

HOUSE BILL No. 1278

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-22.

Synopsis: Economic improvement districts. Provides that a petition to establish an economic improvement district (district) may be filed with the clerk (instead of the legislative body) of the county or municipality. Requires a person that intends to file a petition for the establishment of a district to first provide the clerk with written notice of the person's intent before initiating the petition process. Provides that a petition for the establishment of a district may be filed with the clerk not later than 60 days after the date on which the person filed the notice of intent. Requires the clerk to retain the paper copy of a petition for not less than 90 days from the date the petition is filed. Provides that the clerk of the county or municipality shall publish notice of a hearing on the proposed district, mail a copy of the notice to each owner of real property within the district, and include the hearing date in the notice. Provides that the date of the hearing may not be more than 60 days after the date on which the notice is mailed. Increases the required percentage number of signatures needed on a petition from owners of real property within a proposed district. Provides that a signature of a person whose property is owned by a nonprofit entity and is exempt from taxation may not be considered in determining whether the required number of signatures needed on a petition are met. Provides that the assessed valuation of property that is owned by a nonprofit entity and is exempt from property taxation may not be considered in determining the total assessed valuation in the proposed district. Repeals the provision that allows the proposals contained in the petition to be amended or modified in the ordinance adopted to establish the district. Eliminates the provision that allows the board of
(Continued next page)

Effective: July 1, 2018.

Eberhart

January 16, 2018, read first time and referred to Committee on Local Government.



Digest Continued

a district (board) to increase a special assessment following a hearing on an owner's protest of the special assessment. Requires the board to either confirm or decrease the special assessment in its determination of the owner's protest. Provides that the legislative body of a unit (legislative body) may not pass an amending ordinance to increase the boundaries of a district. Requires the district (or the person that files the petition, if the proposed district is rejected) to, at the request of the unit, reimburse the unit for the reasonable expenses incurred by the unit to comply with the statutory requirements for the district. Provides that the legislative body may choose not to collect all or part of the reasonable expenses.



Introduced

Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1278

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-22-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. **(a) A person that**
3 **intends to file a petition for the establishment of an economic**
4 **improvement district under this section must first provide written**
5 **notice to the clerk of the unit of the person's intent before initiating**
6 **the petition process.**

7 **(b)** A petition for the establishment of an economic improvement
8 district may be filed with the ~~legislative body~~ clerk of the unit **not later**
9 **than sixty (60) days after the date on which the notice of intent for**
10 **the petition is filed with the clerk under subsection (a).** The petition
11 must include the following information:

- 12 (1) The boundaries of the proposed district, including the
13 boundaries of any zones to be established under section 5(b) of
14 this chapter.
15 (2) The name and address of each parcel and owner of land within



1 the proposed district and a description of the existing land use and
2 zoning classification of each parcel.

3 (3) A detailed description of the economic improvement projects
4 to be carried out within the proposed district, the estimated cost
5 of these projects, and the benefits to accrue to the property owners
6 within the district.

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

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

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

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

14 **(c) The clerk of the unit shall retain the paper copy of a petition**
15 **filed under this section for not less than ninety (90) days from the**
16 **date the petition is filed with the clerk.**

17 SECTION 2. IC 36-7-22-6 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. (a) After receipt of
19 a petition under section 4 of this chapter, the ~~legislative body clerk of~~
20 **the unit** shall, in the manner provided by IC 5-3-1, publish notice of a
21 hearing on the proposed economic improvement district. The
22 ~~legislative body clerk of the unit~~ shall mail a copy of the notice to each
23 owner of real property within the proposed economic improvement
24 district. The notice must include the boundaries of the proposed
25 district, a description of the proposed projects, ~~and~~ the proposed
26 formula for determining the percentage of the total benefit to be
27 received by each parcel of property, **and the hearing date. The date**
28 **of the hearing may not be more than sixty (60) days after the date**
29 **on which the notice is mailed.**

30 (b) At the public hearing under subsection (a), the legislative body
31 shall hear all owners of real property in the proposed district (who
32 appear and request to be heard) upon the questions of:

33 (1) the sufficiency of the notice;

34 (2) whether the proposed economic improvement projects are of
35 public utility and benefit;

36 (3) whether the formula to be used for the assessment of special
37 benefits is appropriate; and

38 (4) whether the district contains all, or more or less than all, of the
39 property specially benefited by the proposed project.

40 SECTION 3. IC 36-7-22-7, AS AMENDED BY P.L.113-2010,
41 SECTION 135, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) After conducting a hearing on



1 the proposed economic improvement district, the legislative body may
 2 adopt an ordinance establishing the economic improvement district if
 3 it determines that:

4 (1) the petition meets the requirements of this section and sections
 5 4 and 5 of this chapter;

6 (2) the economic improvement projects to be undertaken in the
 7 district will provide special benefits to property owners in the
 8 district and will be of public utility and benefit;

9 (3) the benefits provided by the project will be new benefits that
 10 do not replace benefits existing before the establishment of the
 11 district; and

12 (4) the formula to be used for the assessment of benefits is
 13 appropriate.

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

16 (1) **a majority at least sixty-six percent (66%)** of the owners of
 17 real property within the proposed district; and

18 (2) the owners of real property constituting ~~more than fifty~~
 19 **percent (50%) at least sixty-six percent (66%)** of the assessed
 20 valuation in the proposed district.

21 (c) The signature of a person whose property:

22 **(1) is owned by a nonprofit entity and is exempt from**
 23 **property taxation under IC 6-1.1-10-16; or**

24 **(2) would be exempt from assessments under the ordinance;**

25 may not be considered in determining whether the requirements of
 26 subsection (b) are met. In addition, the assessed valuation of any
 27 property that **is owned by a nonprofit entity and is exempt from**
 28 **property taxation under IC 6-1.1-10-16, or** would be exempt from
 29 assessment under the ordinance, may not be considered in determining
 30 the total assessed valuation in the proposed district.

31 SECTION 4. IC 36-7-22-8 IS REPEALED [EFFECTIVE JULY 1,
 32 2018]. Sec. 8. An ordinance adopted under section 7 of this chapter
 33 may amend or modify the proposals contained in the petition submitted
 34 under section 4 of this chapter. However, if the ordinance will increase
 35 the area of the district beyond the area described in the petition, the
 36 ordinance may not be adopted until notice of this fact has been
 37 published in the manner provided by IC 5-3-1 and mailed to each
 38 owner of real property in the additional area proposed to be included
 39 in the district.

40 SECTION 5. IC 36-7-22-9 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. **(a) Subject to**
 42 **subsection (b),** an ordinance adopted under section 7 of this chapter



1 may be repealed or amended only after notice of the proposed repeal
 2 or amendment is published and mailed in the manner provided by
 3 section 6 of this chapter.

4 **(b) Beginning after June 30, 2018, the legislative body of a unit**
 5 **may not pass an amending ordinance to increase the boundaries of**
 6 **a district.**

7 SECTION 6. IC 36-7-22-12, AS AMENDED BY P.L.113-2010,
 8 SECTION 137, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2018]: Sec. 12. (a) The board shall use the
 10 formula approved by the legislative body under section 7(a)(4) of this
 11 chapter to determine the percentage of benefit to be received by each
 12 parcel of real property within the economic improvement district. The
 13 board shall apply the percentage determined for each parcel to the total
 14 amount that is to be defrayed by special assessment and determine the
 15 special assessment for each parcel.

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

- 19 (1) set forth the amount of the proposed special assessment;
- 20 (2) state that the proposed special assessment on each parcel of
 21 real property in the economic improvement district is on file and
 22 can be seen in the board's office;
- 23 (3) state the time and place where written remonstrances against
 24 the special assessment may be filed;
- 25 (4) set forth the time and place where the board will hear any
 26 owner of assessed real property who has filed a remonstrance
 27 before the hearing date; and
- 28 (5) state that the board, after hearing evidence, may ~~increase or~~
 29 ~~decrease, or leave unchanged,~~ the special assessment on any
 30 parcel.

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

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

39 (e) The board shall render its decision by ~~increasing, decreasing, or~~
 40 ~~confirming either confirming or decreasing~~ each special assessment
 41 by setting opposite each name, parcel, and proposed assessment, the
 42 amount of the assessment as determined by the board. However, if the



1 total of the special assessments exceeds the amount needed, the board
 2 shall make a prorated reduction in each special assessment.

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

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

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

22 SECTION 7. IC 36-7-22-23 IS ADDED TO THE INDIANA CODE
 23 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 2018]: **Sec. 23. Upon acceptance or rejection of a proposed
 25 economic improvement district following a petition under this
 26 chapter, the resulting district (or the person that files the petition,
 27 if the proposed district is rejected) shall, at the request of the unit,
 28 reimburse the unit for all or part of the reasonable expenses
 29 incurred by the unit to comply with this chapter. The legislative
 30 body of the unit may choose not to collect all or part of the
 31 reasonable expenses incurred to comply with this chapter.**

