



Reprinted
February 1, 2022

SENATE BILL No. 370

DIGEST OF SB 370 (Updated January 31, 2022 5:27 pm - DI 129)

Citations Affected: IC 36-7.

Synopsis: Community infrastructure improvement districts. Creates a procedure to establish a community infrastructure improvement district (district). Specifies that the procedure added by the bill allowing for the establishment of a district does not authorize the unit to establish a district that overlaps with an economic improvement district. Requires a petition for the establishment of a district to include a rate and methodology report. Specifies the contents of the report. Specifies the basis upon which benefits accruing to parcels of real property within a district may be apportioned among those parcels. Requires a determination that the aggregate assessments within a district do not exceed 30% of the projected assessed value of property within the district before a legislative body may adopt an ordinance to establish a district. Requires a community infrastructure improvement board (board) to assist the county treasurer in order to make certain specified determinations and designations regarding annual assessments within a district. Adds specific provisions that apply to the board's issuance of revenue bonds.

Effective: July 1, 2022.

**Buchanan, Baldwin, Busch, Lanane,
Randolph Lonnie M, Rogers, Raatz**

January 11, 2022, read first time and referred to Committee on Tax and Fiscal Policy.
January 25, 2022, amended, reported favorably — Do Pass.
January 31, 2022, read second time, amended, ordered engrossed.

SB 370—LS 6998/DI 120



Reprinted
February 1, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 370

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 36-7-22.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]:
4 **Chapter 22.1. Community Infrastructure Improvement**
5 **Districts**
6 **Sec. 1. (a) This chapter applies to all units except townships.**
7 **(b) This chapter does not authorize a unit to establish a**
8 **community infrastructure improvement district that overlaps with**
9 **an economic improvement district established under IC 36-7-22.**
10 **Sec. 1.5. As used in this chapter, "assessment" means a charge**
11 **determined under section 11(a) of this chapter by applying the**
12 **percentage of benefit apportioned to a parcel within a community**
13 **infrastructure improvement district to the cost associated with**
14 **economic development projects giving rise to such benefits. Costs**
15 **subject to assessment for these purposes include all costs of the**
16 **economic improvement projects as well as financing and**
17 **administrative costs. In the case of bonds or notes issued pursuant**

SB 370—LS 6998/DI 120



1 to section 23 of this chapter, financing costs shall include, without
 2 limitation, principal and interest, related reserve funds, cost of
 3 insurance, and costs associated with ancillary financial
 4 arrangements with respect to the bonds or notes.

5 Sec. 2. As used in this chapter, "board" refers to a community
 6 infrastructure improvement board established under section 10 of
 7 this chapter.

8 Sec. 3. As used in this chapter, "economic improvement project"
 9 means the following:

10 (1) Planning or managing development or improvement
 11 activities.

12 (2) Designing, landscaping, beautifying, constructing, or
 13 maintaining public areas, public improvements, or public
 14 ways (including designing, constructing, or maintaining
 15 lighting, infrastructure, utility facilities, improvements, and
 16 equipment, water facilities, improvements, and equipment,
 17 sewage facilities, improvements, and equipment, streets, or
 18 sidewalks for a public area or public way).

19 (3) Promoting commercial activity or public events.

20 (4) Supporting business recruitment and development.

21 (5) Providing security for public areas.

22 (6) Acquiring, constructing, or maintaining parking facilities.

23 (7) Constructing, rehabilitating, or repairing residential
 24 property, including improvements related to the habitability
 25 of the residential property.

26 (8) Acquiring, constructing, rehabilitating, or repairing
 27 redevelopment projects, economic development facilities
 28 described in IC 36-7-11.9-3, pollution control facilities
 29 described in IC 36-7-11.9-9, or other local improvements.

30 (9) Constructing, rehabilitating, or repairing industrial or
 31 commercial property associated with a qualified
 32 redevelopment site (as defined in IC 6-3.1-34-6).

33 Sec. 3.2. As used in this chapter, "projected assessed value"
 34 means:

35 (1) with respect to the community infrastructure
 36 improvement district, an assessed value of the property within
 37 the community infrastructure improvement district, plus the
 38 as-built projected assessed value of the economic development
 39 project to be constructed in the community infrastructure
 40 improvement district as determined pursuant to a third party
 41 evaluation accepted by the legislative body; and

42 (2) with respect to an individual parcel, the as-built (or



1 as-improved, as appropriate) projected assessed value of the
 2 parcel as determined pursuant to a third party evaluation
 3 accepted by the legislative body;
 4 including in both cases the assessed value of a property subject to
 5 a voluntary assessment agreement as set forth in section 7(e) of this
 6 chapter.

7 Sec. 3.4. As used in this chapter, "rate and method
 8 apportionment report" means a report relating to a developer's
 9 planned economic development of the subject parcels, which must
 10 set forth at least the following:

11 (1) A list of parcels consistent with the parcels identified in the
 12 petition for the establishment of the community infrastructure
 13 improvement district under section 4 of this chapter.

14 (2) A statement of:

15 (A) the proposed assessment formula under section 4(b)(5)
 16 of this chapter;

17 (B) the apportionment of benefits under section 5(a) of this
 18 chapter; and

19 (C) zones or other classifications, if any, relating to the
 20 formula under clause (A) or the apportionment under
 21 clause (B).

22 (3) The proposed total assessment per parcel, including:

23 (A) the lump sum payment amount if the assessment is
 24 payable as a lump sum;

25 (B) the method for converting a lump sum assessment to
 26 annual installments, if applicable; and

27 (C) a schedule of annual installments and an
 28 accompanying amortization schedule of the assessment, if
 29 any.

30 (4) A statement of the basis and methodology for reassessment
 31 in the case of a parcel division or consolidation of the assessed
 32 property, status of development or the completion of
 33 improvements associated with the assessed property or
 34 changes in zoning classification of the property, and any
 35 resulting assessment changes.

36 (5) The proposed maximum number of years during which the
 37 assessment may be paid in annual installments.

38 (6) The proposed method for establishing the assessment for
 39 the initial year and each year thereafter.

40 Sec. 4. (a) A person that intends to file a petition for the
 41 establishment of a community infrastructure improvement district
 42 under this section must first provide written notice to the clerk (as



1 defined in IC 36-1-2) in the case of a municipality, or the county
 2 auditor, in the case of a county, of the person's intent before
 3 initiating the petition process.

4 (b) A petition for the establishment of a community
 5 infrastructure improvement district may be filed with the clerk of
 6 the municipality or the county auditor not later than one hundred
 7 twenty (120) days after the date on which the notice of intent for
 8 the petition is filed with the clerk of the municipality or the county
 9 auditor under subsection (a). The petition must include the
 10 following information:

11 (1) The boundaries of the proposed district, including the
 12 boundaries of any zones to be established under section 5(b)
 13 of this chapter.

14 (2) The name and address of each parcel and owner of land
 15 within the proposed district and a description of the existing
 16 land use and zoning classification of each parcel.

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

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

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

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

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

29 (c) The petition shall be accompanied by a rate and method
 30 apportionment report.

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

35 Sec. 5. (a) The benefits accruing to parcels of real property
 36 within a community infrastructure improvement district may be
 37 apportioned among those parcels on any basis reasonably
 38 representative of the diffusion of benefits from the economic
 39 improvement project, including the following:

40 (1) Proximity of the parcel to the project.

41 (2) Accessibility of the parcel to the project.

42 (3) True cash value of the parcel.



- 1 (4) True cash value of any improvement on the parcel.
- 2 (5) Age of any improvement on the parcel.
- 3 (6) Land use class of the parcel.
- 4 (7) Equivalent units, including, in the case of an apartment
- 5 building, the number of units in the building.
- 6 (8) Parcel square footage.
- 7 (9) Parcel front footage.
- 8 (10) Gross floor area.
- 9 (11) Benefit availability.
- 10 (12) Impervious surface area.
- 11 (13) Other similar factors.

12 The apportionment of benefits under this subsection may be
13 adjusted by zone or land use as provided in subsections (b) and (c).

14 (b) If the benefit of the economic development project varies
15 from one (1) area to another within the community infrastructure
16 improvement district, up to three (3) zones may be established
17 within the district to delineate the approximate difference in
18 beneficial impact, and benefits may be apportioned accordingly.

19 (c) In order to encourage the retention or development of
20 various land uses within the district, assessments may be adjusted
21 according to the zoning classification of the property.

22 Sec. 6. (a) After receipt of a petition under section 4 of this
23 chapter, the clerk of the municipality or county auditor shall, in the
24 manner provided by IC 5-3-1, publish notice of a hearing on the
25 proposed community infrastructure improvement district. The
26 clerk of the municipality or the county auditor shall mail a copy of
27 the notice to each owner of real property within the proposed
28 community infrastructure improvement district. The notice must
29 include the boundaries of the proposed district, a description of the
30 proposed projects, the proposed formula for determining the
31 percentage of the total benefit to be received by each parcel of
32 property, and the hearing date. The date of the hearing may not be
33 more than sixty (60) days after the date on which the notice is
34 mailed.

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

- 38 (1) the sufficiency of the notice;
- 39 (2) whether the proposed economic improvement projects are
- 40 of public utility and benefit;
- 41 (3) whether the formula to be used for the assessment of
- 42 special benefits is appropriate; and



- 1 (4) whether the district contains all, or more or less than all,
2 of the property specially benefited by the proposed project.
- 3 **Sec. 7. (a) After conducting a hearing on the proposed**
4 **community infrastructure improvement district, the legislative**
5 **body may adopt an ordinance establishing the community**
6 **infrastructure improvement district if it determines that:**
- 7 (1) the petition meets the requirements of this section and
8 sections 4 and 5 of this chapter;
- 9 (2) the economic improvement projects to be undertaken in
10 the district will provide special benefits to property owners in
11 the district and will be of public utility and benefit;
- 12 (3) the benefits provided by the project will be new benefits
13 that do not replace benefits existing before the establishment
14 of the district;
- 15 (4) the formula to be used for the assessment of benefits is
16 appropriate; and
- 17 (5) aggregate assessments under this chapter do not exceed
18 thirty percent (30%) of the projected assessed value of
19 property within the district.
- 20 (b) The legislative body may adopt the ordinance only if it
21 determines that the petition has been signed by one hundred
22 percent (100%) of the owners of real property subject to
23 assessment within the proposed district.
- 24 (c) Unless an owner of property has entered into a voluntary
25 assessment agreement associated with the economic improvement
26 project, the signature of a person shall not be considered in
27 determining whether the requirement under subsection (b) is met
28 if the person's property:
- 29 (1) is:
- 30 (A) owned by a nonprofit entity and is exempt from
31 property taxation under IC 6-1.1-10-16;
- 32 (B) owned by this state or a state agency or leased to a
33 state agency and is exempt from property taxation under
34 IC 6-1.1-10 or any other law; or
- 35 (C) owned by a political subdivision of this state and is
36 exempt from property taxation under IC 6-1.1-10 or any
37 other law; or
- 38 (2) would be exempt from assessments under the ordinance.
- 39 (d) In addition, unless an owner of property has entered into a
40 voluntary assessment agreement, neither the parcel of real
41 property nor the assessed value of any property may be considered
42 in determining the total parcels of real property or the total



1 assessed value of property in the proposed district for purposes of
 2 determining whether the requirement under subsection (b) is met
 3 if the property:

4 (1) is:

5 (A) owned by a nonprofit entity and is exempt from
 6 property taxation under IC 6-1.1-10-16;

7 (B) owned by this state or a state agency or leased to a
 8 state agency and is exempt from property taxation under
 9 IC 6-1.1-10 or any other law; or

10 (C) owned by a political subdivision of this state and is
 11 exempt from property taxation under IC 6-1.1-10 or any
 12 other law; or

13 (2) would be exempt from assessment under the ordinance.

14 (e) The assessed value of a property subject to a voluntary
 15 assessment agreement is the most recent of valuations from either
 16 the county assessor or a third party evaluation accepted by the
 17 legislative body.

18 Sec. 8. (a) An ordinance adopted under section 7 of this chapter
 19 may be repealed or amended only after notice of the proposed
 20 repeal or amendment is published and mailed in the manner
 21 provided by section 6 of this chapter. However, in no event shall
 22 any ordinance adopted under this chapter be repealed or amended
 23 if there is any outstanding debt payable from assessments.

24 (b) Notwithstanding subsection (a), an ordinance adopted under
 25 section 7 of this chapter may be amended to add additional,
 26 contiguous parcels to which benefits of economic improvement
 27 projects accrue at the request of the owner or owners of such
 28 parcels. If an ordinance is amended under this subsection, the rate
 29 and method of apportionment report shall be amended to reflect
 30 the revised list of parcels and related assessments, and notice must
 31 be provided under section 11(b) of this chapter.

32 Sec. 9. An ordinance adopted under section 7 of this chapter
 33 may provide that businesses established within the district after the
 34 creation of the district are exempt from special assessments for a
 35 period not to exceed one (1) year.

36 Sec. 10. An ordinance adopted under section 7 of this chapter
 37 must establish a community infrastructure improvement board to
 38 be appointed by the legislative body. The board must have at least
 39 three (3) members, and a majority of the board members must own
 40 real property within the district. However, if there is only one (1)
 41 property owner within a district, the legislative body shall appoint
 42 one (1) member to the community infrastructure improvement



1 board who owns real property within the district and not more
 2 than two (2) other members who are not required to own real
 3 property within the district.

4 **Sec. 11. (a) The following apply:**

5 (1) The board shall use the formula approved by the
 6 legislative body under section 7(a)(4) of this chapter to
 7 determine the percentage of benefit to be received by each
 8 parcel of real property within the community infrastructure
 9 improvement district. The board shall apply the percentage
 10 determined for each parcel to the total amount that is to be
 11 defrayed by special assessment and determine the special
 12 assessment for each parcel.

13 (2) In the event of a reassessment as provided in section 3.4(4)
 14 of this chapter, the next assessment installment will include an
 15 additional amount owed, if any, equal to the difference
 16 between the amount originally calculated in subdivision (1)
 17 and the amount calculated pursuant to subdivision (1) using
 18 the reassessment methodology described in the rate and
 19 method of apportionment report.

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

23 (1) describe any potential proposed special assessment and
 24 estimates of related annual installments thereof, including any
 25 method by which the assessments or installments may change
 26 depending on factors as set forth in the rate and method of
 27 apportionment report;

28 (2) state that the rate and method of apportionment report
 29 and the proposed special assessment on each parcel of real
 30 property in the community infrastructure improvement
 31 district is on file and can be seen in the board's office;

32 (3) state the time and place where written remonstrances
 33 against the special assessment may be filed;

34 (4) set forth the time and place where the board will hear any
 35 owner of assessed real property who has filed a remonstrance
 36 before the hearing date; and

37 (5) state that the board, after hearing evidence, may decrease,
 38 or leave unchanged, the special assessment on any parcel.

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



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

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

12 (f) Except as provided in section 12 of this chapter, the signing
13 of the special assessment schedule by a majority of the members of
14 the board and the delivery of the schedule to the county auditor
15 constitute a final and conclusive determination of the benefits that
16 are assessed.

17 (g) Each special assessment is a lien on the real property that is
18 assessed and is subordinate to and subject to all other liens and
19 encumbrances then existing or thereafter created.

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

33 (i) An assessment or reassessment, interest, the expense of
34 collection, and reasonable attorney's fees, if incurred, is:

35 (1) a lien that is effective from the date of the ordinance or
36 order levying the assessment until the assessment is paid;

37 (2) a lien that is subject to and subordinate to:

38 (A) all liens and encumbrances existing at the time the
39 assessment lien becomes effective; and

40 (B) any later extension or amendment of the liens and
41 encumbrances existing at the time assessment lien became
42 effective;



1 (3) a lien that runs with the land and that portion of an
2 assessment payment that has not yet come due is not
3 eliminated by transfer of the parcel to a tax exempt owner;
4 and

5 (4) an assessment lien that may be enforced by the governing
6 body in the same manner that mortgages are foreclosed.

7 (j) Delinquent installments of the assessment shall incur interest,
8 penalties, and attorney's fees in the same manner as delinquent ad
9 valorem taxes.

10 (k) The owner of assessed property, including those by way of
11 voluntary assessment, may pay at any time all or any part of the
12 assessment, with interest that has accrued on the assessment, on
13 any lot or parcel.

14 Sec. 12. (a) Any owner of real property in a community
15 infrastructure improvement district may file an action contesting
16 the validity of:

- 17 (1) the ordinance adopted under section 7 of this chapter; or
- 18 (2) the assessment schedule adopted under section 11 of this
19 chapter.

20 (b) An action under this section must be filed:

- 21 (1) in the circuit or superior court of the county in which the
22 community infrastructure improvement district is located;
23 and
- 24 (2) within thirty (30) days after adoption of either the
25 ordinance or assessment schedule, respectively.

26 Sec. 13. Within thirty (30) days after the county auditor receives
27 the certification of final scheduled assessments for the completion
28 of the economic improvement project, the auditor shall deliver a
29 copy of the certificate to the county treasurer. Each year, the
30 board, which may work through a third party administrator, shall
31 assist the county treasurer in order to:

- 32 (1) prepare an annual assessment roll, which shall reflect
33 which parcels, if any, have fully paid any applicable
34 assessment and therefore no longer owe an assessment
35 installment;
- 36 (2) designate which parcels are assessed, and in what
37 amounts, going forward;
- 38 (3) establish annual assessment installments consistent with
39 the rate and method apportionment report; and
- 40 (4) calculate and add to the annual assessment installments
41 due any penalties, interest, fees, payments owed under section
42 11(a)(2) of this chapter, and other amounts due.



1 Each year, the treasurer shall add the full annual assessment
2 installment due in that year to the tax statements of the person
3 owning the property affected by the assessment, designating it in
4 a manner distinct from general taxes.

5 Sec. 14. Assessments collected under this chapter shall be paid
6 to the board.

7 Sec. 15. (a) The board shall establish a community
8 infrastructure improvement fund and shall deposit in this fund all
9 assessments received under this chapter and any other amounts
10 received by the board.

11 (b) Money in the community infrastructure improvement fund
12 may be used only for the purposes specified in the ordinance
13 establishing the community infrastructure improvement district.
14 Any money earned from investment of money in the fund becomes
15 a part of the fund.

16 Sec. 16. (a) Before November 1 of each year, the board shall
17 prepare and submit to the fiscal body a budget for the following
18 calendar year governing the board's projected expenditures from
19 the community infrastructure improvement fund. Such budget
20 must include amounts to pay debt service on any bonds supported
21 by assessments and assessment installments until such bonds are
22 paid in full. The fiscal body may approve, modify, or reject the
23 proposed budget.

24 (b) The board may make an expenditure from the community
25 infrastructure improvement fund only if the expenditure was
26 approved by the fiscal body in its review of the board's budget or
27 was otherwise approved by the fiscal body.

28 Sec. 17. The board must comply with IC 36-1-12 when
29 contracting for public works.

30 Sec. 18. The board may enter into lease or contractual
31 agreements, or both, with governmental, not-for-profit, or other
32 private entities for the purpose of carrying out economic
33 improvement projects.

34 Sec. 19. If the ordinance that established a community
35 infrastructure improvement district is repealed, the assets and
36 liabilities of the community infrastructure improvement district
37 shall be disposed of in the manner determined by the unit.
38 However, liabilities incurred by the community infrastructure
39 improvement district are not an obligation of the unit and are
40 payable only from the special assessments and other revenues of
41 the district.

42 Sec. 20. The board shall submit an annual report to the



1 legislative body and the fiscal body before February 15 of each
2 year. The report must summarize the board's activities and
3 expenditures during the preceding calendar year.

4 **Sec. 21. The board may:**

5 (1) exercise of any of the powers of a unit under IC 36-7-12-18
6 or IC 36-7-12-18.5; or

7 (2) issue revenue bonds under section 23 of this chapter;
8 to finance an economic improvement project.

9 **Sec. 22. Upon acceptance or rejection of a proposed community**
10 **infrastructure improvement district following a petition under this**
11 **chapter, the resulting district (or the person that files the petition,**
12 **if the proposed district is rejected) shall, at the request of the unit,**
13 **reimburse the unit for all or part of the reasonable expenses**
14 **incurred by the unit to comply with this chapter. The legislative**
15 **body of the unit may choose not to collect all or part of the**
16 **reasonable expenses incurred to comply with this chapter.**

17 **Sec. 23. (a) In accordance with section 21 of this chapter, the**
18 **board may issue bonds or notes payable from assessments assessed**
19 **under this chapter to finance economic improvement projects. The**
20 **bonds or notes may be publicly offered or privately placed in the**
21 **manner determined by the board. Such assessments are not ad**
22 **valorem property taxes and any bonds or notes payable from the**
23 **assessment revenue are not general obligations of the unit that**
24 **established the community infrastructure improvement district.**

25 (b) The board may enter into ancillary financial agreements
26 relating to and in furtherance of its issuance of bonds or notes
27 under this chapter, including agreements with the unit that
28 established the district.

29 (c) Bonds or notes issued under this chapter shall include
30 provisions for redemptions from property owners who choose to
31 make one-time lump sum assessment prepayments on the
32 unamortized portion of any assessment applicable to their
33 property.

34 (d) Bonds or notes issued under this chapter are subject to the
35 following limitations:

36 (1) The bonds or notes may be issued for a period not to
37 exceed thirty-five (35) years.

38 (2) The average life of the bonds or notes may not exceed one
39 hundred twenty percent (120%) of the average economic life
40 of the improvements for which the bonds or notes are issued.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 370, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 2. IC 36-7-22.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

Chapter 22.1. Community Infrastructure Improvement Districts

Sec. 1. (a) This chapter applies to all units except townships.

(b) This chapter does not authorize a unit to establish a community infrastructure improvement district that overlaps with an economic improvement district established under IC 36-7-22.

Sec. 1.5. As used in this chapter, "assessment" means a charge determined under section 11(a) of this chapter by applying the percentage of benefit apportioned to a parcel within a community infrastructure improvement district to the cost associated with economic development projects giving rise to such benefits. Costs subject to assessment for these purposes include all costs of the economic improvement projects as well as financing and administrative costs. In the case of bonds or notes issued pursuant to section 23 of this chapter, financing costs shall include, without limitation, principal and interest, related reserve funds, cost of insurance, and costs associated with ancillary financial arrangements with respect to the bonds or notes.

Sec. 2. As used in this chapter, "board" refers to a community infrastructure improvement board established under section 10 of this chapter.

Sec. 3. As used in this chapter, "economic improvement project" means the following:

- (1) Planning or managing development or improvement activities.**
- (2) Designing, landscaping, beautifying, constructing, or maintaining public areas, public improvements, or public ways (including designing, constructing, or maintaining lighting, infrastructure, utility facilities, improvements, and equipment, water facilities, improvements, and equipment, sewage facilities, improvements, and equipment, streets, or sidewalks for a public area or public way).**
- (3) Promoting commercial activity or public events.**



- (4) Supporting business recruitment and development.
- (5) Providing security for public areas.
- (6) Acquiring, constructing, or maintaining parking facilities.
- (7) Constructing, rehabilitating, or repairing residential property, including improvements related to the habitability of the residential property.
- (8) Acquiring, constructing, rehabilitating, or repairing redevelopment projects, economic development facilities described in IC 36-7-11.9-3, pollution control facilities described in IC 36-7-11.9-9, or other local improvements.
- (9) Constructing, rehabilitating, or repairing industrial or commercial property associated with a qualified redevelopment site (as defined in IC 6-3.1-34-6)."

Page 2, delete lines 1 through 32.

Page 2, line 33, delete "1, 2022]:".

Page 2, line 33, begin a new paragraph beginning with "Sec 3.2.".

Page 2, line 35, delete "district," and insert "**community infrastructure improvement district,**".

Page 2, line 36, delete "district," and insert "**community infrastructure improvement district,**".

Page 2, line 38, delete "district" and insert "**community infrastructure improvement district**".

Page 3, delete lines 5 through 42, begin a new paragraph and insert:

"Sec. 3.4. As used in this chapter, "rate and method apportionment report" means a report relating to a developer's planned economic development of the subject parcels, which must set forth at least the following:

- (1) A list of parcels consistent with the parcels identified in the petition for the establishment of the community infrastructure improvement district under section 4 of this chapter.
- (2) A statement of:
 - (A) the proposed assessment formula under section 4(b)(5) of this chapter;
 - (B) the apportionment of benefits under section 5(a) of this chapter; and
 - (C) zones or other classifications, if any, relating to the formula under clause (A) or the apportionment under clause (B).
- (3) The proposed total assessment per parcel, including:
 - (A) the lump sum payment amount if the assessment is payable as a lump sum;
 - (B) the method for converting a lump sum assessment to



annual installments, if applicable; and
 (C) a schedule of annual installments and an accompanying amortization schedule of the assessment, if any.

(4) A statement of the basis and methodology for reassessment in the case of a parcel division or consolidation of the assessed property, status of development or the completion of improvements associated with the assessed property or changes in zoning classification of the property, and any resulting assessment changes.

(5) The proposed maximum number of years during which the assessment may be paid in annual installments.

(6) The proposed method for establishing the assessment for the initial year and each year thereafter.

Sec. 4. (a) A person that intends to file a petition for the establishment of a community infrastructure 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 a community infrastructure improvement district may be filed with the clerk 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 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 petition shall be accompanied by a rate and method apportionment report.

(d) 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.

Sec. 5. (a) The benefits accruing to parcels of real property within a community infrastructure improvement district may be apportioned among those parcels on any basis reasonably representative of the diffusion of benefits from the economic improvement project, including the following:

- (1) Proximity of the parcel to the project.
- (2) Accessibility of the parcel to the project.
- (3) True cash value of the parcel.
- (4) True cash value of any improvement on the parcel.
- (5) Age of any improvement on the parcel.
- (6) Land use class of the parcel.
- (7) Equivalent units, including, in the case of an apartment building, the number of units in the building.
- (8) Parcel square footage.
- (9) Parcel front footage.
- (10) Gross floor area.
- (11) Benefit availability.
- (12) Impervious surface area.
- (13) Other similar factors.

The apportionment of benefits under this subsection may be adjusted by zone or land use as provided in subsections (b) and (c).

(b) If the benefit of the economic development project varies from one (1) area to another within the community infrastructure improvement district, up to three (3) zones may be established within the district to delineate the approximate difference in beneficial impact, and benefits may be apportioned accordingly.

(c) In order to encourage the retention or development of various land uses within the district, assessments may be adjusted according to the zoning classification of the property.

Sec. 6. (a) After receipt of a petition under section 4 of this chapter, the clerk of the municipality or county auditor shall, in the manner provided by IC 5-3-1, publish notice of a hearing on the proposed community infrastructure improvement district. The



clerk of the municipality or the county auditor shall mail a copy of the notice to each owner of real property within the proposed community infrastructure improvement district. The notice must include the boundaries of the proposed district, a description of the proposed projects, 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.

Sec. 7. (a) After conducting a hearing on the proposed community infrastructure improvement district, the legislative body may adopt an ordinance establishing the community infrastructure 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;
- (4) the formula to be used for the assessment of benefits is appropriate; and
- (5) aggregate assessments under this chapter do not exceed thirty percent (30%) of the projected assessed value of property within the district.

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

- (1) at least sixty percent (60%) of the owners of real property within the proposed district; and
- (2) the owners of real property constituting at least sixty percent (60%) of the total assessed valuation in the proposed



district.

(c) Unless an owner of property has entered into a voluntary assessment agreement associated with the economic improvement project, the signature of a person shall not be considered in determining whether the requirements under subsection (b) are met if the person's 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.

(d) In addition, unless an owner of property has entered into a voluntary assessment agreement, neither the parcel of real property nor the assessed value of any property may be considered in determining the total parcels of real property or the total assessed value of property in the proposed district for purposes of determining whether the requirements under subsection (b) are met if the 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 assessment under the ordinance.

(e) The assessed value of a property subject to a voluntary assessment agreement is the most recent of valuations from either the county assessor or a third party evaluation accepted by the legislative body.

Sec. 8. (a) 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. However, in no event shall any ordinance adopted under this chapter be repealed or amended



if there is any outstanding debt payable from assessments.

(b) Notwithstanding subsection (a), an ordinance adopted under section 7 of this chapter may be amended to add additional, contiguous parcels to which benefits of economic improvement projects accrue at the request of the owner or owners of such parcels. If an ordinance is amended under this subsection, the rate and method of apportionment report shall be amended to reflect the revised list of parcels and related assessments, and notice must be provided under section 11(b) of this chapter.

Sec. 9. An ordinance adopted under section 7 of this chapter may provide that businesses established within the district after the creation of the district are exempt from special assessments for a period not to exceed one (1) year.

Sec. 10. An ordinance adopted under section 7 of this chapter must establish a community infrastructure improvement board to be appointed by the legislative body. The board must have at least three (3) members, and a majority of the board members must own real property within the district. However, if there is only one (1) property owner within a district, the legislative body shall appoint one (1) member to the community infrastructure improvement board who owns real property within the district and not more than two (2) other members who are not required to own real property within the district.

Sec. 11. (a) The following apply:

(1) 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 community infrastructure 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.

(2) In the event of a reassessment as provided in section 3.4(4) of this chapter, the next assessment installment will include an additional amount owed, if any, equal to the difference between the amount originally calculated in subdivision (1) and the amount calculated pursuant to subdivision (1) using the reassessment methodology described in the rate and method of apportionment report.

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



- (1) describe any potential proposed special assessment and estimates of related annual installments thereof, including any method by which the assessments or installments may change depending on factors as set forth in the rate and method of apportionment report;**
- (2) state that the rate and method of apportionment report and the proposed special assessment on each parcel of real property in the community infrastructure 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 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 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 12 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.

(i) An assessment or reassessment, interest, the expense of collection, and reasonable attorney's fees, if incurred, is:

(1) a lien that is effective from the date of the ordinance or order levying the assessment until the assessment is paid;

(2) a lien that is subject to and subordinate to:

(A) all liens and encumbrances existing at the time the assessment lien becomes effective; and

(B) any later extension or amendment of the liens and encumbrances existing at the time assessment lien became effective;

(3) a lien that runs with the land and that portion of an assessment payment that has not yet come due is not eliminated by transfer of the parcel to a tax exempt owner; and

(4) an assessment lien that may be enforced by the governing body in the same manner that mortgages are foreclosed.

(j) Delinquent installments of the assessment shall incur interest, penalties, and attorney's fees in the same manner as delinquent ad valorem taxes.

(k) The owner of assessed property, including those by way of voluntary assessment, may pay at any time all or any part of the assessment, with interest that has accrued on the assessment, on any lot or parcel.

Sec. 12. (a) Any owner of real property in a community infrastructure improvement district may file an action contesting the validity of:

(1) the ordinance adopted under section 7 of this chapter; or

(2) the assessment schedule adopted under section 11 of this chapter.

(b) An action under this section must be filed:

(1) in the circuit or superior court of the county in which the community infrastructure improvement district is located;



and

(2) within thirty (30) days after adoption of either the ordinance or assessment schedule, respectively.

Sec. 13. Within thirty (30) days after the county auditor receives the certification of final scheduled assessments for the completion of the economic improvement project, the auditor shall deliver a copy of the certificate to the county treasurer. Each year, the board, which may work through a third party administrator, shall assist the county treasurer in order to:

(1) prepare an annual assessment roll, which shall reflect which parcels, if any, have fully paid any applicable assessment and therefore no longer owe an assessment installment;

(2) designate which parcels are assessed, and in what amounts, going forward;

(3) establish annual assessment installments consistent with the rate and method apportionment report; and

(4) calculate and add to the annual assessment installments due any penalties, interest, fees, payments owed under section 11(a)(2) of this chapter, and other amounts due.

Each year, the treasurer shall add the full annual assessment installment due in that year to the tax statements of the person owning the property affected by the assessment, designating it in a manner distinct from general taxes.

Sec. 14. Assessments collected under this chapter shall be paid to the board.

Sec. 15. (a) The board shall establish a community infrastructure improvement fund and shall deposit in this fund all assessments received under this chapter and any other amounts received by the board.

(b) Money in the community infrastructure improvement fund may be used only for the purposes specified in the ordinance establishing the community infrastructure improvement district. Any money earned from investment of money in the fund becomes a part of the fund.

Sec. 16. (a) Before November 1 of each year, the board shall prepare and submit to the fiscal body a budget for the following calendar year governing the board's projected expenditures from the community infrastructure improvement fund. Such budget must include amounts to pay debt service on any bonds supported by assessments and assessment installments until such bonds are paid in full. The fiscal body may approve, modify, or reject the



proposed budget.

(b) The board may make an expenditure from the community infrastructure improvement fund only if the expenditure was approved by the fiscal body in its review of the board's budget or was otherwise approved by the fiscal body.

Sec. 17. The board must comply with IC 36-1-12 when contracting for public works.

Sec. 18. The board may enter into lease or contractual agreements, or both, with governmental, not-for-profit, or other private entities for the purpose of carrying out economic improvement projects.

Sec. 19. If the ordinance that established a community infrastructure improvement district is repealed, the assets and liabilities of the community infrastructure improvement district shall be disposed of in the manner determined by the unit. However, liabilities incurred by the community infrastructure improvement district are not an obligation of the unit and are payable only from the special assessments and other revenues of the district.

Sec. 20. The board shall submit an annual report to the legislative body and the fiscal body before February 15 of each year. The report must summarize the board's activities and expenditures during the preceding calendar year.

Sec. 21. The board may:

- (1) exercise of any of the powers of a unit under IC 36-7-12-18 or IC 36-7-12-18.5; or
- (2) issue revenue bonds under section 23 of this chapter;

to finance an economic improvement project.

Sec. 22. Upon acceptance or rejection of a proposed community infrastructure 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.

Sec. 23. (a) In accordance with section 21 of this chapter, the board may issue bonds or notes payable from assessments assessed under this chapter to finance economic improvement projects. The bonds or notes may be publicly offered or privately placed in the manner determined by the board. Such assessments are not ad valorem property taxes and any bonds or notes payable from the



assessment revenue are not general obligations of the unit that established the community infrastructure improvement district.

(b) The board may enter into ancillary financial agreements relating to and in furtherance of its issuance of bonds or notes under this chapter, including agreements with the unit that established the district.

(c) Bonds or notes issued under this chapter shall include provisions for redemptions from property owners who choose to make one-time lump sum assessment prepayments on the unamortized portion of any assessment applicable to their property.

(d) Bonds or notes issued under this chapter are subject to the following limitations:

(1) The bonds or notes may be issued for a period not to exceed thirty-five (35) years.

(2) The average life of the bonds or notes may not exceed one hundred twenty percent (120%) of the average economic life of the improvements for which the bonds or notes are issued."

Delete pages 4 through 12.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 370 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 370 be amended to read as follows:

Page 6, delete lines 20 through 26, begin a new paragraph and insert:

"(b) The legislative body may adopt the ordinance only if it determines that the petition has been signed by one hundred percent (100%) of the owners of real property subject to assessment within the proposed district."

Page 6, line 30, delete "requirements" and insert "**requirement**".

Page 6, line 30, delete "are" and insert "**is**".

Page 7, line 5, delete "requirements" and insert "**requirement**".

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Page 7, line 5, delete "are" and insert "is".

Page 9, delete lines 20 through 22, begin a new paragraph and insert:

"(g) Each special assessment is a lien on the real property that is assessed and is subordinate to and subject to all other liens and encumbrances then existing or thereafter created."

(Reference is to SB 370 as printed January 26, 2022.)

BUCHANAN

