC 36-7-13.5-5**

##### **Terms**

Sec. 5. The term of each member is two (2) years.

*As added by P.L.31-2001, SEC.1.*

#### **IC 36-7-13.5-6**

##### **Vacancies**

Sec. 6. A vacancy occurring in the membership of the commission shall be filled by the appointing authority.

*As added by P.L.31-2001, SEC.1.*

#### **IC 36-7-13.5-7**

##### **Per diem; mileage and travel allowances**

Sec. 7. (a) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided in the

rules adopted under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided in the rules adopted under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

*As added by P.L.31-2001, SEC.1.*

#### **IC 36-7-13.5-8**

##### **Required majority**

Sec. 8. (a) A quorum of the commission must be present to conduct the commission's business. A quorum consists of a majority of the voting members of the commission.

(b) The affirmative votes of a majority of the voting members of the commission are required for the commission to take action on any measure.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.131.*

#### **IC 36-7-13.5-9**

##### **Repealed**

*(As added by P.L.31-2001, SEC.1. Repealed by P.L.197-2011, SEC.153.)*

#### **IC 36-7-13.5-10**

##### **Meetings**

Sec. 10. (a) The commission:

- (1) shall fix the time for regular meetings; and
- (2) may hold special meetings on call of the chairman with seven (7) days written notice.

(b) A member may waive written notice of a specific meeting by a written notice filed with the commission.

*As added by P.L.31-2001, SEC.1.*

#### **IC 36-7-13.5-11**

### **Commission authority**

Sec. 11. (a) The commission may do the following:

- (1) Identify qualifying properties.
- (2) Prepare a comprehensive environmental master plan for development and redevelopment within the corridor that:
  - (A) plans for remediation of environmental contamination;
  - (B) accounts for economic development and transportation issues relating to environmental contamination; and
  - (C) establishes priorities for development or redevelopment of qualifying properties.
- (3) Establish guidelines for the evaluation of applications for environmental grants from the environmental fund.
- (4) After reviewing a report from the department of environmental management under section 22 of this chapter, make decisions on applications for environmental grants from the environmental fund under section 21 of this chapter.
- (5) Prepare and provide information to political subdivisions on the availability of financial assistance from the environmental fund.
- (6) Coordinate the implementation of the comprehensive environmental master plan.
- (7) Monitor the progress of implementation of the comprehensive environmental master plan.
- (8) Report to the governor, the lieutenant governor, the Indiana economic development corporation, the legislative council, the budget committee, and all political subdivisions that have territory within the corridor on:
  - (A) the activities of the commission; and
  - (B) the progress of implementation of the comprehensive environmental master plan.

A report provided under this subdivision to the legislative council must be in an electronic format under IC 5-14-6.

- (9) Study various plans and recommendations that are proposed concerning marina development along the corridor. Based on these studies, the commission shall do the following:
  - (A) Prepare a comprehensive marina plan.
  - (B) Recommend state and local legislation for the development of marinas along the corridor.
  - (C) Coordinate the implementation of the marina plan and legislation.
- (10) Make marina grants of money to units of local government for the construction or improvement of a marina in the corridor if the grants are consistent with the marina plans, standards, and criteria established by the commission.

(b) It is the goal of marina projects under this chapter to create employment in the private sector.

*As added by P.L.31-2001, SEC.1. Amended by P.L.1-2002, SEC.160; P.L.28-2004, SEC.181; P.L.4-2005, SEC.133; P.L.197-2011,*

*SEC.132; P.L.219-2014, SEC.36.*

### **IC 36-7-13.5-12**

#### **Powers**

Sec. 12. (a) When necessary to accomplish the purposes of the commission, the commission may do the following:

- (1) Conduct studies necessary for the performance of the commission's duties.
- (2) Publicize, advertise, and distribute reports on the commission's purposes, objectives, and findings.
- (3) Provide recommendations in matters related to the commission's functions and objectives to the following:
  - (A) Political subdivisions that have territory within the corridor.
  - (B) Other public and private agencies.
- (4) When requested, act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.
- (5) Receive grants and appropriations from the following:
  - (A) Federal, state, and local governments.
  - (B) Individuals.
  - (C) Foundations.
  - (D) Other organizations.
- (6) Enter into agreements or contracts regarding the acceptance or use of these grants and appropriations for the purpose of carrying out the commission's activities under this chapter.
- (7) Acquire and dispose of real or personal property by grant, gift, purchase, lease, devise, or otherwise.
- (8) Hold, use, improve, maintain, operate, own, manage, or lease as lessor or lessee:
  - (A) real or personal property; or
  - (B) any interest in real or personal property.
- (9) Employ an executive director and other individuals who are necessary to carry out the commission's duties.
- (10) Contract for staff services with:
  - (A) qualified agencies or individuals; or
  - (B) a regional planning commission established under IC 36-7-7.
- (11) Appoint advisory committees, which may include representatives of the following:
  - (A) Municipal parks.
  - (B) County parks.
  - (C) National parks.
  - (D) Port authorities.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.133.*

### **IC 36-7-13.5-13**

**Repealed**

*(As added by P.L.31-2001, SEC.1. Repealed by P.L.197-2011, SEC.153.)*

**IC 36-7-13.5-14**

**Executive committee; officers**

Sec. 14. (a) The commission shall elect the following officers from among the voting members of the commission:

- (1) A chairman.
- (2) A vice chairman.
- (3) A treasurer.

(b) Each officer serves a term of one (1) year beginning July 1 of each year.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.134.*

**IC 36-7-13.5-15**

**Repealed**

*(As added by P.L.31-2001, SEC.1. Repealed by P.L.197-2011, SEC.153.)*

**IC 36-7-13.5-16**

**Repealed**

*(As added by P.L.31-2001, SEC.1. Repealed by P.L.197-2011, SEC.153.)*

**IC 36-7-13.5-17**

**Executive committee; duties**

Sec. 17. The commission shall:

- (1) carry out all functions related to the provision of environmental grants to political subdivisions from the environmental fund and marina grants for the purposes set forth in this chapter;
- (2) review each environmental grant application described in section 11 of this chapter, including the report received from the department of environmental management under section 22 of this chapter, to determine whether to approve an environmental grant;
- (3) determine the amount of each environmental grant to a political subdivision approved by the commission;
- (4) approve, with appropriate signatures, each environmental grant that the commission determines to make under this chapter; and
- (5) prepare and adopt by majority vote an annual budget for carrying out the activities of the commission.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.135.*

### **IC 36-7-13.5-18**

#### **Executive committee; budget; expenditures**

Sec. 18. (a) After approval of the budget by the commission, money may be expended only as budgeted, unless a majority vote of the commission authorizes other expenditures.

(b) Appropriated money remaining unexpended or unencumbered at the end of the year and not otherwise restricted by law or agreement becomes part of a nonreverting cumulative fund to be held in the name of the commission. The commission may authorize unbudgeted expenditures from this fund by a majority vote of the commission. However, unencumbered money appropriated from the environmental fund at the end of a budget year reverts to the environmental fund.

(c) The treasurer of the commission is responsible for the safekeeping and deposit of money the commission receives under this chapter. The state board of accounts shall:

- (1) prescribe the methods and forms for keeping; and
- (2) periodically audit;

the accounts, records, and books of the commission. The commission may establish the funds and the accounts that the commission determines necessary to operate the commission.

(d) The treasurer of the commission may receive, disburse, and handle money belonging to the commission, subject to the following:

- (1) Applicable statutes.
- (2) Procedures established by the commission.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.136.*

### **IC 36-7-13.5-19**

#### **Shoreline environmental trust fund**

Sec. 19. The shoreline environmental trust fund is established to provide a source of money for the following:

- (1) The rehabilitation, redevelopment, and reuse of qualifying property by providing environmental grants to political subdivisions to conduct any of the following activities:
  - (A) Identification and acquisition of qualifying property within a political subdivision.
  - (B) Environmental assessment of identified qualifying property and other activities necessary or convenient to complete the environmental assessments.
  - (C) Remediation of environmental contamination conducted on qualifying property.
  - (D) Clearance of real property under IC 36-7-14-12.2 or IC 36-7-15.1-7 in connection with remediation activities.
  - (E) Other activities necessary or convenient to return qualified property to full use.
- (2) Payment of the share of the operations of the commission, as determined by the commission.



*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.137.*

### **IC 36-7-13.5-20**

#### **Fund; administration; expenditures; investment of money**

Sec. 20. (a) The budget agency shall:

- (1) administer the environmental fund; and
- (2) report to the commission semiannually:
  - (A) revenue receipted to the environmental fund;
  - (B) distributions from the environmental fund; and
  - (C) the balance in the environmental fund.

(b) The following shall be paid from money in the environmental fund:

- (1) The expenses of administering the environmental fund.
- (2) Environmental grants approved by the commission under section 17 of this chapter.
- (3) The amount budgeted from the environmental fund by the commission for the operations of the commission.

(c) The environmental fund consists of the following:

- (1) Appropriations made by the general assembly.
- (2) Environmental grants and gifts intended for deposit in the environmental fund.
- (3) Interest, gains, or other earnings of the environmental fund.

(d) The budget agency shall invest the money in the environmental fund not currently needed to meet the obligations of the environmental fund in the same manner as other public funds may be invested. Interest, gains, or other earnings from these investments shall be credited to the environmental fund.

(e) As an alternative to subsection (d), the budget agency may invest or cause to be invested all or a part of the environmental fund in a fiduciary account with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to the budget agency as provided in the trust agreement or indenture. The budget agency and the state board of finance must approve any trust agreement or indenture before its execution.

(f) Money in the environmental fund at the end of a state fiscal year does not revert to the state general fund.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.138.*

### **IC 36-7-13.5-21**

#### **Grants from fund to political subdivisions**

Sec. 21. (a) Before a political subdivision may receive an environmental grant from the environmental fund, the political subdivision must submit to the department of environmental management and the commission the following:

(1) An environmental grant application, in the form prescribed by the department of environmental management and the commission, that:

- (A) identifies the qualifying property;
- (B) includes any ordinances, resolutions, or other documentation of the political subdivision's determination to submit the environmental grant application;
- (C) identifies the entity from which the qualifying property has been acquired or will be acquired by the political subdivision;
- (D) specifies the cost of acquisition of the qualifying property to the political subdivision, if any;
- (E) identifies any environmental contamination of the qualifying property that will be subject to remediation;
- (F) specifies the environmental remediation objectives with respect to the qualifying property;
- (G) estimates all costs the political subdivision will incur with respect to the qualifying property;
- (H) evaluates the prospect for conveyance of the qualifying property for use by a private or public entity; and
- (I) includes a schedule of all actions taken or to be taken by the political subdivision with respect to the qualifying property between the time of acquisition and the anticipated time of conveyance by the political subdivision.

(2) Documentation of community and neighborhood comment concerning the use of a qualifying property on which environmental remediation activities will be undertaken after environmental remediation activities are completed.

(b) A political subdivision may apply for an environmental grant under this section for activities under this chapter with respect to:

- (1) qualifying property previously acquired by the political subdivision by:
  - (A) purchase; or
  - (B) donation from a private or public entity; or
- (2) qualifying property to be acquired using environmental grant money.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.139.*

### **IC 36-7-13.5-22**

#### **Duties of department of environmental management**

Sec. 22. The department of environmental management shall do the following under this chapter:

- (1) Upon receipt of an environmental grant application from a political subdivision under section 21 of this chapter with respect to a qualifying property, evaluate the technical aspects of the political subdivision's:
  - (A) environmental assessment of the property; and

(B) proposed environmental remediation with respect to the property.

(2) Submit to the commission a report of its evaluation under subdivision (1).

(3) Evaluate the technical aspects of the political subdivision's environmental remediation activities conducted on qualifying properties.

(4) Act as a liaison with the United States Environmental Protection Agency.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.140.*

### **IC 36-7-13.5-23**

#### **Priority ranking system for grants**

Sec. 23. The commission shall develop a priority ranking system for making environmental grants under this chapter based on the following:

(1) The comprehensive environmental master plan.

(2) Socioeconomic distress in an area, as determined by the poverty level and unemployment rate in the area.

(3) The technical evaluation by the department of environmental management under section 22 of this chapter.

(4) Other factors determined by the commission, including the following:

(A) The number and quality of jobs that would result from reuse of the qualifying property.

(B) Housing, recreational, and educational needs of communities.

(C) Any other factors the commission determines will assist in the implementation of this chapter.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.141.*

### **IC 36-7-13.5-24**

#### **Acceptable usages of grants**

Sec. 24. (a) Based on the priority ranking system established under section 23 of this chapter, the commission may make environmental grants from the environmental fund to political subdivisions under this section.

(b) An environmental grant must be used for at least one (1) of the purposes set forth in section 19 of this chapter and may be used to pay consultant, advisory, and legal fees and any other costs or expenses resulting from the assessment, planning, or environmental remediation of a qualifying property.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.142.*

### **IC 36-7-13.5-25**

### **Property donations**

Sec. 25. If:

(1) a private entity offers a political subdivision a donation of property for which the political subdivision intends to submit an environmental grant application under section 21 of this chapter; and

(2) the donation of the property is conditioned on obtaining from the state a covenant not to sue the private entity for any potential liability arising under state law associated with environmental contamination of the property;

the political subdivision may request that the commission seek the covenant not to sue from the governor. The governor may execute a covenant not to sue under this section.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.143.*

### **IC 36-7-13.5-26**

#### **Adoption of guidelines**

Sec. 26. The commission may adopt guidelines or guidance documents to implement this chapter without complying with IC 4-22-2.

*As added by P.L.31-2001, SEC.1. Amended by P.L.197-2011, SEC.144.*

### **IC 36-7-13.5-27**

#### **No limitation on power to develop or improve a port, terminal, or lakefront facility**

Sec. 27. This chapter does not limit the power of a participating county, township, port authority, or municipal corporation to develop or improve a port, terminal, or lakefront facility.

*As added by P.L.197-2011, SEC.145.*