

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 ENROLLED ACT No. 1278

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AN ACT to amend the Indiana Code concerning local government.

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

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

**(b) A petition for the establishment of an economic improvement district may be filed with the legislative body clerk of the unit of the municipality or the county auditor not later than one hundred twenty (120) days after the date on which the notice of intent for the petition is filed with the clerk of the municipality or the county auditor under subsection (a).** The petition must include the following information:

- (1) The boundaries of the proposed district, including the boundaries of any zones to be established under section 5(b) of this chapter.
- (2) The name and address of each parcel and owner of land within the proposed district and a description of the existing land use and zoning classification of each parcel.
- (3) A detailed description of the economic improvement projects to be carried out within the proposed district, the estimated cost

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of these projects, and the benefits to accrue to the property owners within the district.

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

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

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

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

**(c) The clerk of the municipality or the county auditor shall retain the paper copy of a petition filed under this section for not less than ninety (90) days from the date the petition is filed with the clerk of the municipality or the county auditor.**

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

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

(1) the sufficiency of the notice;

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

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

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

SECTION 3. IC 36-7-22-7, AS AMENDED BY P.L.113-2010, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) After conducting a hearing on the proposed economic improvement district, the legislative body may adopt an ordinance establishing the economic improvement district if



it determines that:

- (1) the petition meets the requirements of this section and sections 4 and 5 of this chapter;
  - (2) the economic improvement projects to be undertaken in the district will provide special benefits to property owners in the district and will be of public utility and benefit;
  - (3) the benefits provided by the project will be new benefits that do not replace benefits existing before the establishment of the district; and
  - (4) the formula to be used for the assessment of benefits is appropriate.
- (b) The legislative body may adopt the ordinance only if it determines that the petition has been signed by:
- (1) a **majority at least sixty percent (60%)** of the owners of real property within the proposed district; and
  - (2) the owners of real property constituting ~~more than fifty percent (50%)~~ **at least sixty percent (60%)** of the assessed valuation in the proposed district.
- (c) The signature of a person whose property:
- (1) is:
    - (A) **owned by a nonprofit entity and is exempt from property taxation under IC 6-1.1-10-16;**
    - (B) **owned by this state or a state agency or leased to a state agency and is exempt from property taxation under IC 6-1.1-10 or any other law; or**
    - (C) **owned by a political subdivision of this state and is exempt from property taxation under IC 6-1.1-10 or any other law; or**
  - (2) would be exempt from assessments under the ordinance;
- may not be considered in determining whether the requirements of subsection (b) are met.
- (d) In addition, the assessed valuation of any property that:
- (1) is:
    - (A) **owned by a nonprofit entity and is exempt from property taxation under IC 6-1.1-10-16;**
    - (B) **owned by this state or a state agency or leased to a state agency and is exempt from property taxation under IC 6-1.1-10 or any other law; or**
    - (C) **owned by a political subdivision of this state and is exempt from property taxation under IC 6-1.1-10 or any other law; or**
  - (2) would be exempt from assessment under the ordinance;



may not be considered in determining the total assessed valuation in the proposed district.

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

SECTION 5. IC 36-7-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. **(a) Subject to subsection (b)**, an ordinance adopted under section 7 of this chapter may be repealed or amended only after notice of the proposed repeal or amendment is published and mailed in the manner provided by section 6 of this chapter.

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

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

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

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



decrease, or leave unchanged, the special assessment on any parcel.

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

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

(e) The board shall render its decision by ~~increasing, decreasing, or confirming~~ **either confirming or decreasing** each special assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the board. However, if the total of the special assessments exceeds the amount needed, the board shall make a prorated reduction in each special assessment.

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

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

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

SECTION 7. IC 36-7-22-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 23. Upon acceptance or rejection of a proposed economic improvement district following a petition under this chapter, the resulting district (or the person that files the petition, if the proposed district is rejected) shall, at the request of the unit, reimburse the unit for all or part of the reasonable expenses**



**incurred by the unit to comply with this chapter. The legislative body of the unit may choose not to collect all or part of the reasonable expenses incurred to comply with this chapter.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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