

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 505

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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 6-1.1-12-37, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 37. (a) The following definitions apply throughout this section:

- (1) "Dwelling" means any of the following:
  - (A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.
  - (B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.
  - (C) A manufactured home that is not assessed as real property that an individual uses as the individual's residence.
- (2) "Homestead" means an individual's principal place of residence:
  - (A) that is located in Indiana;
  - (B) that:
    - (i) the individual owns;
    - (ii) the individual is buying under a contract recorded in the county recorder's office, **or evidenced by a memorandum of contract recorded in the county recorder's office under IC 36-2-11-20**, that provides that the individual is to pay the property taxes on the residence, and that obligates

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the owner to convey title to the individual upon completion of all of the individual's contract obligations;

(iii) the individual is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); or

(iv) is a residence described in section 17.9 of this chapter that is owned by a trust if the individual is an individual described in section 17.9 of this chapter; and

(C) that consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

Except as provided in subsection (k), the term does not include property owned by a corporation, partnership, limited liability company, or other entity not described in this subdivision.

(b) Each year a homestead is eligible for a standard deduction from the assessed value of the homestead for an assessment date. Except as provided in subsection (p), the deduction provided by this section applies to property taxes first due and payable for an assessment date only if an individual has an interest in the homestead described in subsection (a)(2)(B) on:

(1) the assessment date; or

(2) any date in the same year after an assessment date that a statement is filed under subsection (e) or section 44 of this chapter, if the property consists of real property.

If more than one (1) individual or entity qualifies property as a homestead under subsection (a)(2)(B) for an assessment date, only one (1) standard deduction from the assessed value of the homestead may be applied for the assessment date. Subject to subsection (c), the auditor of the county shall record and make the deduction for the individual or entity qualifying for the deduction.

(c) Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

(1) sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or

(2) forty-five thousand dollars (\$45,000).

(d) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or



manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(e) Except as provided in sections 17.8 and 44 of this chapter and subject to section 45 of this chapter, an individual who desires to claim the deduction provided by this section must file a certified statement ~~in duplicate~~, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement must include:

- (1) the parcel number or key number of the property and the name of the city, town, or township in which the property is located;
- (2) the name of any other location in which the applicant or the applicant's spouse owns, is buying, or has a beneficial interest in residential real property;

(3) the names of:

(A) the applicant and the applicant's spouse (if any):

(i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

(ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is an individual; or

(B) each individual who qualifies property as a homestead under subsection (a)(2)(B) and the individual's spouse (if any):

(i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

(ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is not an individual; and

(4) either:

(A) the last five (5) digits of the applicant's Social Security number and the last five (5) digits of the Social Security number of the applicant's spouse (if any); or

(B) if the applicant or the applicant's spouse (if any) does not have a Social Security number, any of the following for that individual:

(i) The last five (5) digits of the individual's driver's license number.

(ii) The last five (5) digits of the individual's state



identification card number.

(iii) If the individual does not have a driver's license or a state identification card, the last five (5) digits of a control number that is on a document issued to the individual by the *federal* United States government. *and determined by the department of local government finance to be acceptable.*

If a form or statement provided to the county auditor under this section, IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or part or all of the Social Security number of a party or other number described in subdivision (4)(B) of a party, the telephone number and the Social Security number or other number described in subdivision (4)(B) included are confidential. The statement may be filed in person or by mail. If the statement is mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the deduction is allowed. With respect to real property, the statement must be completed and dated in the calendar year for which the person desires to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. With respect to a mobile home that is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of the year for which the person desires to obtain the deduction.

(f) If an individual who is receiving the deduction provided by this section or who otherwise qualifies property for a deduction under this section:

- (1) changes the use of the individual's property so that part or all of the property no longer qualifies for the deduction under this section; or
- (2) is no longer eligible for a deduction under this section on another parcel of property because:
  - (A) the individual would otherwise receive the benefit of more than one (1) deduction under this chapter; or
  - (B) the individual maintains the individual's principal place of residence with another individual who receives a deduction under this section;

the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use, not more than sixty (60) days after the date of that change. An individual who fails to file the statement required by this subsection is liable for any additional taxes that would have been due on the property if the individual had filed the statement as required by this subsection plus a civil penalty equal to ten percent (10%) of the additional taxes due. The civil penalty



imposed under this subsection is in addition to any interest and penalties for a delinquent payment that might otherwise be due. One percent (1%) of the total civil penalty collected under this subsection shall be transferred by the county to the department of local government finance for use by the department in establishing and maintaining the homestead property data base under subsection (i) and, to the extent there is money remaining, for any other purposes of the department. This amount becomes part of the property tax liability for purposes of this article.

(g) The department of local government finance ~~shall~~ may adopt rules or guidelines concerning the application for a deduction under this section.

(h) This subsection does not apply to property in the first year for which a deduction is claimed under this section if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other property on the ~~March 1~~ assessment date in the same year in which an application for a deduction is filed under this section or, if the application is for a homestead that is assessed as personal property, on the ~~March 1~~ assessment date in the immediately preceding year and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of the application. Except as provided in subsection (n), the county auditor may not grant an individual or a married couple a deduction under this section if:

- (1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and
- (2) the applications claim the deduction for different property.

(i) The department of local government finance shall provide secure access to county auditors to a homestead property data base that includes access to the homestead owner's name and the numbers required from the homestead owner under subsection (e)(4) for the sole purpose of verifying whether an owner is wrongly claiming a deduction under this chapter or a credit under IC 6-1.1-20.4, IC 6-1.1-20.6, ~~or~~ or IC 6-3.6-5 (after December 31, 2016).

(j) A county auditor may require an individual to provide evidence proving that the individual's residence is the individual's principal place of residence as claimed in the certified statement filed under subsection (e). The county auditor may limit the evidence that an individual is required to submit to a state income tax return, a valid driver's license, or a valid voter registration card showing that the residence for which



the deduction is claimed is the individual's principal place of residence. The department of local government finance shall work with county auditors to develop procedures to determine whether a property owner that is claiming a standard deduction or homestead credit is not eligible for the standard deduction or homestead credit because the property owner's principal place of residence is outside Indiana.

(k) As used in this section, "homestead" includes property that satisfies each of the following requirements:

- (1) The property is located in Indiana and consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.
- (2) The property is the principal place of residence of an individual.
- (3) The property is owned by an entity that is not described in subsection (a)(2)(B).
- (4) The individual residing on the property is a shareholder, partner, or member of the entity that owns the property.
- (5) The property was eligible for the standard deduction under this section on March 1, 2009.

(l) If a county auditor terminates a deduction for property described in subsection (k) with respect to property taxes that are:

- (1) imposed for an assessment date in 2009; and
- (2) first due and payable in 2010;

on the grounds that the property is not owned by an entity described in subsection (a)(2)(B), the county auditor shall reinstate the deduction if the taxpayer provides proof that the property is eligible for the deduction in accordance with subsection (k) and that the individual residing on the property is not claiming the deduction for any other property.

(m) For assessment dates after 2009, the term "homestead" includes:

- (1) a deck or patio;
- (2) a gazebo; or
- (3) another residential yard structure, as defined in rules *that may be* adopted by the department of local government finance (other than a swimming pool);

that is assessed as real property and attached to the dwelling.

(n) A county auditor shall grant an individual a deduction under this section regardless of whether the individual and the individual's spouse claim a deduction on two (2) different applications and each application claims a deduction for different property if the property owned by the individual's spouse is located outside Indiana and the individual files an affidavit with the county auditor containing the



following information:

- (1) The names of the county and state in which the individual's spouse claims a deduction substantially similar to the deduction allowed by this section.
- (2) A statement made under penalty of perjury that the following are true:
  - (A) That the individual and the individual's spouse maintain separate principal places of residence.
  - (B) That neither the individual nor the individual's spouse has an ownership interest in the other's principal place of residence.
  - (C) That neither the individual nor the individual's spouse has, for that same year, claimed a standard or substantially similar deduction for any property other than the property maintained as a principal place of residence by the respective individuals.

A county auditor may require an individual or an individual's spouse to provide evidence of the accuracy of the information contained in an affidavit submitted under this subsection. The evidence required of the individual or the individual's spouse may include state income tax returns, excise tax payment information, property tax payment information, driver license information, and voter registration information.

(o) If:

- (1) a property owner files a statement under subsection (e) to claim the deduction provided by this section for a particular property; and
- (2) the county auditor receiving the filed statement determines that the property owner's property is not eligible for the deduction; the county auditor shall inform the property owner of the county auditor's determination in writing. If a property owner's property is not eligible for the deduction because the county auditor has determined that the property is not the property owner's principal place of residence, the property owner may appeal the county auditor's determination to the county property tax assessment board of appeals as provided in IC 6-1.1-15. The county auditor shall inform the property owner of the owner's right to appeal to the county property tax assessment board of appeals when the county auditor informs the property owner of the county auditor's determination under this subsection.

(p) An individual is entitled to the deduction under this section for a homestead for a particular assessment date if:

- (1) either:

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- (A) the individual's interest in the homestead as described in subsection (a)(2)(B) is conveyed to the individual after the assessment date, but within the calendar year in which the assessment date occurs; or
- (B) the individual contracts to purchase the homestead after the assessment date, but within the calendar year in which the assessment date occurs;
- (2) on the assessment date:
  - (A) the property on which the homestead is currently located was vacant land; or
  - (B) the construction of the dwelling that constitutes the homestead was not completed; *and*
- (3) either:
  - (A) the individual files the certified statement required by subsection (e); *on or before December 31 of the calendar year in which the assessment date occurs to claim the deduction under this section;* or
  - (B) a sales disclosure form that meets the requirements of section 44 of this chapter is submitted to the county assessor on or before December 31 of the calendar year for the individual's purchase of the homestead. *and*
- ~~(4) the individual files with the county auditor on or before December 31 of the calendar year in which the assessment date occurs a statement that:
 
  - ~~(A) lists any other property for which the individual would otherwise receive a deduction under this section for the assessment date; and~~
  - ~~(B) cancels the deduction described in clause (A) for that property.~~~~

An individual who satisfies the requirements of subdivisions (1) through ~~(4)~~ (3) is entitled to the deduction under this section for the homestead for the assessment date, even if on the assessment date the property on which the homestead is currently located was vacant land or the construction of the dwelling that constitutes the homestead was not completed. The county auditor shall apply the deduction for the assessment date and for the assessment date in any later year in which the homestead remains eligible for the deduction. A homestead that qualifies for the deduction under this section as provided in this subsection is considered a homestead for purposes of section 37.5 of this chapter and IC 6-1.1-20.6. *The county auditor shall cancel the deduction under this section for any property that is located in the county and is listed on the statement filed by the individual under*





*subdivision (4): If the property listed on the statement filed under subdivision (4) is located in another county, the county auditor who receives the statement shall forward the statement to the county auditor of that other county, and the county auditor of that other county shall cancel the deduction under this section for that property.*

(q) This subsection applies to an application for the deduction provided by this section that is filed for an assessment date occurring after December 31, 2013. Notwithstanding any other provision of this section, an individual buying a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property under a contract providing that the individual is to pay the property taxes on the mobile home or manufactured home is not entitled to the deduction provided by this section unless the parties to the contract comply with IC 9-17-6-17.

(r) This subsection:

(1) applies to an application for the deduction provided by this section that is filed for an assessment date occurring after December 31, 2013; and

(2) does not apply to an individual described in subsection (q).

The owner of a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property must attach a copy of the owner's title to the mobile home or manufactured home to the application for the deduction provided by this section.

(s) For assessment dates after 2013, the term "homestead" includes property that is owned by an individual who:

(1) is serving on active duty in any branch of the armed forces of the United States;

(2) was ordered to transfer to a location outside Indiana; and

(3) was otherwise eligible, without regard to this subsection, for the deduction under this section for the property for the assessment date immediately preceding the transfer date specified in the order described in subdivision (2).

For property to qualify under this subsection for the deduction provided by this section, the individual described in subdivisions (1) through (3) must submit to the county auditor a copy of the individual's transfer orders or other information sufficient to show that the individual was ordered to transfer to a location outside Indiana. The property continues to qualify for the deduction provided by this section until the individual ceases to be on active duty, the property is sold, or the individual's ownership interest is otherwise terminated, whichever occurs first. Notwithstanding subsection (a)(2), the property remains a homestead regardless of whether the property continues to be the individual's



principal place of residence after the individual transfers to a location outside Indiana. *The property continues to qualify as a homestead under this subsection if the property is leased while the individual is away from Indiana and is serving on active duty, if the individual has lived at the property at any time during the past ten (10) years. However, Otherwise,* the property ceases to qualify as a homestead under this subsection if the property is leased while the individual is away from Indiana. Property that qualifies as a homestead under this subsection shall also be construed as a homestead for purposes of section 37.5 of this chapter.

SECTION 2. IC 10-17-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. The state or a political subdivision may collect a charge per copy of not more than the amount specified in ~~IC 36-2-7-10(b)~~ **IC 36-2-7-10(c)(5)** if a person requests more than one (1) certified copy of the document or record. The funds received under this section shall be placed in the general fund of the state or county.

SECTION 3. IC 24-9-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. The county recorder shall assess a fee of ~~three dollars (\$3) under IC 36-2-7-10(b)(11)~~ for each mortgage recorded ~~The fee that~~ shall be paid to the county treasurer at the end of each calendar month as ~~provided in IC 36-2-7-10(a).~~ **set forth in IC 36-2-7-10(c)(2).**

SECTION 4. IC 24-9-9-2 IS REPEALED [EFFECTIVE JULY 1, 2017]. ~~Sec. 2. The county auditor shall credit fifty cents (\$0.50) of the fee collected under IC 36-2-7-10(b)(11) for each mortgage recorded to the county recorder's records perpetuation fund established under IC 36-2-7-10(d).~~

SECTION 5. IC 24-9-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. On or before June 20 and December 20 of each year, after completing an audit of the county treasurer's monthly reports required by IC 36-2-10-16, the county auditor shall distribute to the auditor of state two dollars and fifty cents (\$2.50) of the mortgage recording fee collected under ~~IC 36-2-7-10(b)(11)~~ **IC 36-2-7-10(c)(2)** for each mortgage recorded by the county recorder. The auditor of state shall deposit the money in the state general fund to be distributed as described in section 4 of this chapter.

SECTION 6. IC 32-21-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. **(a)** A recorder of deeds **and other instruments** shall keep a book ~~having each page or electronic~~ **divided into five (5) columns that are headed as follows:**

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Date of Reception:	Names of Grantors:	Names of Grantees:	Description of Land:	Vol. and Page Where Recorded:
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The recorder shall enter in this book all deeds and other instruments left with the recorder to be recorded. The recorder shall note in the first column the day and hour of receiving the deed or instrument and shall note the other particulars in the appropriate columns. A deed or instrument is considered recorded at the time the date of reception is noted by the recorder. **index that includes:**

- (1) the names of grantor and grantee;
- (2) the date and time of the recording;
- (3) the location of the recording; and
- (4) a legal description, if required.

(b) A deed or instrument shall be considered recorded at the time the date of reception is stamped on the document by the recorder.

SECTION 7. IC 32-21-2-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 15. Beginning January 1, 2018, a document concerning real property that may be recorded with a county recorder under this title may be recorded electronically as provided under IC 32-21-2.5.**

SECTION 8. IC 32-21-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

**Chapter 2.5. Uniform Real Property Electronic Recording Act**

**Sec. 1. As used in this chapter, "document" means information that is:**

- (1) inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and
- (2) eligible to be recorded in the land records maintained by a county recorder.

**Sec. 2. As used in this chapter, "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.**

**Sec. 3. As used in this chapter, "electronic document" means a document that is received by a county recorder in an electronic form.**

**Sec. 4. As used in this chapter, "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.**



**Sec. 5. As used in this chapter, "person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, a government or a governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.**

**Sec. 6. As used in this chapter, "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.**

**Sec. 7. (a) This section is effective January 1, 2018.**

**(b) If a law requires, as a condition for recording, that a document:**

- (1) be an original;**
- (2) be on paper or another tangible medium; or**
- (3) be in writing;**

**the requirement is satisfied by an electronic document satisfying this chapter.**

**(c) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.**

**(d) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or an electronic image of a stamp, impression, or seal does not have to accompany an electronic signature.**

**Sec. 8. (a) As used in this section, "paper document" means a document that is received by a county recorder in a form that is not electronic.**

**(b) Beginning January 1, 2018, a county recorder:**

- (1) who implements any of the functions listed in this section shall do so in compliance with standards established by the electronic recording commission created under section 9 of this chapter;**
- (2) may receive, index, store, archive, and transmit electronic documents;**
- (3) may provide for access to, and for search and retrieval of, documents and information by electronic means;**
- (4) who accepts electronic documents for recording shall:**
  - (A) continue to accept paper documents as authorized by**



state law; and

(B) place entries for both types of documents in the same index;

(5) may convert paper documents accepted for recording into electronic form;

(6) may convert into electronic form information recorded before the county recorder began to record electronic documents;

(7) may accept electronically any fee or tax that the county recorder is authorized to collect; and

(8) may agree with other officials of a state or a political subdivision of a state, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees and taxes.

**Sec. 9. (a) The electronic recording commission is established to adopt standards to implement this chapter before January 1, 2018. The commission consists of the following five (5) members appointed by the governor:**

(1) Three (3) members must be county recorders.

(2) One (1) member must be employed in Indiana in the banking or mortgage lending industry.

(3) One (1) member must be employed in Indiana in the land title industry.

(b) To keep the standards and practices of county recorders in Indiana in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this chapter and to keep the technology used by county recorders in Indiana compatible with technology used by recording offices in other jurisdictions that enact substantially this chapter, the electronic recording commission, so far as is consistent with the purposes, policies, and provisions of this chapter, in adopting, amending, and repealing standards shall consider:

(1) standards and practices of other jurisdictions;

(2) the most recent standards promulgated by national standard setting bodies, such as the Property Records Industry Association (PRIA);

(3) the views of interested persons and governmental officials and entities;

(4) the needs of counties of varying size, population, and resources; and

(5) standards requiring adequate information security



**protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.**

**Sec. 10. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.**

**Sec. 11. This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001, et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. 7003(b)).**

SECTION 9. IC 32-21-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. **(a)** The following may be recorded in the county where the land to which the letter or contract relates is situated:

- (1) Letters of attorney containing a power to a person to:
  - (A) sell or convey land; or
  - (B) sell and convey land as the agent of the owner of the land.
- (2) An executory contract for the sale, ~~or~~ purchase, ~~or~~ lease of land, ~~or a memorandum of an executory contract for the sale, purchase, or lease of land recorded under IC 36-2-11-20~~, when proved or acknowledged in the manner prescribed in this chapter for the proof or acknowledgment of conveyances.

**(b)** The record when recorded and the certified transcript of the record may be read in evidence in the same manner and with the same effect as a conveyance.

**(c) A document recorded under this section gives notice to persons that are not parties to the letter or contract of:**

- (1) the existence of the letter or contract;**
- (2) the identities of the parties to the letter or contract; and**
- (3) the duty to inquire about the terms and conditions of the letter or contract if the recorded document does not disclose the terms and conditions.**

SECTION 10. IC 32-28-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) This section does not apply to a lien acquired by any person for purchase money.

(b) Any employee wishing to acquire a lien under section 1 of this chapter upon the corporate property of any corporation or the corporation's earnings, whether the employee's claim is due or not, must file, in the recorder's office of the county where the corporation is located or doing business, notice of the employee's intention to hold a lien upon the corporation's property and earnings. The notice must



state the following:

- (1) The amount of the employee's claim.
- (2) The date of the employee's employment.
- (3) The name of the corporation.

When a notice required by this section is presented for record, the county recorder shall record the notice in the record required by law for notice of mechanic's liens. The recorder shall charge a fee for recording the notice in an amount specified in ~~IC 36-2-7-10(b)(1) and IC 36-2-7-10(b)(2)~~. **IC 36-2-7-10(c)(1)**. The lien created shall relate to the time when the employee was employed by the corporation or to any subsequent date during the employee's employment, at the election of the employee. The lien has priority over all liens suffered or created after the time elected by the employee, except other employees' liens, over which the lien has no priority.

(c) If:

- (1) a person other than an employee acquires a lien upon the corporate property of any corporation located or doing business in Indiana;
- (2) the lien, for a period of sixty (60) days, either:
  - (A) remains a matter of record in the proper place specified in IC 26-1-9.1-501; or
  - (B) remains otherwise perfected under applicable law; and
- (3) no notice of an employee's intention to hold a lien is filed by any employee of the corporation during that period;

the lien described in subdivision (1) has priority over the lien of an employee in the county where the corporation is located or doing business.

SECTION 11. IC 32-28-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) Notwithstanding section 2 of this chapter, an employee:

- (1) whose claim is for a commission due upon the conveyance of real estate; and
- (2) who wishes to acquire a lien on the real estate;

may file a notice in the recorder's office of the county in which the real estate is located of the employee's intention to hold a lien on the real estate.

(b) A notice filed under this section must:

- (1) contain the same information required for a mechanic's lien;
- (2) state that the claim is due upon the conveyance of the real estate; and
- (3) be filed before the conveyance of the real estate by the corporation.

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(c) The recorder of any county shall, when notice is presented for recording under this section:

- (1) record the notice in the record required by law for notice of mechanic's liens; and
- (2) charge a fee in an amount specified in ~~IC 36-2-7-10(b)(1) and IC 36-2-7-10(b)(2)~~. **IC 36-2-7-10(c)(1)**.

(d) The lien created under this section must relate to:

- (1) the time when the employee was employed by the corporation; or
- (2) any subsequent date during the employment, at the election of the employee;

and has priority over all liens suffered or created after the date, except other employees' liens, over which there is no priority.

SECTION 12. IC 32-29-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) Any mortgage of record or any part of the mortgage may be assigned by the mortgagee or any assignee of the mortgage, either by an assignment entered on the margin of the record, signed by the person making the assignment and attested by the recorder, or by a separate instrument executed and acknowledged before any person authorized to take acknowledgments, and recorded in the mortgage records of the county. The county recorder shall ~~note the assignment in the margin by reference to the location where the assignment is recorded~~: **cross-reference the assignment to the mortgage book and the:**

- (1) page location;**
- (2) instrument number; or**
- (3) both subdivisions (1) and (2);**

**as set forth in the assignment.**

(b) The signature of a person on an assignment under subsection (a) may be a facsimile. The facsimile on the assignment is equivalent to and constitutes the written signature of the person for all requirements regarding mortgage assignments.

(c) Notwithstanding subsection (a), marginal assignments may be accepted at the discretion of the recorder. Except in a county that accepts marginal assignments of mortgage, an assignment of mortgage must be recorded on a separate written instrument from the mortgage. If a recorder accepts marginal assignments of mortgage, an instrument presented for recording in that county may not contain more than one (1) assignment. If a recorder allows an instrument to contain more than one (1) assignment, the fee for recording that instrument is provided in ~~IC 36-2-7-10(b)(3)~~: **IC 36-2-7-10(c)(4)**.

(d) After entry is made of record, the mortgagor and all other





persons are bound by the record, and the entry is a public record. Any assignee may enter satisfaction or release of the mortgage, or the part of the mortgage held by the assignee of record.

SECTION 13. IC 32-29-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) It is lawful for:

(1) the president, vice president, cashier, secretary, treasurer, attorney in fact, or other authorized representative of a national bank, state bank, trust company, or savings bank; or

(2) the president, vice president, general manager, secretary, treasurer, attorney in fact, or other authorized representative of any other corporation doing business in Indiana;

to release upon the record mortgages, judgments, and other record liens upon the payment of the debts secured by the liens.

(b) A release, when made upon the margin or face of the record of the mortgage, judgment, or other lien and attested by the recorder, clerk, or other officer having custody of the record of the lien, is a full discharge and satisfaction of the lien.

(c) The recorder of each county may require that each release, discharge, or satisfaction of a mortgage, judgment, or lien, or any partial release of any of these, be recorded on a separate written instrument. If a recorder requires the recording of each release, discharge, or satisfaction on a separate written instrument, an instrument presented for recordation in that county may not contain more than one (1) release, discharge, or satisfaction. If a recorder allows an instrument to contain more than one (1) release, discharge, or satisfaction, the fee for recording that instrument is provided in ~~IC 36-2-7-10(b)(3)~~. **IC 36-2-7-10(c)(4)**.

(d) Except as provided in subsection (e), a national bank, state bank, trust company, savings bank, or other corporation may release and discharge mortgages, judgments, or other record liens by a separate written instrument signed by its:

(1) corporate name;

(2) president;

(3) vice president;

(4) cashier;

(5) secretary;

(6) treasurer;

(7) attorney-in-fact; or

(8) authorized representative.

A release under this subsection shall be recorded by the recorder, clerk, or other officer having custody of the record of the lien, with a reference on the margin of the record of the lien to the location where

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the release is recorded. Upon recordation, the release is a full discharge and satisfaction of the lien, or portion of the lien, as indicated in a partial release.

(e) A release by the attorney-in-fact may not be recorded until a written instrument specifically granting the attorney in fact the authority to release and discharge mortgages, judgments, or other record liens has been filed and recorded in the recorder's office of the county where the release is to be recorded. The written instrument must be in writing and signed and acknowledged by two (2) officers of the national bank, state bank, trust company, savings bank, or other corporation.

(f) A party may revoke the written instrument filed under subsection (e) by:

- (1) noting on the written instrument granting the attorney in fact the authority to release mortgages and liens that this power has been revoked; or
- (2) filing and recording in the recorder's office of the county where the written instrument described in subsection (e) of this section was filed, a separate written instrument signed and acknowledged by two (2) officers of the entity revoking the attorney-in-fact's authority.

The written notice of revocation described in this subsection must be attested by the recorder of the county in which the revocation is filed. The party conferring the power described in subsection (e) is bound by an act performed before written notice revoking the authority is properly attested to and filed in the county recorder's office.

SECTION 14. IC 32-30-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. Upon:

- (1) the foreclosure of a recorded mortgage in a court of any county having jurisdiction in Indiana; and
- (2) the payment and satisfaction of the judgment as may be rendered in the foreclosure proceeding;

the prevailing party shall immediately after satisfaction of the judgment record the satisfaction of the mortgage on the records of the recorder's office of the county where the property is located. The record in foreclosure and satisfaction must show that the whole debt, secured by the mortgage, has been paid. The recorder must be paid a fee of not more than the amount specified in ~~IC 36-2-7-10(b)(1)~~ and ~~IC 36-2-7-10(b)(2)~~ **IC 36-2-7-10(c)(1)** in each case of foreclosure requiring satisfaction.

SECTION 15. IC 36-1-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) As used in this



section, "board" means an administration, an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, a service, or another similarly designated body of a political subdivision.

(b) Whenever a law or political subdivision's resolution requires that an appointment to a board be conditioned upon the political affiliation of the appointee, or that the membership of a board not exceed a stated number of members from the same political party, at the time of an appointment, one (1) of the following must apply to the appointee:

- (1) The most recent primary election in which the appointee voted was a primary election held by the party with which the appointee claims affiliation.
- (2) If the appointee has never voted in a primary election, the appointee claims a party affiliation.
- (3) The appointee is certified as a member of that party by the party's county ~~chairman~~ **chair** for the county in which the appointee resides.

(c) Notwithstanding any other law, if the term of an appointed member of a board expires and the appointing authority does not make an appointment to fill the vacancy, the member may continue to serve on the board for only sixty (60) days after the expiration date of the member's term.

SECTION 16. IC 36-1-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) Except as provided in subsections (b) and (c), the board shall award the contract and shall provide the successful bidder with written notice to proceed within sixty (60) days after the date on which bids are opened.

(b) If general obligation bonds are to be sold to finance the construction that is the subject of the bid, the board shall allow the bidder ninety (90) days.

(c) If revenue bonds are to be issued, when approved by the utility regulatory commission, or if special taxing district, special benefit, or revenue bonds are to be issued and sold to finance the construction, the board shall allow the bidder one hundred fifty (150) days.

(d) A failure to award and execute the contract and to issue notice within the time required by this section entitles the successful bidder to:

- (1) reject the contract and withdraw ~~his~~ **the successful bidder's** bid without prejudice; or
- (2) extend the time to award the contract and provide notice to proceed at an agreed later date.

If the successful bidder elects to reject the contract and withdraw ~~his~~

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**the bidder's** bid, notice of that election must be given to the board in writing within fifteen (15) days of the sixty (60) day expiration date or any other extension date.

SECTION 17. IC 36-2-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. If any indebtedness exists in either, both, or all of the interested counties, the fiscal body of the county shall levy, from year to year, a tax upon the detached territory, by such a rate on all the taxable property in the detached district as is necessary to liquidate and pay the indebtedness of the county from which the territory was detached until the indebtedness is fully paid. The rate may not exceed that levied on the county so indebted. The auditor of each of the affected counties shall certify the rate so levied to the auditor of the county to which the territory was attached. ~~which~~ **The auditor of the county to which the territory was attached** shall place that rate on the tax duplicate of ~~his~~ **the auditor's own** county, and the treasurer of that county shall collect the tax, and, on demand of the treasurer of the proper county, shall pay over the revenue as other monies are paid out.

SECTION 18. IC 36-2-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) The executive of a county from which territory is detached shall procure a suitable book and order the recorder of the county to copy in it, from the records in ~~his~~ **the recorder's** office, all deeds and mortgages of real property in the detached territory that have been recorded.

(b) The copies made under subsection (a) shall be filed with the recorder of the county to which the territory is attached. If a copy made under subsection (a) is certified by the recorder who copied it as a true and complete copy of the instrument recorded in ~~his~~ **the recorder's** office, it shall be admitted as evidence with the same force as the original record.

SECTION 19. IC 36-2-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) The executive may employ a person:

- (1) to perform a duty required of a county officer by statute; or
- (2) on a commission or percentage basis;

only if the employment is expressly authorized by statute or is found by the executive to be necessary to the public interest.

(b) If a person's employment under subsection (a) is not expressly authorized by statute, the **person's employment** contract for ~~his employment~~ must be filed with the circuit court for the county and ~~he~~ **the person** must file ~~his~~ **the person's** claims for compensation with that court. Any taxpayer may contest a claim under this section.



(c) A member of the executive who recklessly violates this section commits a Class C misdemeanor and forfeits ~~his~~ **the member's** office.

SECTION 20. IC 36-2-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. (a) The executive may appoint a county administrator to be the administrative head of the county under the supervision of the executive and to hold office at the pleasure of the executive. The executive may assign any office, position, or duties under its control to the administrator, and may by resolution withdraw any of the powers and duties assigned.

(b) Under the supervision of the executive and with its express authorization by resolution, the administrator may:

- (1) assist in the administration and enforcement of policies and resolutions of the executive;
- (2) supervise activities of county government subject to the control of the executive;
- (3) attend meetings of the executive;
- (4) recommend measures for adoption to the executive;
- (5) prepare and submit reports that ~~he~~ **the administrator** considers advisable or that the executive requires;
- (6) keep the executive fully advised on the financial condition of the county;
- (7) prepare and submit a budget for each fiscal year; and
- (8) perform other duties that the executive requests by resolution.

(c) If the administrator is absent from ~~his~~ **the administrator's** office due to illness, death, vacation, resignation, or removal, the president of the executive, if any, or a qualified person appointed by the executive shall act as administrator until the administrator returns to ~~his~~ **the administrator's** duties or the executive appoints a new administrator.

SECTION 21. IC 36-2-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 28. (a) An appellant under section 27 of this chapter must file with the county auditor a bond conditioned on due prosecution of the appeal. The bond is subject to approval by the auditor, and it must be in an amount sufficient to provide security for court costs.

(b) Within twenty (20) days after ~~he~~ **the auditor** receives the appeal bond, the auditor shall prepare a complete transcript of the proceedings of the executive related to the decision appealed from and shall deliver the transcript, all documents filed during the proceedings, and the appeal bond to the clerk of the circuit court.

SECTION 22. IC 36-2-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) At its regular meeting required by section 7(b)(1) of this chapter, the fiscal body shall



elect a president and president pro tempore from its members.

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

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

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

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

SECTION 23. IC 36-2-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. The fiscal body may:

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

SECTION 24. IC 36-2-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) Before the Thursday after the first Monday in August of each year, each clerk of a court in the county shall prepare a separate estimate of the amount of money required for each court ~~of~~ **for** which ~~he is~~ **the clerk is responsible** for the next calendar year. If a court has two (2) or more judges who preside in separate rooms or over separate divisions, the clerk shall prepare a separate itemized estimate for court expenses in each room or division. Each clerk's budget estimate must include:

- (1) the part of the judge's compensation that is, by statute, payable out of the county treasury;
- (2) the compensation of the probate commissioner;
- (3) the expense of employing bailiffs;
- (4) the amount of jury fees;
- (5) the amount of witness fees that are, by law, payable out of the county treasury;
- (6) the expense of employing special judges; and
- (7) other expenses of the court, specifically itemized.

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(b) In addition to the estimates required by subsection (a), the clerk of the circuit court shall prepare an estimate of the amount of money that is, under law, taxable against the county for the expenses of cases tried in other counties on changes of venue.

(c) The estimate of the amount of money required for a court or division of a court is subject to modification and approval by the judge of the court or division and shall be submitted to ~~him~~ **the judge** for that purpose before being presented to the county auditor.

SECTION 25. IC 36-2-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. A certificate, verified by the officer preparing it and stating that in ~~his~~ **the officer's** opinion the amount fixed in each item will be required for the purpose indicated, must be attached to each budget estimate prepared under this chapter.

SECTION 26. IC 36-2-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. Before the Thursday after the first Monday in August of each year, persons preparing budget estimates under this chapter shall present them to the county auditor, who shall file them in ~~his~~ **the county auditor's** office and make them available for inspection by county taxpayers. The **county** auditor shall also comply with the notice requirements of IC 6-1.1-17-3.

SECTION 27. IC 36-2-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) At the county fiscal body's annual meeting under IC 36-2-3-7(b)(2), the county auditor shall present the budget estimates filed with ~~him~~ **the county auditor** under section 9 of this chapter and the ordinances prepared by ~~him~~ **the county auditor** under section 10 of this chapter. ~~He~~ **The county auditor** may also present ~~his~~ **the county auditor's** recommendations concerning the estimates.

(b) At its annual meeting under IC 36-2-3-7(b)(2), the county fiscal body shall fix the county tax rate and make appropriations for the next calendar year by:

- (1) adopting the ordinances presented by the county auditor;
- (2) amending the ordinances presented by the county auditor; or
- (3) substituting other ordinances for those presented by the county auditor.

Each ordinance must be read on at least two (2) separate days before its final adoption. The fiscal body may require the preparer of an estimate that is not sufficiently itemized to itemize it in more detail. At least a three-fourths (3/4) vote (as described in IC 36-1-8-14) of the fiscal body is required to make an appropriation for an item not contained in an estimate or for a greater amount than that named in an



item of an estimate.

(c) At its annual meeting under IC 36-2-3-7(b)(2), the county fiscal body shall consider the statements and recommendations submitted by the county executive under section 4(b) of this chapter and shall then adopt an ordinance, separate from those adopted under subsection (b), fixing:

- (1) the compensation of all officers, deputies and other employees subject to this chapter; and
- (2) the number of deputies and other employees for each office, department, commission, or agency, except part-time and hourly rated employees, whose employment shall be limited only by the amount of funds appropriated to pay their compensation.

SECTION 28. IC 36-2-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) This section does not apply to a county having a consolidated city.

(b) Except as provided in section 4.5 of this chapter, the county executive may allow a claim or order the issuance of a county warrant for payment of a claim only at a regular or special meeting of the executive. The county auditor may issue a county warrant for payment of a claim against the county only if the executive or a court orders ~~him~~ **the county auditor** to do so. However, this subsection does not apply to the issuance of warrants related to management of the common or congressional school fund.

(c) The county executive may allow a claim if the claim:

- (1) complies with IC 5-11-10-1.6; and
- (2) is placed on the claim docket by the **county** auditor at least five (5) days before the meeting at which the executive is to consider the claim.

(d) A county auditor or member of a county executive who violates this section commits a Class C infraction.

(e) A county auditor who violates this section is liable on ~~his~~ **the county auditor's** official bond for twice the amount of the illegally drawn warrant, which may be recovered for the benefit of the county by a taxpayer of the county. A person who brings an action under this subsection shall give security for costs, and the court shall allow ~~him~~ **the person** a reasonable sum, including attorney's fees, out of the money recovered as compensation for ~~his~~ **the person's** trouble and expense in bringing the action. This compensation shall be specified in the court's order.

(f) If, within sixty (60) days after the county executive allows a claim, a taxpayer of the county demands that the executive refund that allowance to the county, and the executive refuses to do so, the





taxpayer may bring an action to recover an illegal, unwarranted, or unauthorized allowance for the benefit of the county. A person who brings an action under this subsection shall give security for costs, and the court shall allow ~~him~~ **the person** a reasonable sum, including attorney's fees, out of the money recovered as compensation for ~~his~~ **the person's** trouble and expense in bringing the action. This compensation shall be specified in the court's order.

SECTION 29. IC 36-2-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) A county officer or employee authorized to receive supplies contracted for by the county shall review the invoice or bill for the supplies item by item and certify in writing on the invoice or bill:

- (1) the fact that the supplies listed on the invoice or bill have been delivered to ~~him~~ **the officer or employee** in compliance with the contract; or
- (2) the facts showing a breach of contract.

If the officer or employee discovers a breach of contract on receipt of the supplies, ~~he~~ **the officer or employee** shall deduct a just amount from the invoice or bill ~~and~~ **The officer or employee shall** immediately file ~~his~~ **the officer's or employee's** certificate and the bill or invoice with the county auditor.

(b) The county executive may approve a claim on a contract for supplies only if:

- (1) it finds that the claimant has complied with the contract; and
- (2) the county auditor certifies in writing that the invoice or bill for the supplies corresponds with the contract as to quality and prices.

The executive may not use a county auditor's certificate as the sole basis for this finding.

(c) The county executive may make an allowance for printed blanks or stationery for a county officer only if they are to be used for the benefit of the county.

SECTION 30. IC 36-2-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. Whenever the county auditor draws a warrant for a claim under this chapter ~~he~~ **the county auditor** shall charge the claim against the appropriation made for that purpose. If the claim is for materials, supplies, or labor for more than one (1) officer or institution, the **county** auditor shall apportion the claim and charge the proper amount against the appropriation for each officer or institution. Similar apportionments shall be made in other cases in which a claim should be charged to more than one (1) appropriation.

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SECTION 31. IC 36-2-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) A warrant for the payment of money may be drawn on the county treasury only if there is money in the county treasury.

(b) The county treasurer shall notify county officers authorized to draw warrants on the county treasury when there is no money in the county treasury. A county treasurer is liable on ~~his~~ **the county treasurer's** official bond to persons holding county warrants if those warrants were issued:

- (1) when there was no money in the county treasury; and
- (2) before the county treasurer gave the notice required by this subsection.

The **county** treasurer is liable for the amount of those warrants, plus interest.

(c) A county officer or member of the county executive who:

- (1) recklessly issues a bond, certificate, or warrant for the payment of money that would require the county to exceed its appropriation for the bond, certificate, or warrant; or
- (2) enters into an agreement of any type that would require the county to exceed its appropriation for a particular purpose;

commits a Class B misdemeanor and is liable on ~~his~~ **the officer's or member's** official bond to any person injured by ~~his~~ **the officer's or member's** offense.

(d) An agreement of any type that:

- (1) is entered into by the county executive or a county officer, agent, or employee; and
- (2) would require the county to exceed its appropriation for a particular purpose;

is void.

SECTION 32. IC 36-2-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) Money paid out of the county treasury in violation of this article may be recovered by the county executive in an action in the name of the state against the officer who paid the money or assisted in the payment, the person who received the money, or both. If the county executive fails to bring the action within thirty (30) days after the illegal payment, a citizen or taxpayer may make a written demand on the county executive to bring the action and may then bring the action in the name of the state for the benefit of the county if the executive fails to comply with ~~his~~ **the citizen's or taxpayer's** demand.

(b) If an action brought under this section is successful, the court shall award the amount of money paid out of the treasury illegally, plus



interest at the rate of six percent (6%) per year, to the county and shall award reasonable attorney's fees and expenses to the plaintiff.

SECTION 33. IC 36-2-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. The county treasurer shall keep a record of all money ~~he~~ **the county treasurer** receives for taxes imposed by the county fiscal body, and, on the first day of each month, shall certify the gross amount of taxes received during the preceding month to the county auditor. The part of that amount that belongs to the county may be used by the county to pay any item of appropriation for that year.

SECTION 34. IC 36-2-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) A settlement made by the county executive with a county, township, or school officer is binding on the state or county only if the officer has accounted for all money ~~he~~ **the officer** has collected by virtue of ~~his~~ **the officer's** office and has performed every duty required of ~~him~~ **the officer** by law. If the settlement is not binding, the officer and ~~his~~ **the officer's** sureties are liable as if no settlement had been made.

(b) If the county executive finds that through mistake or any other cause a county, township, or school officer has paid over to the county, or reported, settled, or accounted to the county executive for more money than ~~he~~ **the officer** owed, the executive may:

- (1) order that the officer be repaid out of the proper fund and be given the proper credit by the county auditor; or
- (2) if the money has not yet been paid by the officer, release so much of ~~his~~ **the officer's** debt as it finds to be mistaken.

SECTION 35. IC 36-2-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) The following persons may use their own conveyances when necessary for the performance of their official duties, and are entitled to a sum for mileage at a rate determined by the county fiscal body:

- (1) The county surveyor, if authorized by the county executive to use ~~his~~ **the county surveyor's** own conveyance.
- (2) The county coroner, if authorized by the county executive to use ~~his~~ **the county coroner's** own conveyance.
- (3) A deputy or other employee of the county surveyor or county coroner, if authorized by the county executive to use ~~his~~ **the deputy's or employee's** own conveyance.
- (4) A deputy or other employee of the county assessor, if engaged in field work and authorized by the assessor to use ~~his~~ **the deputy's or employee's** own conveyance.

An assessing team is entitled to only one (1) sum for mileage under

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subdivision (4).

(b) The county executive may not make a mileage allowance under subsection (a)(1), (a)(2), or (a)(3) if the executive furnishes and maintains a vehicle for the officer or deputy in question.

(c) A person seeking compensation under this section must file an itemized claim with the county executive each month under IC 36-2-6.

SECTION 36. IC 36-2-7-10, AS AMENDED BY P.L.125-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. **(a) The following definitions apply to this section:**

**(1) "Copy" means:**

**(A) transcribing or duplicating a document by handwriting, photocopy, xerography, or duplicating machine;**

**(B) duplicating electronically stored data onto a disk, tape, drum, or any other means of electronic data storage; or**

**(C) reproducing a document by any other means.**

**(2) "Mortgage" means a transfer of rights to real property, in a form substantially similar to that set forth in IC 32-29-1-5, with or without warranty from the grantor. The term does not include:**

**(A) a mortgage modification;**

**(B) a mortgage assignment; or**

**(C) a mortgage release.**

**(3) "Multiple transaction document" means a document containing two (2) or more transactions of the same type.**

**(4) "Record" or "recording" means the act of placing a document into the official records of the county recorder and includes the functions of filing and filing for record.**

~~(a)~~ **(b)** The county recorder shall ~~tax charge~~ and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

~~(b)~~ **(c)** The county recorder shall charge the following:

~~(1)~~ **(1)** Six dollars (\$6) for the first page and two dollars (\$2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

**(1) Twenty-five dollars (\$25) for recording any deed or other instrument, other than a mortgage.**



- (2) Fifty-five dollars (\$55) for recording any mortgage.**
- ~~(2) Fifteen dollars (\$15)~~ **(3) For pages larger than eight and one-half (8 1/2) inches by fourteen (14) inches twenty-five dollars (\$25)** for the first page and five dollars (\$5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.
- ~~(3) For attesting~~ **(4) If the county recorder has elected to attest** to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is **seven dollars (\$7) plus** the amount provided in subdivision (1). **plus the amount provided in subdivision (4) and one dollar (\$1)** for marginal mortgage assignments or marginal mortgage releases.
- ~~(4) One dollar (\$1) for each cross-reference of a recorded document.~~
- (5) For furnishing copies of records, the fee for each copy is:**
- (A) one dollar (\$1) per page that is not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records eleven (11) inches by seventeen (17) inches; and**
- (B) two five dollars (\$2) (\$5) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches: eleven (11) inches by seventeen (17) inches.**
- ~~(6) Five dollars (\$5) for acknowledging or certifying to a document.~~
- ~~(7) Five dollars (\$5) for each deed the recorder records; in addition to other fees for deeds; for the county surveyor's corner perpetuation fund for use as provided in IC 21-47-3-3 or IC 36-2-12-11(e).~~
- ~~(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.~~
- ~~(9) (7) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.~~
- ~~(10) A supplemental fee of three dollars (\$3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.~~



~~(11)~~ Three dollars (\$3) for each mortgage on real estate recorded; in addition to other fees required by this section; distributed as follows:

(A) Fifty cents (\$0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents (\$2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

~~(12)~~ **(8)** This subdivision applies in a county only if at least one (1) unit in the county has established an affordable housing fund under IC 5-20-5-15.5 and the county fiscal body adopts an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of ~~(A) two ten dollars and fifty cents (\$2.50)~~ **(\$10)** for the first page; and ~~(B) one dollar (\$1) for each additional page;~~ of each document the recorder records.

~~(13)~~ **(9)** This subdivision applies in a county containing a consolidated city that has established a housing trust fund under IC 36-7-15.1-35.5(e). **This subdivision does not apply if the county fiscal body adopts a fee under section 10.7 of this chapter.** The county fiscal body may adopt an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of:

(A) two dollars and fifty cents (\$2.50) for the first page; and

(B) one dollar (\$1) for each additional page;

of each document the recorder records.

~~(c)~~ The county recorder shall charge a two dollar (\$2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6.

**(d) This subsection does not apply in a county containing a consolidated city. Section 10.5 of this chapter applies to the deposit of fees collected under subsection (c)(1) in a county containing a consolidated city. The county recorder shall deposit the fees collected under subsection (c)(1) as follows:**

**(1) Eight dollars (\$8) in the county general fund.**

**(2) Five dollars (\$5) in the county surveyor's corner perpetuation fund for use as provided under IC 21-47-3-3 or IC 36-2-12-11(e).**

**(3) Ten dollars (\$10) in the county recorder's records perpetuation fund established under subsection (f).**

**(4) One dollar (\$1) in the county identification security**



protection fund established under IC 36-2-7.5-11.

(5) One dollar (\$1) in the elected officials training fund under IC 36-2-7-19.

(e) This subsection does not apply in a county containing a consolidated city. Section 10.5 of this chapter applies to the deposit of fees collected under subsection (c)(2) in a county containing a consolidated city. The county recorder shall deposit the fees collected under subsection (c)(2) as follows:

(1) Thirty-four dollars (\$34) in the county general fund.

(2) Five dollars (\$5) in the county surveyor's corner perpetuation fund for use as provided under IC 21-47-3-3 or IC 36-2-12-11(e).

(3) Eleven dollars and fifty cents (\$11.50) in the county recorder's records perpetuation fund established under subsection (f).

(4) Two dollars and fifty cents (\$2.50) with the county treasurer to be distributed in accordance with IC 24-9-9-3 and IC 24-9-9-4.

(5) One dollar (\$1) in the county identification security protection fund established under IC 36-2-7.5-11.

(6) One dollar (\$1) in the county elected officials training fund under IC 36-2-7-19.

(~~f~~) (f) The county treasurer shall establish a **county** recorder's records perpetuation fund. ~~All revenue received under section 10.1 of this chapter; subsection (b)(5); (b)(8); (b)(9); and (b)(10); and IC 36-2-7.5-6(b)(1); and fifty cents (\$0.50) from revenue received under subsection (b)(11); shall be deposited in this fund. The fund consists of all fees collected under this section for deposit in the fund and amounts transferred to the fund from the county identification security protection fund under IC 36-2-7.5-11.~~ Except as provided in section 10.2 of this chapter, the county recorder may use any money in this fund without appropriation for:

(1) the preservation of records; and

(2) the improvement of record keeping systems and equipment; within the control of the county recorder. Money from the fund may not be deposited or transferred into the county general fund and does not revert to the county general fund at the end of a fiscal year.

(~~e~~) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(~~f~~) (g) The county recorder shall post the fees set forth in subsection (~~b~~) (c) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.



~~(g)~~ **(h)** The county recorder may not ~~tax charge~~ or collect any fee for:

- (1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or
- (2) performing any service under any of the following:
  - (A) IC 6-1.1-22-2(c).
  - (B) IC 8-23-7.
  - (C) IC 8-23-23.
  - (D) IC 10-17-2-3.
  - (E) IC 10-17-3-2.
  - (F) IC 12-14-13.
  - (G) IC 12-14-16.

~~(h)~~ **(i)** The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

~~(i)~~ **(j)** This subsection applies to a county other than a county containing a consolidated city. The county treasurer shall distribute money collected by the county recorder under subsection ~~(b)(12)~~ **(c)(8)** as follows:

- (1) Sixty percent (60%) of the money collected by the county recorder under subsection ~~(b)(12)~~ **(c)(8)** shall be distributed to the units in the county that have established an affordable housing fund under IC 5-20-5-15.5 for deposit in the fund. The amount to be distributed to a unit is the amount available for distribution multiplied by a fraction. The numerator of the fraction is the population of the unit. The denominator of the fraction is the population of all units in the county that have established an affordable housing fund. The population to be used for a county that establishes an affordable housing fund is the population of the county outside any city or town that has established an affordable housing fund.
- (2) Forty percent (40%) of the money collected by the county recorder under subsection ~~(b)(12)~~ **(c)(8)** shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

~~(j)~~ **(k)** This subsection applies to a county described in subsection ~~(b)(13)~~ **(c)(9)**. The county treasurer shall distribute money collected by the county recorder under subsection ~~(b)(13)~~ **(c)(9)** as follows:

- (1) Sixty percent (60%) of the money collected by the county





recorder under subsection ~~(b)(13)~~ **(c)(9)** shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5(e) for the purposes of the fund.

(2) Forty percent (40%) of the money collected by the county recorder under subsection ~~(b)(13)~~ **(c)(9)** shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

**(1) The county recorder may also include a cross-reference or multiple cross-references identified in a document for recording under this section. For cross-references not otherwise required by statute or county ordinance, the person submitting the document for recording shall clearly identify on the front page of the instrument the specific cross-reference or cross-references to be included with the recorded documents.**

SECTION 37. IC 36-2-7-10.1, AS AMENDED BY P.L.215-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10.1. (a) ~~As used in this section;~~ **The following definitions apply throughout this section:**

**(1) "Bulk form copy" means an aggregation of:**

~~(1) (A) a copy copies~~ of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

~~(2) (B) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or~~

~~(3) (C) both subdivisions (1) and (2);~~ **clauses (A) and (B).**

~~(b) As used in this section;~~ **(2) "Bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies: receives bulk form copies under a contract with the county recorder. However, "bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.**

~~(c) As used in this section;~~ **(3) "Copy" means a reproduction, including an image of a recorded document or indices created by:**

(1) duplicating electronically stored data onto a disk, tape,



drum, or any other medium of electronic data storage; or

(2) reproducing on microfilm.

~~(d) As used in this section;~~ (4) "Indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

~~(e) As used in this section;~~ (5) "Recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder **or the county recorder's designee.**

**(b) A county executive shall establish by ordinance the manner and form in which the county recorder may provide bulk form copies to bulk users. The ordinance must establish whether the county recorder may provide bulk form copies to a bulk user:**

**(1) on a disk, tape, drum, or any other medium of electronic data storage or microfilm;**

**(2) by electronically transmitting the copies using an electronic transfer process; or**

**(3) under both subdivisions (1) and (2).**

**(c) A bulk user must submit a written request to the county recorder that identifies the requested bulk form copies with reasonable particularity. Unless the request is refused under subsection (h), upon receipt of a valid written request the county recorder or the county recorder's designee shall provide the bulk form copies to the bulk user by the method or methods established by ordinance. The bulk form copies shall be provided within a reasonable time after the later of the following events:**

**(1) The recorder's archival process is completed and bulk form copies become available in the county recorder's office.**

**(2) The bulk form user executes a contract that meets the requirements of subsection (g) with:**

**(A) the county recorder; and**

**(B) if the county recorder uses a third party to provide bulk copy services, the county recorder's designee.**

**The county recorder or the county recorder's designee shall work with reasonable diligence to ensure that bulk form copies are timely produced to the bulk user.**

~~(d) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records.~~ **charge a fee for producing bulk form copies. Except as provided in subsection (e), the amount of the fee shall be as follows:**



**(1) Ten cents (\$0.10) per page for a copy of a recorded document, including the instrument's book and page, if applicable.**

**(2) Ten cents (\$0.10) per recorded document for a copy of the indices used by the county recorder for finding, retrieving, and viewing a recorded document.**

**(e) If the county executive makes a finding and determination that the costs incurred by the county recorder of producing bulk form copies, including applying a watermark or other protective feature, exceed the amount of the fee under subsection (d), the county executive may adopt an ordinance that establishes a greater fee in an amount not to exceed the following:**

**(1) Twenty cents (\$0.20) per page for a copy of a recorded document, including the instrument's book and page, if applicable.**

**(2) Twenty cents (\$0.20) per recorded document for a copy of the indices used by the county recorder for finding, retrieving, and viewing a recorded document.**

**If the county executive adopts an ordinance under this subsection, the county recorder shall charge the fee in the amount set by the ordinance, instead of the amount set forth in subsection (d).**

**(f) The fees charged by the county recorder are subject to the following requirements:**

**(1) The county recorder shall pay the fees into the county treasury at the end of each calendar month.**

**(2) The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.**

**(3) All revenue generated by the county recorder under this section shall be deposited in the county recorder's records perpetuation fund and used by the recorder in accordance with section 10(f) of this chapter.**

**(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:**

**(1) Seven cents (\$0.07) per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.**

**(2) Seven cents (\$0.07) per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.**

**(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that**



exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent (\$0.01) of providing the bulk form copies:

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder:

(j) Bulk form copies under this section may be used:

- (1) in the ordinary course of the business of the bulk user; and
- (2) by customers of the bulk user.

(k) The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold:

(l) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with section 10(d) of this chapter:

**(g) A bulk user must enter into a contract with the county recorder and if the county recorder uses a third party to provide bulk copy services, the county recorder's designee, in order to receive bulk form copies. The contract must be in writing and must require that the bulk user agree not to do any of the following:**

- (1) Except as provided in subsection (h), provide, transfer, or allow the transfer of any copy of a recorded document obtained by the bulk user under this section to a third party.**
- (2) Engage in unauthorized access to recorded documents.**
- (3) Engage in unauthorized alteration of recorded documents.**

**A contract required under this subsection may not include any restrictions on a bulk form user's use of the bulk form copies other than those contained in this section.**

**(h) A bulk user that is licensed under IC 27-1-15.6-6(d) or holds**



a certificate of authority under IC 27-7-3-6 may provide bulk form copies related to the specific order for a title search (as defined in IC 27-7-3-2) when operating as:

- (1) a title plant for the issuance of title insurance (as defined in IC 27-7-3-2); or
- (2) title company (as defined in IC 27-7-3-2).

A bulk user that meets the requirements of this subsection may charge its customers a fee for using the bulk form copies obtained by the bulk user that may not exceed the costs incurred by the bulk user for obtaining the bulk form copies. A bulk user that meets the requirements of this subsection may not resell, provide, transfer, or allow the transfer of any copy of a recorded document, whether in bulk form or as individual copies or images, to any other bulk user or title plant.

(i) A bulk user that does not meet the requirements of subsection (h) is prohibited from selling, offering for sale, advertising for sale, soliciting a purchase of, loaning, giving away, allowing subscription service to, or otherwise transferring, providing, or allowing the transfer of bulk form copies for commercial purposes to a third party, whether the copies are in bulk form or individual copies or images.

(j) If a bulk user does not comply with a contract, the county recorder may terminate the contract, immediately stop providing bulk form copies to the bulk user, and refuse to provide the bulk form copies requested by the bulk user if all termination provisions and procedures in the contract have been met by the county recorder. The county recorder may refuse subsequent requests from a bulk user for bulk form copies in the following circumstances:

- (1) The bulk user is a person that has had a previous bulk form copy contract terminated by the county recorder because the recorder determined that the bulk user failed to comply with the contract.
- (2) The bulk user is a corporation or limited liability company in which a person has a majority or controlling interest and:
  - (A) the person requested bulk form copies under a previous contract with the county recorder; and
  - (B) the contract was terminated by the county recorder because the county recorder determined that the person failed to comply with the contract.

~~(m)~~ (k) This section does not apply to enhanced access under IC 5-14-3-3.



SECTION 38. IC 36-2-7-10.2, AS ADDED BY P.L.125-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10.2. (a) As used in this section, "fund" refers to the county recorder's records perpetuation fund established under section ~~10(d)~~ **10(f)** of this chapter.

(b) A county recorder may pay all or a portion of the expenses of the county recorder's office for the following calendar year from the fund only if:

(1) the county recorder submits to the county fiscal body a sworn statement that:

(A) the current revenue to the fund is sufficient to fulfill the statutory purpose of the fund;

(B) the technology of the county recorder's office is presently updated and at a level to sufficiently meet the statutory purposes of the fund and the county recorder's office;

(C) the fund has a sufficient reserve, consistent with the recorder's plan, to capitalize the next technology or other records management upgrade necessary to fulfill the statutory purpose of the fund and the county recorder's office; and

(D) the county recorder specifically requests that all or a specific, identifiable portion of the fund be used to pay the expenses of the county recorder's office for the following calendar year; and

(2) the county fiscal body adopts an ordinance approving the recorder's request under subsection (c).

(c) Upon receiving the county recorder's sworn statement, the county fiscal body may adopt an ordinance approving the county recorder's request. If the ordinance is adopted, the county fiscal body shall, if specifically requested by the recorder for the following calendar year, approve sufficient money from the fund. The county fiscal body may not approve any more money from the fund for any purpose in excess of that requested by the county recorder.

(d) A county recorder's request and the county fiscal body's approval are valid for only the following calendar year. The requirements of this section must be met for each calendar year.

SECTION 39. IC 36-2-7-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 10.5. (a) This section applies only in a county containing a consolidated city.**

**(b) The county recorder shall deposit the fees collected under section 10(c)(1) of this chapter as follows:**

**(1) Nine dollars (\$9) in the county general fund.**



(2) Five dollars (\$5) in the county surveyor's corner perpetuation fund for use as provided under IC 21-47-3-3 or IC 36-2-12-11(e).

(3) Ten dollars (\$10) in the county recorder's records perpetuation fund established under section 10(f) of this chapter.

(4) Fifty cents (\$0.50) in the county identification security protection fund established under IC 36-2-7.5-11.

(5) Fifty cents (\$0.50) in the elected officials training fund under IC 36-2-7-19.

(c) The county recorder shall deposit the fees collected under section 10(c)(2) of this chapter as follows:

(1) Thirty-five dollars (\$35) in the county general fund.

(2) Five dollars (\$5) in the county surveyor's corner perpetuation fund for use as provided under IC 21-47-3-3 or IC 36-2-12-11(e).

(3) Eleven dollars and fifty cents (\$11.50) in the county recorder's records perpetuation fund established under section 10(f) of this chapter.

(4) Two dollars and fifty cents (\$2.50) with the county treasurer to be distributed in accordance with IC 24-9-9-3 and IC 24-9-9-4.

(5) Fifty cents (\$0.50) in the county identification security protection fund established under IC 36-2-7.5-11.

(6) Fifty cents (\$0.50) in the elected officials training fund under IC 36-2-7-19.

SECTION 40. IC 36-2-7-10.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 10.7. (a) This section applies in a county containing a consolidated city that has established a housing trust fund under IC 36-7-15.1-35.5(e).**

(b) The county fiscal body may adopt an ordinance authorizing the county recorder to charge a fee of ten dollars (\$10) for each document the recorder records.

(c) If the county fiscal body adopts an ordinance under this section, the following do not apply:

(1) Section 10(c)(9) of this chapter.

(2) Section 10(k) of this chapter.

(d) All money collected by the county recorder under this section shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5(e) for the purposes of the fund.

SECTION 41. IC 36-2-7-15 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. The clerk of the circuit court, county auditor, county treasurer, county recorder, and county sheriff shall keep, in proper fee books, an accurate account of all fees and charges required by this statute for services performed by them or their employees. Each of these officers shall also keep a cashbook, in which ~~he~~ **the officer** shall enter:

- (1) each sum of money received, in the order received;
- (2) the date of receipt;
- (3) the name of the person from whom the sum was received; and
- (4) the reason the sum was received.

~~He~~ **The officer** shall keep ~~his~~ **the officer's** fee books and cashbooks open for inspection and deliver them to ~~his~~ **the officer's** successor in office as a part of the records of ~~his~~ **the officer's** office.

SECTION 42. IC 36-2-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17. An officer who fails to pay the amount due from ~~him~~ **the officer** into the county treasury shall forfeit to the state a sum equal to the amount of fees actually collected during that quarter, to be collected by the prosecuting attorney of the county and paid into the common school fund of the county.

SECTION 43. IC 36-2-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. An officer named in this chapter who knowingly:

- (1) taxes any fees or makes any charges for services ~~he~~ **the officer** does not actually perform;
- (2) charges for any services any rate or fee other than that allowed by statute; or
- (3) fails to enter, tax, or charge at the proper time the proper fees for services;

commits a Class A misdemeanor and is liable personally upon ~~his~~ **the officer's** bond for any damage or loss sustained by the county.

SECTION 44. IC 36-2-7-19, AS AMENDED BY P.L.279-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. (a) As used in this section, "fund" refers to a county elected officials training fund established under subsection (b).

(b) Each county legislative body shall before July 1, 2011, establish a county elected officials training fund to supplement appropriations that may come from the county general fund to provide training of elected officials. The county fiscal body shall appropriate money from the fund.

(c) The fund consists of money deposited under ~~IC 36-2-7.5-6(b)(3)~~ **IC 36-2-7.5-6(b)(2)** and any other sources required or permitted by





law. Money in the fund does not revert to the county general fund.

(d) Money in the fund shall be used solely to provide training of county elected officials required by IC 33-32-2-9, IC 36-2-9-2.5, IC 36-2-9.5-2.5, IC 36-2-10-2.5, IC 36-2-11-2.5, and IC 36-2-12-2.5.

SECTION 45. IC 36-2-7.5-6, AS AMENDED BY P.L.13-2013, SECTION 153, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) The county recorder shall charge a two dollar (\$2) county identification security protection fee for recording or filing a document. ~~in addition to the fees required by IC 36-2-7-10(b)(1) through IC 36-2-7-10(b)(11).~~

(b) The county recorder shall deposit the fee charged under subsection (a) in the following manner:

~~(1) One dollar (\$1) shall be deposited in the county recorder's records perpetuation fund established under IC 36-2-7-10(d).~~

~~(2) Fifty cents (\$0.50)~~ **(1) One dollar (\$1)** shall be deposited in the county identification security protection fund established under section 11 of this chapter.

~~(3) Fifty cents (\$0.50)~~ **(2) One dollar (\$1)** shall be deposited in the county elected officials training fund established under IC 36-2-7-19.

SECTION 46. IC 36-2-7.5-8, AS AMENDED BY P.L.171-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) This section applies after December 31, 2007.

(b) To the extent practicable and as permitted by law, a county recorder may not disclose a recorded or filed document for public inspection under IC 5-14-3 ~~or IC 36-2-7-10.1~~ until the county recorder has:

- (1) searched the document for a Social Security number; and
- (2) to the extent practicable, redacted any Social Security numbers contained in the document;

using redacting technology.

SECTION 47. IC 36-2-7.5-11, AS AMENDED BY P.L.13-2013, SECTION 154, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) As used in this section, "fund" refers to a county identification security protection fund established under subsection (b).

(b) Each county legislative body shall establish an identification security protection fund to be administered by the county recorder. The county fiscal body shall appropriate money from the fund.

(c) A fund consists of money deposited in the fund under section 6(b) of this chapter. Money in a fund does not revert to the county



general fund. **Money in a fund may be transferred to the county recorder's records perpetuation fund for the uses set forth in IC 36-2-7-10(f).**

(d) A county recorder may use money in the fund only to purchase, upgrade, implement, or maintain redacting technology, **or to secure protection measures** used in the office of the county recorder.

SECTION 48. IC 36-2-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. A county officer and **his the officer's** deputies and other employees are entitled to payment only after the officer has reported all fees collected by **his the officer's** office and paid them into the county treasury.

SECTION 49. IC 36-2-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. A county officer or a deputy or employee of a county officer is entitled to payment for services only after **he the officer, deputy, or employee** has rendered those services.

SECTION 50. IC 36-2-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. A:

- (1) deputy or employee of a county officer who knowingly divides **his the deputy's or employee's** compensation with the officer or another person in consideration of employment; or
- (2) county officer or other person who knowingly accepts such a division of compensation;

commits a Class B misdemeanor.

SECTION 51. IC 36-2-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. The auditor shall keep **his the auditor's** office in a building provided at the county seat by the county executive. **He The auditor** shall keep **his the auditor's** office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, **he the auditor** may close **his the auditor's** office on days specified by the county executive according to the custom and practice of the county.

SECTION 52. IC 36-2-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. A legal action required to be taken in the auditor's office on a day when **his the auditor's** office is closed under section 3 of this chapter may be taken on the next day **his the auditor's** office is open.

SECTION 53. IC 36-2-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. The auditor shall furnish standard forms for use in the transaction of business under this article and for use in the performance of services for which **he the auditor** receives a specific fee.

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SECTION 54. IC 36-2-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. The auditor shall keep an accurate account current with the county treasurer. Whenever a receipt given by the treasurer for money paid into the county treasury is deposited with the auditor, the auditor shall:

- (1) file the treasurer's receipt;
- (2) charge the treasurer with the amount of the treasurer's receipt; and
- (3) issue ~~his~~ **the auditor's** own receipt to the person presenting the treasurer's receipt.

SECTION 55. IC 36-2-9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) The auditor shall keep a separate account for each item of appropriation made by the county fiscal body, and in each warrant ~~he~~ **the auditor** draws on the county treasury ~~he~~ **the auditor** shall specifically indicate which item of appropriation the warrant is drawn against.

(b) The auditor may not permit an item of appropriation to be overdrawn or to be drawn on for a purpose other than the specific purpose for which it was made.

(c) An auditor who knowingly violates this section commits a Class A misdemeanor.

SECTION 56. IC 36-2-9-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. Whenever:

- (1) a judgment or order is issued by a court in a case in which the county was a party and was served with process for the payment of a claim;
- (2) a certified copy of the judgment or order is filed with the auditor; and
- (3) the claim is allowed by the county executive;

the auditor shall issue ~~his~~ **the auditor's** warrant for the claim.

SECTION 57. IC 36-2-9-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17. (a) At the semiannual settlement under IC 6-1.1-27, the auditor shall issue calls for the redemption of outstanding county warrants if there is any money available in the county treasury for redemption of those warrants.

(b) A warrant included in a call under this section ceases to bear interest upon the date of the call. The county treasurer shall redeem warrants included in the call when they are presented to ~~him~~ **the county treasurer**.

(c) An auditor who violates this section is liable for the interest on all money used for redemption.

SECTION 58. IC 36-2-9.5-11, AS ADDED BY P.L.227-2005,



SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. Whenever:

- (1) a judgment or an order is issued by a court in a case in which the county was a party and was served with process for the payment of a claim;
- (2) a certified copy of the judgment or order is filed with the auditor; and
- (3) the claim is allowed by the county executive;

the auditor shall issue ~~his~~ **the auditor's** warrant for the claim.

SECTION 59. IC 36-2-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. The county executive may remove the treasurer from office if ~~he~~ **the treasurer** is delinquent and has been sued on ~~his~~ **the treasurer's** official bond.

SECTION 60. IC 36-2-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. The treasurer shall keep ~~his~~ **the treasurer's** office in a building provided at the county seat by the county executive. ~~He~~ **The treasurer** shall keep ~~his~~ **the treasurer's** office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, ~~he~~ **the treasurer** may close ~~his~~ **the treasurer's** office on days specified by the county executive according to the custom and practice of the county.

SECTION 61. IC 36-2-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. A legal action required to be taken in the treasurer's office on a day when ~~his~~ **the treasurer's** office is closed under section 4 of this chapter may be taken on the next day ~~his~~ **the treasurer's** office is open.

SECTION 62. IC 36-2-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. The treasurer may administer all oaths necessary in the discharge of the duties of ~~his~~ **the treasurer's** office.

SECTION 63. IC 36-2-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. At the expiration of ~~his~~ **the treasurer's** term, the treasurer shall deliver to ~~his~~ **the treasurer's** successor all public money in ~~his~~ **the treasurer's** possession.

SECTION 64. IC 36-2-10-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. The treasurer shall issue a receipt to each person from whom ~~he~~ **the treasurer** receives money.

SECTION 65. IC 36-2-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) If there is

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sufficient money in the county treasury for the payment of warrants of the county auditor, the treasurer shall pay each warrant of the auditor when it is presented.

(b) If there is no money to pay a county warrant when presented, the treasurer shall write "not paid for want of funds" and the date of presentment on the face of the warrant, over ~~his~~ **the treasurer's** signature. The warrant then bears legal interest beginning on the date of presentment and continuing until:

- (1) the treasurer gives notice, by publication under IC 5-3-1, that there is money to redeem outstanding orders; or
- (2) the warrant is included in a call under IC 36-2-9-17.

(c) When money for the redemption of outstanding county warrants becomes available, the treasurer shall give the notice prescribed by subsection (b).

SECTION 66. IC 36-2-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. Whenever the treasurer redeems a warrant on which interest is due, ~~he~~ **the treasurer** shall note on the warrant the amount of interest ~~he~~ **the treasurer** pays on it and shall enter that amount, distinct from the principal, on ~~his~~ **the treasurer's** account.

SECTION 67. IC 36-2-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) The treasurer shall redeem county warrants in the order in which they are presented.

(b) The treasurer may receive county warrants in payment of county taxes without regard to their order of presentment or number, but ~~he~~ **the treasurer** may not pay any balance left owing on the warrants after payment of the taxes if there are outstanding unpaid warrants.

SECTION 68. IC 36-2-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. On the first Monday in March, June, September, and December, the treasurer shall deposit all the county warrants ~~he~~ **the treasurer** has redeemed with the county auditor, who shall give the treasurer a receipt for them.

SECTION 69. IC 36-2-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) The treasurer shall maintain:

- (1) separate accounts of receipts for and expenditures from each specific county fund or appropriation; and
- (2) a general account of all county receipts and expenditures.

(b) The treasurer may not enter in ~~his~~ **the treasurer's** accounts money received for taxes charged on the duplicate of the current year until after ~~his~~ **the treasurer's** settlement for that money under IC 6-1.1-27.

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SECTION 70. IC 36-2-10-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 20. Whenever the county treasury is burglarized the county fiscal body may appropriate from the county general fund an amount sufficient to reimburse the treasurer for any loss sustained if:

- (1) the treasurer establishes that before the burglary ~~he~~ **the treasurer** made detailed deposits of county funds as required by statute;
- (2) the county executive has not procured safe or burglary insurance to protect county funds; and
- (3) the proper law enforcement agency, after investigation, has filed with the county executive a statement concluding that the burglary did not result from the negligence or participation of the treasurer.

SECTION 71. IC 36-2-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. The recorder shall keep ~~his~~ **the recorder's** office in a building provided at the county seat by the county executive. ~~He~~ **The recorder** shall keep ~~his~~ **the recorder's** office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, ~~he~~ **the recorder** may close ~~his~~ **the recorder's** office on days specified by the county executive according to the custom and practice of the county.

SECTION 72. IC 36-2-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. A legal action required to be taken in the recorder's office on a day when ~~his~~ **the recorder's** office is closed under section 3 of this chapter may be taken on the next day ~~his~~ **the recorder's** office is open.

SECTION 73. IC 36-2-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. At the expiration of ~~his~~ **the recorder's** term of office, the recorder shall deliver all instruments left for record with ~~him~~ **the recorder** to ~~his~~ **the recorder's** successor in office, whether the fees for recording them have been paid or not.

SECTION 74. IC 36-2-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. When the recorder has received an instrument for record, ~~he~~ **the recorder** may return it to the person who presented it only after the fee for recording the instrument has been paid.

SECTION 75. IC 36-2-11-8, AS AMENDED BY P.L.86-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) The recorder shall record all instruments



that are proper for recording, in the order in which they are received in the recorder's office for record. The recorder shall record deeds and mortgages in separate records.

~~(b)~~ **The recorder shall establish a written procedure for the public to obtain access to the original instrument in order to protect the instrument from loss, alteration, mutilation, or destruction. The recorder shall post the written procedure in the recorder's office.**

~~(c)~~ **(b)** Providing an exact copy of an original instrument in the possession of the recorder is sufficient to comply with the inspection of public records provided under IC 5-14-3-3 if the original document has not been archived.

~~(d)~~ **(c)** Any instrument that is contaminated by blood or another bodily fluid, or that appears to be contaminated by blood or another bodily fluid, is not proper for recording. The recorder shall not record an instrument that is contaminated by blood or another bodily fluid or that appears to be contaminated by blood or another bodily fluid.

SECTION 76. IC 36-2-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. **(a)** The recorder shall keep an entry book in which ~~he~~ **the recorder** shall enter **information that identifies:**

- (1)** the date on which ~~he~~ **the recorder** received each instrument for recording;
- (2)** the names of the parties to the instrument;
- (3)** a description of the premises affected by the instrument; and
- (4)** the fees for recording the instrument.

**(b) The recorder may maintain the entry book in a paper, an electronic, or digital format.**

SECTION 77. IC 36-2-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. The recorder may record sheets conforming in size, color, weight, and texture to the pages of the appropriate official record book in which similar instruments are recorded, if:

- (1) the complete text of a printed instrument comprising ten (10) or more printed pages has been accurately and legibly printed on the sheets;
- (2) the original instrument is filed for record in ~~his~~ **the recorder's** office at the same time; and
- (3) ~~he~~ **the recorder** is satisfied that the complete text of the original instrument has been accurately and legibly printed on the sheets.

After the recorder has numbered the sheets and ~~securely fastened~~ **entered** them into the official record, ~~book at the proper place~~



according to the date and time of the filing of the instrument for record; the instruments are considered to have been properly recorded.

SECTION 78. IC 36-2-11-11 IS REPEALED [EFFECTIVE JULY 1, 2017]. ~~Sec. 11. A county recorder may use printed forms for record books only for the recording of instruments presented by persons who presented fifty (50) or more instruments for recording during the preceding year.~~

SECTION 79. IC 36-2-11-14.5, AS ADDED BY P.L.203-2013, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14.5. (a) As used in this section, "manufactured home" has the meaning set forth in IC 9-13-2-96(b).

(b) As used in this section, "mobile home" has the meaning set forth in IC 6-1.1-7-1(b).

(c) A person must do the following to record a purchase contract that is subject to IC 9-17-6-17:

(1) Submit the following to the county recorder:

(A) A copy of the title to the manufactured home or mobile home.

(B) An affidavit stating whether the contract requires the seller or the buyer to pay the property taxes imposed on the manufactured home or mobile home.

(2) Pay any applicable recording fees.

(d) The county recorder shall record a purchase contract submitted for recording under IC 9-17-6-17 by a person who complies with subsection (c). The county recorder shall do the following:

(1) Provide the ~~following information described in subsection (c)(1)~~ to the county treasurer with respect to each contract recorded under this section.

~~(A) The copy of the title to the manufactured home or mobile home received by the county recorder under subsection (c)(1)(A).~~

~~(B) The affidavit received by the county recorder under subsection (c)(1)(B).~~

(2) Notify the township assessor of the township in which the mobile home is located, or to which the mobile home will be moved, that a contract for the sale of the mobile home has been recorded. If there is no township assessor for the township, the county recorder shall provide the notice required by this subdivision to the county assessor.

SECTION 80. IC 36-2-11-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16.5. (a) This section does not apply to the following:

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- (1) A judgment, an order, or a writ of a court.
- (2) A will or death certificate.
- (3) A plat.
- (4) A survey.

(b) The county recorder may receive for record an instrument or a document ~~without collecting the additional fee described in subsection (e)~~ if:

- (1) the instrument or document consists of at least one (1) individual page measuring not more than eight and one-half (8 1/2) inches by fourteen (14) inches that is not permanently bound and is not a continuous form;
- (2) the instrument or document is on white paper of at least twenty (20) pound weight and has clean margins:
  - (A) on the first and last pages of at least two (2) inches on the top and bottom and one-half (1/2) inch on each side; and
  - (B) on each additional page of at least one-half (1/2) inch on the top, bottom, and each side; and
- (3) the instrument or document is typewritten or computer generated in black ink in at least 10 point type.

~~(c) For each instrument or document presented for recording that does not conform to the requirements of subsection (b), the recorder may attach additional pages, as needed, and collect one dollar (\$1) for each nonconforming page.~~

SECTION 81. IC 36-2-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17. (a) An owner of a farm may have the name of ~~his~~ **the owner's** farm and a description of the land to which the name applies recorded in a register kept for that purpose by the recorder of the county in which the farm is located. The recorder, under the seal of ~~his~~ **the recorder's** office, shall present to the owner a proper certificate setting forth the name and description of the farm.

(b) If a name is recorded as the name of a farm, the name may not be recorded as the name of another farm in the same county.

(c) If the name of a farm is recorded under this section and the owner conveys all of the farm, the recorded name of the farm also is conveyed. If the owner conveys only a part of the farm, the recorded name of the farm is conveyed only if so stated in the deed of conveyance.

(d) An owner of a farm may cancel the recorded name of the farm by making the following statement on the margin of the record of the name: "This name is cancelled and I hereby release all rights thereunder." This statement must be signed by the owner and attested

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by the recorder.

SECTION 82. IC 36-2-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) The recorder may allow marginal entries.

(b) If a satisfaction, cancellation, or assignment of any kind is made on the margin of a record in the recorder's office **or entered as an associated document**, the recorder shall immediately enter it on the entry book **or into the electronic index**. The entry must show the date of entry, the name of the person who executed the instrument satisfied, cancelled, or assigned, and the name, number, and page of the record where the instrument is recorded.

SECTION 83. IC 36-2-11-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 20. (a) **As used in this section, "contract" means an agreement for a seller to sell real estate to a purchaser that provides for the purchaser to pay the purchase price to the seller in periodic installments, with the seller retaining record title to the real estate and the purchaser acquiring equitable title to the real estate.**

(b) **As used in this section, "lease" means a lease of real estate by a lessor to a lessee, over a term that is specified in a written lease agreement in consideration of the lessee's promise to pay rent to the lessor as also specified in the written lease agreement.**

(c) **As used in this section, "lessee" means a tenant that is party to a lease with a lessor.**

(d) **As used in this section, "lessor" means an owner of real property or buildings or fixtures situated on real property that enters into a lease with a lessee.**

(e) **As used in this section, "real estate" means:**

- (1) **the real property that is subject to the lease or contract; or**
- (2) **buildings or fixtures situated on the real property that are subject to the lease or contract.**

(f) **As used in this section, "seller" means an owner of real estate that sells the real estate to a purchaser under a contract.**

(a) (g) **A memorandum of a lease or a memorandum of contract may be recorded in lieu of the lease or contract itself if the memorandum is executed and acknowledged by the lessor and the lessee parties and contains:**

- (1) **the names of the lessor and the lessee; parties;**
- (2) **the term of the lease or contract;**
- (3) **any option of the lessee to renew or extend the term of the lease or of the purchaser to renew or extend the term of the contract; and**



(4) the specific legal description of the ~~leased premises~~, **real estate**, or a survey or plot plan authorized under subsection ~~(c)~~ **(i)** showing the location of the ~~leased premises~~. **real estate**.

~~(b)~~ **(h)** A memorandum recorded under this section may also contain any other agreement made between the ~~lessor and the lessee parties~~ in the lease **or contract**.

~~(c)~~ **(i)** A survey or plot plan may be used in lieu of a specific legal description to describe:

(1) any part of a building on the ~~leased premises~~, **real estate**, if the specific legal description of the real property on which the building is located is set forth in the memorandum, survey, or plot plan;

(2) any part of the ~~leased premises~~ **real estate** that is part of a larger tract of land, if the specific legal description of the larger tract is set forth in the memorandum, survey, or plot plan; or

(3) real property of the lessor **or seller**, if:

(A) its use is restricted by the terms of the lease **or contract**;

(B) it is located wholly within real property of the lessor **or seller**; and

(C) the specific legal description of the real property within which it is located is set forth in the memorandum, survey, or plot plan.

~~(d)~~ **(j)** As to the provisions contained in a memorandum recorded under this section, recording the memorandum has the same effect as recording the lease **or contract** itself.

SECTION 84. IC 36-2-11-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 23. (a) The recorder shall use an official seal in attesting an instrument when appropriate to seal the instrument. Before the recorder uses ~~his~~ **the recorder's** official seal, ~~he~~ **the recorder** shall file the impression of the seal and a verified description of that impression in the office of the clerk of the circuit court, for recording in the order book of that court.

(b) If the recorder has complied with this section, full faith and credit shall be given to ~~his~~ **the recorder's** seal without further attestation.

SECTION 85. IC 36-2-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The surveyor shall keep ~~his~~ **the surveyor's** office in a building provided at the county seat by the county executive. ~~He~~ **The surveyor** shall keep ~~his~~ **the surveyor's** office open for business during regular business hours on every day of the year except Sundays and legal holidays. However, ~~he~~ **the surveyor** may close ~~his~~ **the surveyor's** office on days specified



by the county executive according to the custom and practice of the county.

(b) The county executive shall provide the surveyor with all necessary supplies and equipment, including:

- (1) ordinary office supplies, equipment, and accessories of the type furnished to other county offices; and
- (2) surveying instruments and materials necessary for the discharge of **his the surveyor's** duties.

Supplies and equipment furnished under this subsection are property of the county.

SECTION 86. IC 36-2-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. A legal action required to be taken in the surveyor's office on a day when **his the surveyor's** office is closed under section 3 of this chapter may be taken on the next day **his the surveyor's** office is open.

SECTION 87. IC 36-2-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) At the expiration of **his the surveyor's** term of office, the surveyor shall turn over to **his the surveyor's** successor all engineering and survey work in which **he the surveyor** is engaged.

(b) At the expiration of the surveyor's term of office, **his the surveyor's** duties as surveyor, including **his the surveyor's** duties as county engineer or as the engineer on public improvement work of any kind, cease, and those duties shall be performed by **his the surveyor's** successor, unless by mutual agreement the surveyor whose term is expiring is permitted to continue performing **his those** duties on public improvements.

SECTION 88. IC 36-2-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) If **he the surveyor** is a competent civil engineer, the surveyor shall plan and supervise all surveying and civil engineering work of the county under the direction of the county executive.

(b) If the surveyor is not a competent civil engineer, the county executive shall appoint a competent civil engineer for each surveying or civil engineering project that the executive orders or receives a petition for. If the executive refuses to appoint such an engineer for a project, the surveyor is entitled to a hearing in the circuit or superior court of the county to determine **his the surveyor's** competence to perform the project. The order of the court under this section is final and conclusive.

SECTION 89. IC 36-2-12-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) If the surveyor



serves as highway supervisor or county highway engineer and is compensated for that service in an amount greater than the compensation fixed under this title, then that compensation is in lieu of the compensation fixed under this title.

(b) When fixing the compensation of county officers under this title, the county fiscal body shall fix:

- (1) compensation for the surveyor as if ~~he~~ **the surveyor** is registered under IC 25-21.5 or IC 25-31; and
- (2) compensation for the surveyor as if ~~he~~ **the surveyor** is not registered under IC 25-21.5 or IC 25-31.

The compensation fixed under subdivision (1) must be one and one-half (1 1/2) times that fixed under subdivision (2). The county fiscal body shall then determine whether or not the surveyor is registered under IC 25-21.5 or IC 25-31 and shall fix ~~his~~ **the surveyor's** compensation in the proper amount.

(c) In addition to the compensation fixed under subsection (b), if the surveyor describes and certifies the number of miles of active regulated drains in the county to the county executive, ~~he~~ **the surveyor** is entitled, with the approval of the county executive, to:

- (1) two dollars (\$2) per mile for each mile described and certified, if ~~he~~ **the surveyor** is not registered under IC 25-21.5 or IC 25-31; or
- (2) four dollars (\$4) per mile for each mile described and certified, if ~~he~~ **the surveyor** is registered under IC 25-21.5 or IC 25-31.

(d) In addition to the compensation fixed under subsections (b) and (c), the surveyor is entitled to:

- (1) two dollars (\$2) for each corner reference required under section 11 of this chapter, if ~~he~~ **the surveyor** is not registered under IC 25-21.5 or IC 25-31; or
- (2) four dollars (\$4) for each corner reference required under section 11 **of this chapter**, if ~~he~~ **the surveyor** is registered under IC 25-21.5 or IC 25-31.

SECTION 90. IC 36-2-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. The sheriff may not purchase a judgment or allowance in a court of which ~~he~~ **the sheriff** is an officer.

SECTION 91. IC 36-2-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) After ~~his~~ election and before ~~he~~ **assumes assuming** the duties of ~~his~~ office, the sheriff-elect may attend the sessions of a training school that:

- (1) offers courses of instruction for sheriffs;

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(2) is established by Indiana University, Purdue University, Indiana University and Purdue University, the state police department, or the Indiana sheriffs' association; and

(3) teaches methods of crime detection and offers courses from the state board of accounts on office routine and accounting.

(b) On presentation of proper charges or receipts and with the approval of the county executive, the county auditor may issue ~~his~~ **the auditor's** warrant for the following expenses of the sheriff-elect in attending a school under this section:

(1) Any tuition charged by the school.

(2) A sum for mileage, lodging, and meals, equal to the sum allowed county officers under IC 5-11-14-1.

SECTION 92. IC 36-2-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) The county shall furnish one (1) automobile and, with the approval of the county executive and the county fiscal body, may furnish additional automobiles, for use by the sheriff in the performance of ~~his~~ **the sheriff's** official duties. The county shall maintain each automobile in service.

(b) The county executive may purchase for and furnish to the sheriff a motor vehicle that seats a driver, two (2) guards, and at least six (6) other persons, and may be equipped for use as an ambulance or used to transport persons in the custody of the sheriff. The county shall maintain the vehicle.

(c) If the county furnishes and maintains a conveyance for the use of the sheriff, it may not grant ~~him~~ **the sheriff** a mileage allowance but may reimburse ~~him~~ **the sheriff** for other expenses relating to the conveyance.

SECTION 93. IC 36-2-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) Whenever the sheriff has reason to believe that a prisoner in ~~his~~ **the sheriff's** custody is in danger of being unlawfully killed, ~~he~~ **the sheriff** shall order all persons with whom ~~he~~ **the sheriff** can directly communicate to assist ~~him~~ in protecting the prisoner. If the sheriff remains unable to protect the prisoner, ~~he~~ **the sheriff** shall notify the governor and ask for the aid of the state in protecting the prisoner.

(b) A sheriff who unlawfully kills a prisoner in ~~his~~ **the sheriff's** custody, or unlawfully permits ~~such~~ a prisoner to be killed, forfeits ~~his~~ **the sheriff's** office. The governor shall issue a proclamation declaring the office of the sheriff vacated.

(c) The person who forfeited the office may petition the governor to be reinstated as sheriff. The petition must:

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- (1) show that the person did everything in ~~his~~ **the person's** power to protect the life of the prisoner and carried out the duties of ~~his~~ **the sheriff's** office pertaining to the protection of prisoners; and
- (2) be filed with the governor not more than fourteen (14) days after the date on which the governor declares the office of the sheriff vacated.

If, after a hearing, the governor finds that the person did carry out the duties of ~~his~~ **the sheriff's** office, ~~he~~ **the governor** may reinstate ~~him~~ **the person** in office and issue to ~~him~~ **the person** a certificate of reinstatement. A person who files a petition under this subsection shall give notice to both the prosecuting attorney of the county and the attorney general.

SECTION 94. IC 36-2-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. The coroner shall perform the duties of the county sheriff only in cases in which the sheriff:

- (1) is interested or incapacitated from serving; and
- (2) has no chief deputy who may perform ~~his~~ **the sheriff's** duties.

SECTION 95. IC 36-2-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) At an investigation under this chapter, the coroner shall examine persons wanting to testify and may examine persons ~~he~~ **the coroner** has summoned by ~~his~~ **the coroner's** subpoena. Witnesses shall answer under oath all questions concerning the death under investigation.

(b) If a physician is required to attend an investigation and make a post mortem examination, the coroner shall certify this service to the county executive, which shall order payment for the physician from the county treasury.

SECTION 96. IC 36-2-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. The testimony of each witness at a coroner's investigation shall be reduced to writing and signed by ~~him~~ **the witness**. The coroner shall, by recognizance in a reasonable sum, bind any witness whose testimony relates to the trial of a person concerned in the death to give evidence in court and shall send the written evidence and recognizance of the witness to the court. The coroner shall commit to the county jail a witness who refuses to enter into the recognizance required by this section.

SECTION 97. IC 36-2-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) After viewing the body, hearing the evidence, and making all necessary inquiries, the coroner shall draw up and sign ~~his~~ **the coroner's** verdict on the death under consideration. The coroner shall also make a written report



giving an accurate description of the deceased person, **his the deceased person's** name if it can be determined, and the amount of money and other property found with the body. The verdict and the written report are subject to inspection and copying under IC 5-14-3-3.

(b) Except as provided in subsections (c), (d), and (e), a photograph, video recording, or audio recording of an autopsy in the custody of a medical examiner is declared confidential for purposes of IC 5-14-3-4(a)(1).

(c) A surviving spouse may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this section. If there is no surviving spouse or parent, an adult child shall have access to the records.

(d) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of official duties, the identity of the deceased must remain confidential.

(e) The coroner or the coroner's designee having custody of a photograph, a video recording, or an audio recording of an autopsy may use or allow the use of the photograph, video recording, or audio recording of the autopsy for case consultation with a pathologist or forensic scientist. The coroner or the coroner's designee having custody of a photograph, a video recording, or an audio recording of an autopsy may also use or allow the use of the photograph, video recording, or audio recording for training or educational purposes (as defined in IC 16-39-7.1-1.5) if all information that identifies the individual on whom the autopsy was performed is masked or removed from the photograph, video recording, or audio recording. For purposes of this subsection, information that identifies an individual consists of:

- (1) the name;
- (2) the address;
- (3) the Social Security number;
- (4) a full view of the face; or
- (5) identifying marks on the body that are unrelated to the medical condition or medical status;

of the deceased individual. A coroner or coroner's designee who allows





the use of autopsy information under this subsection has a duty to disclose to each person to whom the coroner or coroner's designee releases it that the information is confidential and may not be used for a purpose other than the purpose for which it was originally released. Information disclosed under this subsection is confidential. A coroner or coroner's designee who fails to disclose the confidentiality restrictions of this information commits a Class A misdemeanor.

(f) Except as provided in subsection (e), the coroner or the coroner's designee having custody of a photograph, a video, or an audio recording of an autopsy may not permit a person to:

- (1) view or copy the photograph or video recording; and
- (2) listen to or copy the audio recording;

of an autopsy without a court order.

(g) A court, upon a showing of good cause, may issue an order authorizing a person to:

- (1) view or copy a photograph or video recording; and
- (2) listen to or copy an audio recording;

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(h) In determining good cause under subsection (g), the court shall consider:

- (1) whether the disclosure is necessary for the public evaluation of governmental performance;
- (2) the seriousness of the intrusion into the family's right to privacy;
- (3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and
- (4) the availability of similar information in other public records, regardless of form.

(i) In all cases, the viewing, copying, listening to, or other handling of a photograph, video recording, or audio recording of an autopsy must be under the direct supervision of the coroner, or the coroner's designee, who is the custodian of the record.

(j) A surviving spouse shall be given:

- (1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;
- (2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and
- (3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.



(k) If there is no surviving spouse, the notice under subsection (j) must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

(l) A coroner or coroner's designee who:

(1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and

(2) knowingly or intentionally violates this section;

commits a Class A misdemeanor.

(m) A person who knowingly or intentionally violates a court order issued under this section commits a Class A misdemeanor.

(n) A person who:

(1) receives autopsy information under subsection (e); and

(2) knowingly or intentionally uses the information in a manner other than the specified purpose for which it was released;

commits a Class A misdemeanor.

SECTION 98. IC 36-2-14-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. When fixing the compensation of county officers under this title, the county fiscal body shall fix:

(1) compensation for the coroner as if ~~he~~ **the coroner** is licensed to practice as a physician in Indiana; and

(2) compensation for the coroner as if ~~he~~ **the coroner** is not licensed to practice as a physician in Indiana.

The compensation fixed under subdivision (1) must be one and one-half (1 1/2) times that fixed under subdivision (2). The county fiscal body shall then determine whether or not the coroner is a licensed physician and shall fix ~~his~~ **the coroner's** compensation in the proper amount.

SECTION 99. IC 36-2-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. A legal action required to be taken in the assessor's office on a day when ~~his~~ **the assessor's** office is closed under section 3 of this chapter may be taken on the next day ~~his~~ **the assessor's** office is open.

SECTION 100. IC 36-2-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) A deputy appointed under this chapter may perform all the official duties of the officer who appointed ~~him~~ **the deputy** and is subject to the same regulations and penalties as the officer.

(b) The officer appointing the deputy is responsible for all the official acts of the deputy.

SECTION 101. IC 36-2-16-5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) The county surveyor may appoint one (1) first or chief deputy, if authorized by the county fiscal body, and also may appoint the number of other full-time or part-time deputies and employees authorized by the county fiscal body.

(b) The surveyor of a county having a population of one hundred sixty-five thousand (165,000) or more may appoint a registered professional civil engineer as bridge engineer.

(c) If a deputy surveyor takes field notes, ~~he~~ **the deputy surveyor** shall return them to the county surveyor within sixty (60) days.

SECTION 102. IC 36-2-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) A county officer may record documents by miniature photographic process or microfilm process if:

- (1) the installation of the process is approved by the county executive; and
- (2) the process provides for an original and a duplicate film copy of each document that the officer is required to record.

The officer shall index and file the original copy in a suitable container in the office where the document is recorded, in such a manner that it is easily accessible and readable by an interested person. The officer shall preserve the duplicate copy in a fireproof vault, either in the courthouse where the office is located or in a place designated by the county executive.

(b) When recording a release, assignment, or other document that requires a marginal entry or notation on a prior record made under this section, an officer acting under this section shall:

- (1) record the document on the index page of the photographic or microfilm record containing the prior record; or
- (2) index and cross-reference the marginal entry or notation and record it on a separate page attached to or filed with and made a part of the prior record.

(c) An officer recording a document under this section has exclusive control over the film and records in ~~his~~ **the officer's** office, and ~~he~~ **the officer** may not return an original document to the person presenting it for record until the film copy of that document is properly recorded, indexed, filed, and made available to interested persons.

SECTION 103. IC 36-2-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) If it is necessary to preserve the records of:

- (1) the circuit court clerk's office;
- (2) the county auditor's office;

**SEA 505 — Concur**



- (3) the county treasurer's office;
- (4) the county recorder's office;
- (5) the county sheriff's office;
- (6) a court of record; or
- (7) the county surveyor's office;

from damage, the county executive shall order the officer in charge of the records to copy them in suitable books procured by ~~him~~ **the officer** for that purpose. The executive shall specify in its order the particular records or parts of records to be copied.

(b) If:

- (1) parts of a county's records have been destroyed;
- (2) the remaining parts of the records have been copied to preserve them from damage; and
- (3) the proper holder of the original documents on which the records were based presents those documents to the officer in charge of the records;

the officer in charge of the records shall use the original documents to complete the records, and, if the original index no longer exists, shall index the completed records.

(c) If a map or plat in the office of the county auditor, county recorder, or county surveyor is so worn or defaced that it is not fit for use, the auditor, recorder, or surveyor shall make an accurate copy of the legible part of the map or plat. If a part of the map or plat is illegible, the auditor or recorder shall resort to the most accurate sources to complete the copy.

(d) Copies of records made under this section have the same force as the original records. Certified transcripts of copies of records made under subsection (a) ~~of this section~~ have the same force as transcripts of the original records.

(e) Control of the county recorder's records, including copying, storage, and retrieval is the responsibility of the county recorder.

(f) Control of the county surveyor's records, including copying, storage, and retrieval is the responsibility of the county surveyor.

SECTION 104. IC 36-2-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) Before performing any ~~of his~~ duties as **commissioner**, a commissioner appointed under section 6(c) of this chapter shall give twenty (20) days notice of:

- (1) ~~his~~ **the commissioner's** appointment;
- (2) the time when ~~he~~ **the commissioner** will begin to perform ~~his~~ **the commissioner's** duties; and
- (3) the place where ~~he~~ **the commissioner** will begin to perform



~~his~~ **the commissioner's** duties; by publication under IC 5-3-1 and by posting written notices in each township of the county.

(b) The commissioner may:

- (1) employ a clerk, who shall take an oath of office before performing any of ~~his~~ **the clerk's** duties;
- (2) administer oaths when testimony is required to be taken before ~~him~~; **the commissioner**;
- (3) issue subpoenas for and compel the attendance of witnesses;
- (4) cite persons for and issue execution for contempt;
- (5) tax costs; and
- (6) adjourn ~~his~~ **the commissioner's** proceedings from time to time, but after an adjournment without a day specified for reconvening, ~~he~~ **the commissioner** may not resume ~~his~~ **the commissioner's** duties without an order of the county executive authorizing ~~him~~ **the commissioner** to do so.

(c) A sheriff who delivers the commissioner's writs and subpoenas and witnesses who testify before the commissioner are entitled to the same fees as are allowed for the same service or attendance in the circuit court. This compensation shall be taxed against the party bearing costs.

(d) The commissioner shall obtain record books in which the proceedings held before ~~him~~ **the commissioner** shall be fully recorded. Proceedings concerning the different courts and different offices of the county shall be recorded in separate books.

(e) The commissioner or ~~his~~ **the commissioner's** clerk may not record proof of the existence and contents of the following records and documents of a clerk of a court of record:

- (1) Judgments and decrees.
- (2) Writs of execution and returns of writs of execution.
- (3) Recognizances and forfeitures of bonds.

The commissioner or ~~his~~ **the commissioner's** clerk shall record proof of the existence and content of any other record or document that belonged to or was filed or deposited in the office of a clerk of a court of record and has been destroyed, if that proof is presented to the commissioner by a disinterested witness. However, the commissioner may receive proof of the contents of a will only if the evidence leads ~~him~~ **the commissioner** to believe that neither the original will nor an authenticated copy can be produced.

(f) The commissioner shall record the complete statement of each witness who testifies before ~~him~~; **the commissioner**. The commissioner may not include ~~his~~ **the commissioner's** own



conclusions in the record.

(g) The commissioner shall sign the record of each day's testimony that ~~he the commissioner~~ hears, and shall certify each completed volume of the record to be a complete and accurate copy of the testimony taken before ~~him: the commissioner~~. The commissioner shall deliver each completed volume of the record to the appropriate county office.

SECTION 105. IC 36-2-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) Records compiled by the commissioner, or certified copies of those records, are admissible in any legal proceeding and have the force that the same testimony would have if it were delivered orally. Complete or partial copies of a volume of the commissioner's records may be certified by the commissioner if ~~he the commissioner~~ has custody of the volume; otherwise, the county officer having custody of the volume may certify copies. Certified copies of the commissioner's record have the same evidentiary force as the commissioner's record.

(b) If the county executive finds that the commissioner is incompetent or that ~~he the commissioner~~ unreasonably delays or neglects ~~his the commissioner's~~ duties, it may, by an order on the record, remove ~~him the commissioner~~ from office and appoint a successor. An order of removal is not appealable.

(c) If more than twelve (12) months have passed since the commissioner commenced ~~his the commissioner's~~ duties, the county executive may give ~~him the commissioner~~ twenty (20) days notice to terminate ~~his the commissioner's~~ proceedings. After twenty (20) days, the duties of ~~his the commissioner's~~ office cease. However, the county executive may subsequently authorize the commissioner to resume ~~his the commissioner's~~ duties for a limited period of time.

(d) All expenses of books, stationery, and per diems under this section and section 7 of this chapter shall be paid by the county.

SECTION 106. IC 36-2-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) If all or part of the records of the recorder's office are destroyed, the recorder shall immediately obtain a book in which ~~he the recorder~~ shall restore the destroyed parts of the record. The recorder shall, in the order in which they are presented, record in this book documents that had been recorded but the records of which have been destroyed. The recorder shall also record the recorder's original indorsement showing the time when each document was originally filed for record. This new record has the same force as the original record would have had if it had not been destroyed.

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(b) Whenever the recorder acts under subsection (a), ~~he the~~ **recorder** shall also obtain another book in which ~~he the recorder~~ shall, in the order in which it is presented, record all proof of the execution, acknowledgment, contents, destruction, and recording of documents that had been recorded in ~~his the recorder's~~ office but the records of which have been destroyed. The recorder shall index this book in the manner in which records of deeds are indexed.

SECTION 107. IC 36-2-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) A person who has an interest in preserving evidence of a document, the record of which in the recorder's office has been destroyed, shall make a verified statement before the recorder that:

- (1) ~~he the person~~ has an interest in preserving evidence of the document;
- (2) the document was previously recorded in the recorder's office; and
- (3) ~~he the person~~ has searched diligently for the original of the document and has not been able to find it.

After recording the person's statement and requiring ~~him the person~~ to sign it, the recorder shall take and record the verified statement of each witness who testifies before ~~him: the recorder~~. The recorder may be sworn as a witness by a person authorized to administer oaths.

(b) The recorder shall require each witness testifying under this section to make a verified statement of ~~his the person's~~ interest in preserving ~~his the person's~~ testimony, and shall include this statement in the record. The recorder shall require each witness to sign the record of ~~his the person's~~ testimony and shall add ~~his the recorder's~~ certificate stating that the witness was duly sworn.

(c) A recorder shall administer all oaths required by this section.

(d) Testimony admissible before the recorder under this section consists of witnesses' best recollections of:

- (1) the execution and acknowledgment of the document;
- (2) the date of the document;
- (3) the contents of the document;
- (4) the prior recording of the document in the recorder's office; and
- (5) the time when the document was initially recorded or deposited for record.

(e) The recorder shall record the complete statement of each witness who testifies before ~~him: the recorder~~. The recorder may not include ~~his the recorder's~~ own conclusions in the record.

SECTION 108. IC 36-2-17-12 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. If the record of a will, letters testamentary, or letters of administration is destroyed, and an authenticated copy of the will or letters is presented to the clerk of the proper court, ~~he~~ **the clerk** shall record the copy as if it was the original and shall note on the record the date on which the document was originally recorded. A record made under this section has the same force as the original record.

SECTION 109. IC 36-2-17-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. If:

- (1) the official bond of a county officer is destroyed; and
- (2) the county officer receives a written notice of the destruction of ~~his~~ **the county officer's** bond from the officer having custody of the bond;

~~he~~ **the county officer** shall file a new bond with the proper officer within twenty (20) days after ~~he~~ **the county officer** receives the notice. The liabilities on the new or old bond are the same as those prescribed by section 13 of this chapter on bonds of guardians, administrators, or executors.

SECTION 110. IC 36-3-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) Whenever the executive is absent from the county, ill, or injured, ~~he~~ **the executive** may designate one (1) of ~~his~~ **the executive's** deputies as acting executive, with all the powers of the office. The executive may exercise this power for a maximum of fifteen (15) days in any sixty (60) day period.

(b) A designation under subsection (a) shall be certified to the president and clerk of the city-county legislative body. In addition, when the executive resumes ~~his~~ **the executive's** duties, ~~he~~ **the executive** shall certify to those officers the expiration of the designation.

(c) Whenever the executive is incapacitated and unable to make a designation under subsection (a), the president of the legislative body becomes acting executive.

SECTION 111. IC 36-3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. The executive may investigate the work of those under ~~his~~ **the executive's** supervision and require reports from them. ~~He~~ **The executive** may examine any records of the consolidated city.

SECTION 112. IC 36-3-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. The city-county legislative body may:

- (1) expel any member for violation of an official duty;

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- (2) declare the seat of any member vacant if ~~he~~ **the member** is unable to perform the duties of ~~his~~ **the member's** office; and
- (3) adopt its own rules to govern proceedings under this subsection.

However, a two-thirds (2/3) vote is required to expel a member or vacate ~~his~~ **the member's** seat.

SECTION 113. IC 36-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) The city-county legislative body shall hold regular meetings at least once a month, at times and places prescribed by its rules or established by resolution. A special service district legislative body shall meet as required by IC 36-3-6.

(b) A special meeting of a legislative body shall be held when called by its president or presiding officer or when called by at least two-fifths (2/5) of its members, at any place in the county designated in the call.

(c) No notice of a regular meeting, or meeting required by statute, need be given to a member of a legislative body. For a special meeting, a written notice specifying the time and place of the meeting must be delivered, mailed, or sent by telegram to all members so that each member has at least seventy-two (72) hours notice of the meeting. However, this requirement is waived as to a member if ~~he~~: **the member**:

- (1) attends the meeting; or
- (2) executes a written waiver of notice of the time and place of the meeting.

A written waiver of notice may be executed before or after the meeting, but it must state in general terms the purpose of the meeting if executed after the meeting.

SECTION 114. IC 36-3-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) The city-county legislative body shall appoint a clerk for a term of one (1) year. The clerk serves at the pleasure of the legislative body and continues in office until ~~his~~ **the clerk's** successor is appointed and qualified.

(b) The clerk is the clerk of the consolidated city. ~~He~~ **The clerk** shall:

- (1) act as secretary to the legislative body;
- (2) send out all notices of its meetings;
- (3) keep all its records;
- (4) present ordinances and resolutions to the executive under section 15 of this chapter; and
- (5) perform other duties connected with the work of the legislative body that are delegated to ~~him~~ **the clerk** by it.

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SECTION 115. IC 36-3-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) Within ten (10) days after an ordinance or resolution is presented to ~~him~~, **the executive**, the executive shall:

- (1) approve the ordinance or resolution, by entering ~~his~~ **the executive's** approval on it, signing it, and sending the legislative body a message announcing ~~his~~ **the executive's** approval; or
- (2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing ~~his~~ **the executive's** veto and stating ~~his~~ **the executive's** reasons for the veto.

The executive may approve or veto separate items of an ordinance appropriating money or levying a tax.

(b) If the executive fails to perform ~~his~~ **the executive's** duty under subsection (a), the ordinance or resolution is considered vetoed.

(c) Whenever an ordinance or resolution is vetoed by the executive, it is considered defeated unless the legislative body, at its first regular or special meeting after the ten (10) day period prescribed by subsection (a), passes the ordinance or resolution over ~~his~~ **the executive's** veto by a two-thirds (2/3) vote.

SECTION 116. IC 36-3-4-21, AS AMENDED BY P.L.184-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 21. (a) The city-county legislative body may, by ordinance, make loans of money for the consolidated city and, subject to IC 5-11-1-4(c), issue bonds for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city and for the payment of city debts.

(b) An ordinance adopted under this section:

- (1) must include the terms of the bonds to be issued in evidence of the loan;
- (2) must include the time and manner of giving notice of the sale of the bonds;
- (3) must include the manner in which the bonds will be sold; and
- (4) may authorize a total amount for any issue of bonds.

(c) Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the city.

(d) Bonds issued and sold by the city under this section:

- (1) are negotiable with or without registration, as may be provided by the ordinance authorizing the issue;
- (2) may bear interest at any rate;
- (3) may run not longer than thirty (30) years;
- (4) may contain an option allowing the city to redeem them in



whole or in part at specified times prior to maturity; and

(5) may be sold for not less than par value.

(e) The fiscal officer of the consolidated city shall:

(1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;

(2) deliver them to the county treasurer after they have been properly executed and shall take ~~his~~ **the county treasurer's** receipt for them; and

(3) when a contract for the sale of all or any part of the bonds is consummated, certify to the county treasurer the amount the purchaser is to pay, together with the name and address of the purchaser.

The county treasurer shall then receive from the purchaser the amount certified by the fiscal officer, deliver the bonds to the purchaser, and take the purchaser's receipt for the bonds. The fiscal officer and county treasurer shall then report the proceedings in the sale to the legislative body. However, if the county treasurer is not present to receive the properly executed bonds from the fiscal officer or to issue the bonds, the fiscal officer shall perform ~~his~~ **the county treasurer's** duties under this subsection.

SECTION 117. IC 36-3-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The city-county legislative body shall, by ordinance, fix the number of deputy mayors of the consolidated city and the county.

(b) A deputy mayor serves as a deputy of the executive and has only the powers delegated to ~~him~~ **the deputy mayor** by the executive in accord with ordinances of the legislative body, except when ~~he~~ **the deputy mayor** is designated as acting executive under IC 36-3-3-3.

SECTION 118. IC 36-3-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) The director of a department is its chief administrative officer and shall exercise the powers of the department, subject to the authority granted to any board or commission in the department.

(b) A department may be administratively organized by divisions. If it is, the director shall, subject to the approval of the executive, appoint an administrator to be the head of each division, unless this title provides that the appointment be made otherwise. An administrator serves at the pleasure of the executive.

(c) The director of a department may:

(1) approve the hiring and dismissal of the administrator of each division and all other personnel of the department, subject to



limitations prescribed by this title and rules adopted by the executive; and

(2) delegate to personnel of the department authority to act on **his the director's** behalf.

SECTION 119. IC 36-3-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) Administrative boards are established in the departments listed in sections 4(a)(3), 4(a)(4), 4(a)(5), and 4(a)(6) of this chapter, to be known respectively as the board of public safety, the board of public works, the board of transportation, and the board of parks and recreation. These boards have all the powers, duties, functions, and obligations prescribed by law for them as of August 31, 1981, subject to IC 36-3-4-23. In addition, the metropolitan development commission, which is established in the department of metropolitan development by IC 36-7-4-202, has all the powers, duties, functions, and obligations prescribed by law for it as of August 31, 1981, subject to IC 36-3-4-23.

(b) Each board established under this section is composed of five (5) members as follows:

(1) The director of its department, who serves as presiding officer of the board.

(2) Two (2) members appointed by the executive.

(3) Two (2) members appointed by the city-county legislative body.

A member appointed under subdivision (2) or (3) is appointed for a term of one (1) year and until **his the member's** successor is appointed and qualified, but serves at the pleasure of the appointing authority.

SECTION 120. IC 36-3-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) This section applies to each board established under section 6 of this chapter.

(b) A board shall hold regular meetings at least once a month, at times and places prescribed by its rules or established by resolution.

(c) A special meeting of a board shall be held when called by its presiding officer or when called by at least two-fifths (2/5) of its members, at any place in the county designated in the call.

(d) No notice of a regular meeting, or meeting required by statute, need be given to a member of a board. For a special meeting, a written notice specifying the time and place of the meeting must be delivered, mailed, or sent by telegram to all members so that each member has at least seventy-two (72) hours notice of the meeting. However, this requirement is waived as to a member if ~~he~~ **the member:**

(1) attends the meeting; or

(2) executes a written waiver of notice of the time and place of the



meeting.

A written waiver of notice may be executed before or after the meeting, but it must state in general terms the purpose of the meeting if executed after the meeting.

(e) A majority of all the members of a board constitutes a quorum.

(f) A majority vote of all the members of a board is required to pass a resolution.

SECTION 121. IC 36-4-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) A petition to change a city into a town may be filed as a civil action in the circuit court for the county in which the city is located. The petition must be signed by at least two-thirds (2/3) of the taxpayers twenty-one (21) years of age or older who reside in the city.

(b) Whenever a petition is filed under this section, the clerk of the circuit court shall issue a summons to the city in its corporate name. A taxpayer who signed the petition may not withdraw ~~his~~ **the taxpayer's** signature on or after the return date of the summons.

(c) An action under this section shall be tried by the court without a jury, and the only issue to be determined is whether the petition contains the genuine signatures of the number of taxpayers required. If the court finds in the affirmative, it shall enter an order changing the city into a town.

(d) After an order is entered under subsection (c), the executive and the legislative body of the municipality shall organize as a town legislative body, with the executive becoming the town executive, and the remaining officers of the municipality shall exercise only the functions that may be exercised by the corresponding town officers. If none of the functions of a city officer or board is exercised under a town government, that officer or board shall immediately file a final report with and turn over all records and property in ~~his~~ **the officer's** or ~~its~~ **the board's** custody to the town legislative body. After the final report of a former city officer or board is approved by the town legislative body, that office or board is abolished.

(e) The provisional town government provided for in subsection (d) shall serve until the time prescribed by IC 3-10-6-5 for a regular town election.

SECTION 122. IC 36-4-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) If each of the clerks of two (2) or more adjoining municipalities receives a written petition:

(1) signed by at least ten percent (10%) of the qualified voters of the municipality, as determined by the ~~vote~~ **votes** cast in the



municipality for secretary of state at the most recent general election;

(2) requesting that a special election be held to determine whether the municipalities should be merged into one (1) municipality; and

(3) stating the name by which the proposed municipality will be known;

~~he the clerk~~ shall deliver a certified copy of the petition to the clerk of every other municipality involved in the proposed merger, and the respective legislative bodies of the municipalities shall hold an election in each municipality.

(b) An affidavit of one (1) or more freeholders of the municipality, stating that the persons who signed the petition are legal voters of the municipality, must be attached to each petition filed under this section. An affidavit filed under this section is conclusive evidence of the facts stated in the affidavit.

SECTION 123. IC 36-4-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) After an election held under section 3 of this chapter, the election board shall file with the clerk of each municipality the returns of the election in each voting precinct in the manner prescribed by IC 3-12-4.

(b) Within ten (10) days after an election held under section 3 of this chapter, the election board shall certify and file with:

- (1) the legislative bodies of the municipalities; and
- (2) the county auditor;

a copy of the result of the election in each municipality. The county auditor shall enter the copy ~~he the county auditor~~ receives in the records of the county executive.

(c) If, in an election held under section 3 of this chapter, a majority of the votes cast in each of the municipalities is in favor of the merger, the municipalities are merged under the terms prescribed by sections 9 through 17 of this chapter. After the merger becomes effective, the name of the new municipality is the name receiving the highest number of votes at the election.

SECTION 124. IC 36-4-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. Officers elected under section 10 of this chapter are the successors in office of the officers of municipalities merging under this chapter. When the officers elected under section 10 **of this chapter** take office, each officer of the merging municipalities shall deliver to ~~his the officer's~~ successor in office all money, property, and records pertaining to ~~his the~~ office.

SECTION 125. IC 36-4-5-5 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. On reasonable notice of at least three (3) days to the person complained of, the executive shall hear any complaint against a person to whom the city has issued a license, and may issue subpoenas to compel the attendance of witnesses, administer oaths to those witnesses, and require them to testify. To the extent they can be applied, the Indiana rules of procedure, including the right to appear by counsel and to compel the attendance of witnesses for or against persons complained of, apply to proceedings under this section. If the executive finds that the person complained of has wilfully violated a term or condition of **his the person's** license, or has wilfully done or permitted to be done an act in violation of a statute or city ordinance relating to the business licensed, the executive shall revoke or suspend the license. ~~He~~ **The executive** shall file a copy of **his the executive's** findings and determination with the city fiscal officer within twenty-four (24) hours after it is made.

SECTION 126. IC 36-4-5-9, AS AMENDED BY P.L.37-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) The office of executive becomes vacant whenever the executive:

- (1) dies, resigns, or is removed from office;
- (2) ceases to be a resident of the city;
- (3) is convicted of a felony, as provided in IC 5-8-1-38; or
- (4) is unable to discharge the powers and duties of **his the executive's** office for more than six (6) months.

(b) The vacancy shall be filled under IC 3-13-8.

SECTION 127. IC 36-4-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. The legislative body may:

- (1) expel any member for violation of an official duty;
- (2) declare the seat of any member vacant if ~~he~~ **the member** is unable to perform the duties of **his the member's** office; and
- (3) adopt its own rules to govern proceedings under this section.

However, a two-thirds (2/3) vote is required to expel a member or vacate **his the member's** seat.

SECTION 128. IC 36-4-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. The city clerk is the clerk of the legislative body. ~~He~~ **The city clerk** shall:

- (1) preserve the legislative body's records in **his the clerk's** office;
- (2) keep an accurate record of the legislative body's proceedings;
- (3) record the ayes and nays on each vote on an ordinance or resolution;
- (4) record the ayes and nays on other votes when requested to do

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- so by two (2) or more members;
- (5) present ordinances, orders, or resolutions to the city executive under section 15 of this chapter; and
- (6) record ordinances under section 17 of this chapter.

SECTION 129. IC 36-4-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) Within ten (10) days after an ordinance, order, or resolution is presented to ~~him~~, **the city executive**, the city executive shall:

- (1) approve the ordinance, order, or resolution, by entering ~~his~~ **the executive's** approval on it, signing it, and sending the legislative body a message announcing ~~his~~ **the executive's** approval; or
- (2) veto the ordinance, order, or resolution, by returning it to the legislative body with a message announcing ~~his~~ **the executive's** veto and stating ~~his~~ **the executive's** reasons for the veto.

The executive may approve or veto separate items of an ordinance appropriating money or levying a tax.

(b) If the executive fails to perform ~~his~~ **the executive's** duty under subsection (a), the ordinance, order, or resolution is considered vetoed.

(c) Whenever an ordinance, order, or resolution is vetoed by the city executive, it is considered defeated unless the legislative body, at its first regular or special meeting after the ten (10) day period prescribed by subsection (a), passes the ordinance, order, or resolution over ~~his~~ **the executive's** veto by a two-thirds (2/3) vote.

SECTION 130. IC 36-4-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. Money may be paid out of the city treasury only on warrant of the city fiscal officer. Unless a statute provides otherwise, the fiscal officer may draw a warrant against a fund of the city only if:

- (1) an appropriation has been made for that purpose and the appropriation is not exhausted;
- (2) the warrant is for a salary fixed by statute or ordinance;
- (3) the warrant is for a claim allowed under section 5 of this chapter;
- (4) ~~he~~ **the fiscal officer** is ordered to issue the warrant under section 3 of this chapter;
- (5) the warrant is for payment of a judgment that the city must pay; or
- (6) the warrant is for interest due on city bonds.

SECTION 131. IC 36-4-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) A city board or legislative body may order the issuance of warrants for payment of money by the city only at a meeting of the board or legislative body.





(b) A city officer who violates this section forfeits **his the officer's** office.

SECTION 132. IC 36-4-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) The city fiscal officer may audit a claim against the city by examining under oath any officer, agent, or employee of the city or any other person. When acting under this section, the fiscal officer has the same powers as the city legislative body in summoning and examining witnesses.

(b) If the fiscal officer finds that:

- (1) the claim includes an item for which no appropriation has been made;
- (2) there is not a sufficient balance for payment of the claim in the proper fund; or
- (3) the claim should not be approved for any reason;

**he the fiscal officer** may not issue warrants to pay the claim and **he the fiscal officer** shall notify the proper department of the reasons for **his the fiscal officer's** refusal to pay the claim.

SECTION 133. IC 36-4-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) Except as provided in section 14 of this chapter, a city board or legislative body may allow a claim:

- (1) only at a meeting of the board or legislative body; and
- (2) only if the claim was filed in the manner prescribed by IC 5-11-10-2 at least five (5) days before the meeting.

(b) A city officer who violates this section forfeits **his the city officer's** office.

SECTION 134. IC 36-4-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) The compensation fixed for city officers and employees under this title is in full for all governmental services and in lieu of all:

- (1) fees;
- (2) penalties;
- (3) fines;
- (4) interest;
- (5) costs;
- (6) forfeitures;
- (7) commissions; and
- (8) percentages;

which shall be paid into the city treasury each week.

(b) An officer or employee is entitled to **his receive a salary payment** only after **he the officer or employee** presents the city fiscal officer with:

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- (1) a detailed, verified statement of the monies ~~he~~ **the officer or employee** has received since ~~his~~ **the officer's or employee's** most recent statement; and
- (2) a receipt showing payment of those monies to the fiscal officer.

The fiscal officer may prescribe the form of the statement, require officers and employees to submit the statement, and examine persons in regard to the statement.

SECTION 135. IC 36-4-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) One (1) to three (3) days before the vacation leave period of a city officer or employee begins, the city may pay ~~him~~ **the officer or employee** the amount of compensation ~~he~~ **the officer or employee** will earn while ~~he~~ **is** on vacation leave.

(b) Compensation for services paid to a salaried city officer or employee pursuant to a fixed schedule set forth in a written contract or salary ordinance shall not be construed as having been paid in advance. Under such an arrangement, the city shall maintain records to verify that actual work is performed for all salary paid.

SECTION 136. IC 36-4-8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. A city official who recklessly:

- (1) issues a bond, certificate, or warrant for the payment of money in excess of an appropriation; or
- (2) enters into an obligation prohibited by section 12 of this chapter;

commits a Class B misdemeanor and is liable on ~~his~~ **the city official's** official bond to any person injured by ~~his~~ **the city official's** actions.

SECTION 137. IC 36-4-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. The head of the department of law shall:

- (1) manage the legal affairs of the city;
- (2) prosecute violators of city ordinances;
- (3) give legal advice to the officers, departments, boards, commissions, and other agencies of the city;
- (4) draft ordinances or other legal papers for the city and its departments, boards, commissions, and other agencies when requested by the proper officer;
- (5) maintain custody of the records of ~~his~~ **the department head's** office and turn them over to ~~his~~ **the department head's** successor in office;
- (6) make all title searches and examine all abstracts required in



public work of any kind, including opening, widening, or changing a street, alley, or public place;

(7) promptly commence all proceedings necessary or advisable for the protection or enforcement of the rights of the city or the public;

(8) use all diligence to collect costs, fees, and recoveries within the scope of ~~his~~ **the department head's** duties;

(9) report, in writing, to the city executive all matters that ~~he~~ **the department head** considers important; and

(10) report, in writing, to the city fiscal officer all judgments for which the city is liable.

Officers, departments, boards, commissions, and other agencies of the city may not employ attorneys without the authorization of the head of the department of law.

SECTION 138. IC 36-4-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. A department may appoint deputies and other employees at its pleasure, unless a statute provides otherwise. A department may dismiss deputies and other employees, but if thirty (30) days have passed since the department head was appointed, ~~he~~ **the department head** must file with the city clerk a written statement of the reasons for dismissing any employee other than:

(1) a deputy; or

(2) a foreman, inspector, or laborer temporarily employed by the department of public works.

SECTION 139. IC 36-4-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. The city clerk may appoint the number of deputies and employees authorized by the city legislative body. The clerk's deputies and employees serve at ~~his~~ **the clerk's** pleasure.

SECTION 140. IC 36-4-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) This section applies only to second class cities.

(b) The city legislative body may, by ordinance, authorize the city fiscal officer to appoint a deputy. The fiscal officer is responsible for the official acts of ~~his~~ **the fiscal officer's** deputy.

SECTION 141. IC 36-5-1-15, AS AMENDED BY P.L.219-2013, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) On the date named in the notice given under section 14 of this chapter, the town legislative body shall hear and consider:

(1) the petition; and

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(2) all statements presented in favor of or in opposition to granting the petition.

The legislative body shall then decide whether there is sufficient cause to submit the question of dissolving the town or changing its name to the voters of the town.

(b) A petitioner who wants to withdraw **his the petitioner's** name from the petition must do so before the legislative body makes its decision. The legislative body may not count names withdrawn from the petition as part of the total required by section 12 of this chapter.

SECTION 142. IC 36-5-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. The legislative body shall select one (1) of its members to be its president for a definite term, which may not exceed **his the member's** term of office as a member of the legislative body.

SECTION 143. IC 36-5-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The town legislative body or a board of the town may order the issuance of warrants for payment of money by the town only at a meeting of the legislative body or board.

(b) A town officer who violates this section forfeits **his the town officer's** office.

SECTION 144. IC 36-5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) Except as provided in section 12 of this chapter, the town legislative body or a board of the town may allow a claim:

- (1) only at a meeting of the legislative body or board; and
- (2) only if the claim was filed in the manner prescribed by IC 5-11-10-2 at least five (5) days before the meeting.

(b) A town officer who violates this section forfeits **his the town officer's** office.

SECTION 145. IC 36-5-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. One (1) to three (3) days before the vacation leave period of a town officer or employee begins, the town may pay **him the officer or employee** the amount of compensation **he the officer or employee** will earn while **he** is on vacation leave.

SECTION 146. IC 36-5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. Each town officer shall deliver town records and property in **his the town officer's** custody to **his the town officer's** successor in office when that successor qualifies.

SECTION 147. IC 36-5-5-2 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. The town legislative body may employ a town manager to be the administrative head of the town government and may fix **his the manager's** compensation and terms of employment. The manager may be employed to serve:

- (1) at the pleasure of the legislative body; or
- (2) for a definite tenure not to exceed the longest remaining term in office of a member of the legislative body, in which case **he the manager** may be dismissed only for cause.

SECTION 148. IC 36-5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. The manager must, in the manner prescribed by IC 5-4-1, execute a bond for the faithful performance of **his the manager's** duties.

SECTION 149. IC 36-5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. The town legislative body may appoint a qualified person to perform the duties of the manager whenever **he the manager** is absent or unable to perform **his the manager's** duties.

SECTION 150. IC 36-5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. The manager, under the direction of the town legislative body, is responsible for the administrative duties of the legislative body. Unless a written order or ordinance of the legislative body provides otherwise, the manager:

- (1) shall attend the meetings of the legislative body and recommend actions **he the manager** considers advisable;
- (2) shall hire town employees according to the pay schedules and standards fixed by the legislative body or by statute;
- (3) shall suspend, discharge, remove, or transfer town employees, if necessary for the welfare of the town;
- (4) may delegate any of **his the manager's** powers to an employee responsible to **him; the manager;**
- (5) shall administer and enforce all ordinances, orders, and resolutions of the legislative body;
- (6) shall see that all statutes that are required to be administered by the legislative body or a town officer subject to the control of the legislative body are faithfully administered;
- (7) shall prepare budget estimates and submit them to the legislative body when required;
- (8) shall execute contracts on behalf of the town for materials, supplies, services, or improvements, after the completion of the appropriations, notice, and competitive bidding required by statute; and
- (9) may receive service of summons on behalf of the town.

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SECTION 151. IC 36-5-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. The town legislative body shall appoint a town marshal and fix ~~his~~ **the town marshal's** compensation.

SECTION 152. IC 36-5-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. The marshal is the chief police officer of the town and has the powers of other law enforcement officers in executing the orders of the legislative body and enforcing laws. The marshal or ~~his~~ **the marshal's** deputy:

- (1) shall serve all process directed to ~~him~~ **the marshal or deputy** by the town court or legislative body;
- (2) shall arrest without process all persons who commit an offense within ~~his~~ **the marshal's or deputy's** view, take them before a court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;
- (3) shall suppress breaches of the peace;
- (4) may, if necessary, call the power of the town to ~~his~~ **the marshal's or deputy's** aid;
- (5) may execute search warrants and arrest warrants; and
- (6) may pursue and jail persons who commit an offense.

SECTION 153. IC 36-5-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) The town legislative body shall by ordinance fix the number of deputy marshals. The town legislative body may by ordinance authorize the marshal to appoint deputy marshals. Deputy marshals have the powers and liabilities of the marshal in executing the orders of the legislative body or enforcing laws.

(b) One (1) deputy marshal may be designated as the town humane officer. ~~He~~ **The designated deputy** has the duties prescribed by IC 36-8 for city humane officers.

(c) The legislative body shall fix the amount of bond, compensation, and term of service of deputy marshals. The marshal may dismiss a deputy marshal at any time. However, a deputy marshal who has been employed by the town for more than six (6) months after completing the minimum basic training requirements adopted by the law enforcement training board under IC 5-2-1-9 may be dismissed only if the procedure prescribed by section 3 of this chapter is followed.

SECTION 154. IC 36-6-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) Each purchase for the township by the executive must be made on written order of the executive, certifying that sufficient funds have been appropriated to pay the full price of the purchase. The executive shall issue a warrant



and pay for the purchase not later than receipt of the county treasurer's first semiannual distribution following the purchase.

(b) An executive who violates this section commits a Class C infraction and is liable on ~~his~~ **the executive's** official bond for the value of the purchase.

SECTION 155. IC 36-6-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. On the first Monday of each August the executive shall post, in a conspicuous place near ~~his~~ **the executive's** office, a verified statement showing the indebtedness of the township in detail and giving the number and total amount of outstanding orders, warrants, and accounts.

SECTION 156. IC 36-6-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) At the annual meeting of the township legislative body under IC 36-6-6-9 the executive shall present a complete report of all receipts and expenditures of the preceding calendar year, including the balance to the credit of each fund controlled by the executive. If the executive controls any money that is not included in a particular fund, then the executive shall state all the facts concerning that money in the report.

(b) Each item of expenditure must be accompanied by the verified voucher of the person to whom the sum was paid, stating:

- (1) why the payment was made;
- (2) that the receipt is for the exact sum received;
- (3) that no part of the sum has been retained by the executive; and
- (4) that no part of the sum has been or is to be returned to the executive or any other person.

The executive may administer oaths to persons giving these receipts.

(c) The executive shall swear or affirm that:

- (1) the report shows all sums received by ~~him~~; **the executive**;
- (2) the expenditures credited have been fully paid in the sums stated, without express or implied agreement that any part of the sums is to be retained by or returned to the executive or any other person; and
- (3) the executive has received no money or other property in consideration of any contract entered into on behalf of the township.

(d) Within ten (10) days after the legislative body's action under IC 36-6-6-9, the executive shall file a copy of the report and its accompanying vouchers, as adopted by the legislative body, in the county auditor's office. The legislative body may, for the benefit of the township, bring a civil action against the executive if the executive fails to file the report within ten (10) days after the legislative body's action.



The legislative body may recover five dollars (\$5) for each day beyond the time limit for filing the report, until the report is filed.

SECTION 157. IC 36-6-4-13, AS AMENDED BY P.L.166-2014, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) When the executive prepares the annual report required by section 12 of this chapter, the executive shall also prepare, on forms prescribed by the state board of accounts, an abstract of receipts and expenditures:

- (1) showing the sum of money in each fund of the township at the beginning of the year;
- (2) showing the sum of money received in each fund of the township during the year;
- (3) showing the sum of money paid from each fund of the township during the year;
- (4) showing the sum of money remaining in each fund of the township at the end of the year;
- (5) containing a statement of receipts, showing their source; and
- (6) containing a statement of expenditures, showing the combined gross payment, according to classification of expense, to each person.

(b) Within four (4) weeks after the third Tuesday following the first Monday in February, the executive shall publish the abstract prescribed by subsection (a) in accordance with IC 5-3-1. The abstract must state that a complete and detailed annual report and the accompanying vouchers showing the names of persons paid money by the township have been filed with the county auditor, and that the ~~chairman~~ **chair** of the township legislative body has a copy of the report that is available for inspection by any taxpayer of the township.

(c) An executive who fails to comply with this section commits a Class C infraction.

SECTION 158. IC 36-6-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. When ~~his~~ **the executive's** term of office expires, the ~~former~~ **former** executive shall:

- (1) immediately deliver to the new executive custody of all funds and property of the township, except records necessary in the preparation of ~~his~~ **the former executive's** annual report;
- (2) deliver to the new executive, not later than the second Monday in the next January, ~~his~~ **the former executive's** annual report and any records ~~he~~ **the former executive** has retained; and
- (3) attend the annual meeting of the township legislative body held under IC 36-6-6-9 and submit to inquiries from the legislative body concerning the operation of the executive's office





during the preceding calendar year.

SECTION 159. IC 36-6-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) If the executive resigns or dies, ~~he the former executive~~ or ~~his the former executive's~~ personal representative shall immediately deliver to the new executive custody of all funds and property of the township. The new executive shall then issue a call for a special meeting of the township legislative body, to be held not more than fifteen (15) days later. At the special meeting the legislative body shall:

- (1) examine the records of the township;
- (2) inquire into the conduct of the executive's office; and
- (3) approve in whole or in part the records, receipts, and expenditures of the township to the date of death or resignation of the former executive.

(b) In ~~his the new executive's~~ annual report to the legislative body, the new executive shall distinguish between ~~his the new executive's~~ transactions and those of the former executive. The legislative body need not, at its annual meeting under IC 36-6-6-9, review items in the report that were considered at the special meeting.

SECTION 160. IC 36-6-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) Within thirty (30) days after taking office, the executive shall designate a person who shall perform the executive's duties whenever the executive is incapable of performing the executive's functions because the executive:

- (1) is absent from the township; or
- (2) becomes incapacitated.

The executive shall give notice of the designation to the ~~chairman~~ **chair** of the township legislative body, the county sheriff, and any other persons that the executive chooses. The designee shall have all the powers of the executive. The executive is responsible for all acts of the designee. The executive may change the designee under this section at any time.

- (b) The designee shall perform the executive's duties until:
- (1) the executive is no longer absent from the township; or
  - (2) an acting executive is appointed by the county executive under section 16 of this chapter.

SECTION 161. IC 36-6-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) The legislative body shall meet at the office of the executive on the first Tuesday after the first Monday in January of each year. At this meeting the legislative body shall elect one (1) member as ~~chairman~~ **chair** for that year and



one (1) member as secretary for that year.

(b) If a newly elected legislative body holds a special meeting before the first Tuesday after the first Monday in the January following its election, it shall elect a ~~chairman~~ **chair** and a secretary before conducting any other business. The ~~chairman~~ **chair** and secretary elected at the special meeting retain those positions until the first Tuesday after the first Monday in January of the year following the special meeting.

SECTION 162. IC 36-6-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. The legislative body shall keep a permanent record of its proceedings in a book furnished by the executive. The secretary of the legislative body shall, under the direction of the legislative body, record the minutes of the proceedings of each meeting in full and shall provide copies of the minutes to each member of the legislative body before the next meeting is convened. After the minutes are approved by the legislative body, the secretary of the legislative body shall place the minutes in the permanent record book. The ~~chairman~~ **chair** of the legislative body shall retain the record in ~~his~~ **the chair's** custody.

SECTION 163. IC 36-6-6-9, AS AMENDED BY P.L.6-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) The legislative body shall meet on or before the third Tuesday after the first Monday in February of each year. At this meeting it shall consider and approve, in whole or in part, the annual report of the executive presented under IC 36-6-4-12.

(b) The legislative body may send for persons, books, and papers necessary in the examination of the report. A member may administer oaths necessary in the examination of the report.

(c) Any sum in the control of the executive that remains unexpended and is subject to no liability shall be credited in favor of the fund for which it was appropriated.

(d) Any fund expended, in whole or in part, for a purpose for which it was not appropriated shall be considered unexpended and in the control of the executive, who is liable on the executive's bond for such an expenditure.

(e) When its examination of the report is completed, the legislative body shall take action on the report, specifying the parts of the report that are altered or disallowed. The report remains under the control of the legislative body and in **the** custody of its ~~chairman,~~ **chair**, who shall keep it open to inspection by taxpayers of the township.

SECTION 164. IC 36-6-6-13.5, AS ADDED BY P.L.146-2008, SECTION 714, IS AMENDED TO READ AS FOLLOWS

**SEA 505 — Concur**



[EFFECTIVE JULY 1, 2017]: Sec. 13.5. (a) A special meeting may be held by the legislative body if the executive, the ~~chairman~~ **chair** of the legislative body, or a majority of the members of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the time, place, and purpose of the meeting.

(b) The legislative body may consider any matter at a special meeting. However, the only matters that may be acted on at the special meeting are the matters set forth in the notice.

SECTION 165. IC 36-6-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. An officer of a township may appoint and remove all deputies and other employees in ~~his~~ **the officer's** office, shall appoint deputies and other employees necessary for the proper discharge of ~~his~~ **the officer's** duties, and is responsible for the official acts of ~~his~~ **the officer's** deputies and other employees.

SECTION 166. IC 36-6-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. The legislative body shall make annual appropriations for assistants in township offices. Payments shall be made to assistants on vouchers verified by the claimant and approved by the officer in whose office ~~he~~ **the assistant** is employed.

SECTION 167. IC 36-6-8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) A member of the township legislative body who holds office for a fraction of any year is entitled to a proportionate fraction of the annual salary.

(b) A member of the township legislative body who holds office on December 31 of any year is entitled to ~~his~~ **the member's** salary on that day.

(c) A member of the township legislative body who leaves office before December 31 of any year is entitled to ~~his~~ **the member's** salary on the day ~~he~~ **the member** leaves office.

SECTION 168. IC 36-7-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) A person who lays out:

- (1) a town;
- (2) an addition to a municipality; or
- (3) a subdivision of lots or lands within the corporate boundaries of a municipality;

shall record a correct plat of the town, addition, or subdivision in the office of the recorder of the county before selling any lots in the town, addition, or subdivision. The plat must show public grounds, public



ways, and the length, width, and size of each lot. Lots shown on the plat must be regularly numbered.

(b) Every donation or grant to the public, or to any person, that is noted as such on the plat, is considered a general warranty to the donee or grantee named on the plat, for the purposes intended by the donor or grantor.

(c) Before offering a plat for record under this section, a person must acknowledge it before an officer authorized by law to take and certify acknowledgments of deeds. The plat may be recorded only if it is made and acknowledged in the manner prescribed by this section.

(d) Before a person offers a plat for recording under this section, ~~he~~ **the person** must submit it for the approval of:

- (1) the advisory plan commission that has jurisdiction over the platted area under IC 36-7-4; or
- (2) the municipal works board, if no advisory plan commission has jurisdiction over the platted area under IC 36-7-4.

The advisory plan commission or works board shall approve or disapprove the plat, and may require the public ways shown in the plat to be as wide as, and coterminous with, the public ways in contiguous parts of the municipality. The county recorder may record the plat only if a certificate showing the approval of the plan commission or works board is attached to it. If the record of a plat is not executed and approved as required by this subsection, it is void.

SECTION 169. IC 36-7-4-210 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 210. (a) AREA. In a county where there are two (2) or more towns having a population of not more than two thousand one hundred (2,100) neither of which has a representative on the area plan commission under section 207(c)(7) of this chapter that are participating in an area planning department, there is established an advisory council on town affairs. Each participating legislative body of such a town shall select one (1) of its members as its representative on the advisory council. The advisory council shall meet as soon as possible after the establishment of the planning department. It shall meet in the town hall of the participating town having the largest population, on the call of the representative of that town, who shall act as ~~chairman~~ **chair** of the first meeting. Thereafter, the council shall elect its own ~~chairman~~ **chair**.

(b) AREA. The advisory council shall at its first meeting select from its membership an appropriate number of voting representatives to the area plan commission. If the advisory council is composed of five (5) **members** or less, it is entitled to one (1) voting representative on the area plan commission. If the advisory council is composed of more



than five (5) **members**, it is entitled to two (2) voting representatives on the area plan commission.

(c) AREA. The ~~chairman~~ **chair** and the representatives on the advisory council shall be elected for one (1) year terms, terminating at the end of the year.

(d) AREA. If there are not any cities located within a county, then the town having the largest population and participating in the planning department in the county shall select a citizen member to serve on the area plan commission. The legislative body of that town shall appoint that member as prescribed by section 218(e) of this chapter.

SECTION 170. IC 36-7-4-212 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 212. ADVISORY. The clerk of the municipal legislative body and the secretary of the park board shall certify members appointed by their respective bodies, and the executive shall certify ~~his~~ **the executive's** appointments. The certificates shall be sent to and made a part of the records of the municipal plan commission.

SECTION 171. IC 36-7-4-218 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 218. (a) When an initial term of office of a citizen member expires, each new appointment of a citizen member is:

- (1) for a term of four (4) years (in the case of a municipal, county, or area plan commission);
- (2) for a term of three (3) years (in the case of a metropolitan plan commission); or
- (3) for a term of one (1), two (2), or three (3) years, as designated by the appointing authority (in the case of the metropolitan development commission).

A member serves until ~~his~~ **the member's** successor is appointed and qualified. A member is eligible for reappointment.

(b) ADVISORY. Upon the establishment of a nine (9) member municipal plan commission, the citizen members shall initially be appointed for the following terms of office:

- (1) One (1) for a term of two (2) years.
- (2) Two (2) for a term of three (3) years.
- (3) Two (2) for a term of four (4) years.

Upon the establishment of a seven (7) member municipal plan commission, two (2) citizen members shall initially be appointed for a term of three (3) years and two (2) shall initially be appointed for a term of four (4) years. Each member's term expires on the first Monday of January of the second, third, or fourth year, respectively, after the year of the member's appointment.



(c) **ADVISORY.** Upon the establishment of a county plan commission, the citizen members shall initially be appointed for the following terms of office:

- (1) One (1) for a term of one (1) year.
- (2) One (1) for a term of two (2) years.
- (3) One (1) for a term of three (3) years.
- (4) Two (2) for a term of four (4) years.

Each member's term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment.

(d) **ADVISORY.** Upon the establishment of a metropolitan plan commission, the citizen members shall initially be appointed for the following terms of office:

- (1) Three (3) for a term of one (1) year, one (1) appointed by the county legislative body and two (2) by the city executive.
- (2) Two (2) for a term of two (2) years, one (1) by each appointing authority.
- (3) Two (2) for a term of three (3) years, one (1) by each appointing authority.

(e) **AREA.** If there is one (1) citizen member on the area plan commission, ~~his~~ **the member's** initial term of office is one (1) year. If there are two (2) citizen members, one (1) shall be appointed for a term of one (1) year and one (1) for a term of two (2) years. If there are three (3) or more citizen members, one (1) shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and any remainder for a term of four (4) years. Each member's term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment.

(f) **ADVISORY–AREA.** The appointing authority may remove a member from the plan commission for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at ~~his~~ **the member's** residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the circuit or superior court of the county. The court may, pending the outcome of the appeal, order the removal or stay the removal of the member.

(g) **METRO.** The appointing authority may remove a citizen member from the metropolitan development commission. The appointing authority must mail notice of the removal, along with written reasons, if any, for the removal, to the member at ~~his~~ **the member's** residence address. A member who is removed may not



appeal the removal to a court or otherwise.

SECTION 172. IC 36-7-4-701 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 701. (a) The legislative body shall, in the zoning ordinance adopted under the 600 series of this chapter, determine the zoning districts in which subdivision of land may occur.

(b) The plan commission shall then recommend to each participating legislative body an ordinance containing provisions for subdivision control, which ordinance shall be adopted, amended, or repealed in the same manner as the zoning ordinance. After the subdivision control ordinance has been adopted and a certified copy of the ordinance has been filed with the county recorder, the plan commission has exclusive control over the approval of all plats and replats involving land covered by the subdivision control ordinance, subject to subsection (c) and subsection (f).

(c) ADVISORY. The municipal plan commission has exclusive control over the approval of plats and replats involving unincorporated land within its jurisdiction, unless the legislative body of the county has adopted a subdivision control ordinance covering those lands. In this case, the county plan commission has exclusive control over the approval.

(d) The subdivision control ordinance may provide that the subdivision of land that does not involve the opening of a new public way and that complies in all other respects with the subdivision control ordinance and the zoning ordinance may be granted primary approval by the plat committee without public notice and hearing, subject to appeal to the plan commission. Within ten (10) days after primary approval under this subsection, the plan commission staff shall provide for due notice to interested parties of their right to appeal to the plan commission. The notice shall be given in the manner set forth in section 706(2) and 706(3) of this chapter.

(e) The plan commission may appoint a plat committee to hold hearings on and approve plats and replats on behalf of the commission. The plat committee consists of three (3) or five (5) persons, with at least one (1) of the members being a member of the commission. Each appointment of a member of the plat committee is for a term of one (1) year, but the commission may remove a member from the committee. The commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at **his the member's** residence address. A member who is removed may not appeal the removal to a court or otherwise. The plat committee may take action only by a majority vote.

SEA 505 — Concur



(f) AREA. A participating legislative body may, in the subdivision control ordinance, reserve to itself the power to waive any condition that is imposed upon primary approval of a plat by the plan commission under section 702 of this chapter. The legislative body shall prescribe the procedure under which a person may apply for a waiver of a condition under this subsection.

SECTION 173. IC 36-7-4-803 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 803. (a) AREA–METRO. As an additional means of insuring the enforcement of a zoning or subdivision ordinance, a legislative body may adopt, as a part of either ordinance or by separate ordinance, provisions requiring building contractors to furnish an annual bond of one thousand dollars (\$1,000). This bond is to insure that if the construction does not comply with the zoning or subdivision ordinance that it can be made to conform without cost to the municipality, the county, or the person for whom the construction was undertaken.

(b) METRO. An ordinance under subsection (a) may also require professional engineers and land surveyors to furnish an annual bond of one thousand dollars (\$1,000) to insure that their plans and surveys conform to the zoning or subdivision ordinance.

(c) METRO. A person constructing a building for **his the person's** own use and occupancy as a residence or in connection with **his the person's** residence is exempt from any provisions adopted under subsection (a).

SECTION 174. IC 36-7-4-804 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 804. (a) METRO. After a building contractor violates a zoning or subdivision ordinance three (3) times in a calendar year, **he the contractor** is ineligible to receive an improvement location or building permit for one (1) year, beginning on the date of the third violation. Whenever a person for whom a structure is to be built applies for a permit, **he the person** must disclose under the penalties for perjury the identity of **his the person's** contractor; **such a the** person is eligible to receive a permit only if **his the person's** contractor is eligible.

(b) METRO. A determination by the metropolitan development commission, after a hearing at which the contractor may be represented by counsel and may present evidence, is conclusive evidence of a violation under subsection (a).

SECTION 175. IC 36-7-4-906 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 906. (a) ADVISORY–AREA. When an initial term of office expires, each new appointment is for a term of four (4) years.





(b) ADVISORY–AREA. Upon the establishment of a division of the board of zoning appeals, the members shall initially be appointed as provided in the zoning ordinance for the following terms of office:

- (1) One (1) for a term of one (1) year.
- (2) One (1) for a term of two (2) years.
- (3) One (1) for a term of three (3) years.
- (4) Two (2) for a term of four (4) years.

(c) ADVISORY–AREA. Under subsection (b), each term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment.

(d) METRO. Each appointment of a member of a division of a board of zoning appeals is for a term of one (1) year.

(e) METRO. The appointing authority may remove a member from the metropolitan board of zoning appeals. The appointing authority must mail notice of the removal, along with written reasons, if any, for the removal, to the member at ~~his~~ **the member's** residence address. A member who is removed may not appeal the removal to a court or otherwise.

(f) ADVISORY–AREA. The appointing authority may remove a member from the board of zoning appeals for cause. The appointing authority must mail notice of the removal, along with written reasons for the removal, to the member at ~~his~~ **the member's** residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the circuit or superior court of the county.

(g) A member of a board of zoning appeals serves until ~~his~~ **the member's** successor is appointed and qualified. A member is eligible for reappointment.

SECTION 176. IC 36-7-4-912 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 912. At the first meeting of each year, the board of zoning appeals shall elect a ~~chairman~~ **chair** and vice ~~chairman~~ **chair** from its members. The vice ~~chairman~~ **chair** may act as ~~chairman~~ **chair** during the absence or disability of the ~~chairman~~ **chair**.

SECTION 177. IC 36-7-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) The legislative bodies of all the counties in a region may, by concurrent resolutions, request the establishment of a regional planning commission (referred to as a "commission" in this chapter). Official copies of the resolutions must be forwarded to the governor, who shall then appoint himself **or herself**, or a member of ~~his~~ **the governor's** staff to immediately notify the other members of the commission and to act as temporary ~~chairman~~



**chair** for the election of officers. The commission shall, by resolution, designate a name for itself that reflects the commission's role and function and that may include the words "Regional Planning Commission".

(b) This subsection applies to each commission established after July 1, 1978. A county participating in a commission is not subject to the tax imposed under section 12 of this chapter, unless all the concurrent resolutions establishing the commission accept the application of the tax.

SECTION 178. IC 36-7-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) A county may request a change in its participation from one **(1)** commission to another, or request to join a commission if it is not participating, under subsection (b).

(b) The legislative body of the county must, by resolution, request the inclusion of the county in the commission. The county auditor shall transmit a copy of the resolution to the governor, the ~~chairman~~ **chair** of the commission, and, if applicable, the ~~chairman~~ **chair** of the commission that the county is requesting to leave.

(c) The commission to be joined may consider a request under subsection (b). It may, by a majority vote of all its members, adopt a resolution including the requesting county in the commission.

(d) Whenever a resolution is adopted under subsection (c), the ~~chairman~~ **chair** of the commission shall call a meeting to organize the enlarged commission. ~~He~~ **The chair** shall call to this meeting all members of the commission plus:

- (1) if the new county is changing its participation from one **(1)** commission to another, the persons from that county who served on the commission that the county is leaving; or
- (2) if the new county has not been participating, a representative of the executive of that county.

SECTION 179. IC 36-7-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) At its first regular meeting in each year the commission shall elect from its members a ~~chairman, chair,~~ vice ~~chairman, chair,~~ secretary, and a treasurer, not more than two (2) of whom may be from the same county. If the region is divided into subregions under section 10 of this chapter, there must be at least one (1) officer from each subregion. The vice ~~chairman~~ **chair** may act as ~~chairman~~ **chair** during the absence or disability of the ~~chairman.~~ **chair.**

(b) The commission shall fix the time and place for holding regular meetings, but it shall meet at least quarterly and at such other times as



may be established by the commission or the executive board. Special meetings of the commission may be called by the ~~chairman~~ **chair** or by five (5) members of the commission upon written request to the secretary. The secretary shall send to all the members at least forty-eight (48) hours in advance of a special meeting a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the time of the special meeting has been fixed in a regular meeting, or if all the members are present at the special meeting. Notice of any meeting may be waived by a member by a written waiver filed with the secretary.

(c) The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which is a public record.

(d) A majority of members constitutes a quorum. An action of the commission is official, however, only if it is authorized by a majority of the commission at a regular or properly called special meeting with at least one (1) member from each county in the region present.

SECTION 180. IC 36-7-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) A commission may organize into not more than two (2) subregions and provide for the organization of two (2) subregional planning committees, and for meetings and rules of procedure of those committees. These rules of procedure shall be adopted as a part of the rules and bylaws of the commission.

(b) The actions of each subregional committee shall be referred to the other for review. The executive director and staff of the commission shall serve both subregional committees. Each subregional committee shall consider problems that do not directly affect the other subregion. Each subregional committee may hold meetings and elect a ~~chairman~~ **chair** and secretary from among its own members.

SECTION 181. IC 36-7-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) The commission shall appoint an executive director who shall serve at the pleasure of the commission as reviewed and recommended by the executive board. The executive director must be qualified by training and experience in the management of public agencies and knowledgeable in planning.

(b) The executive director is the chief administrative officer and regular technical advisor of the commission. Subject to supervision by the commission, the executive director:

- (1) shall execute the commission functions;
- (2) shall appoint and remove the staff of the commission;
- (3) shall submit to the commission annually, or more often if



- required, a status report on the operation of the agency;
- (4) may, with the approval of the executive board, execute contracts, leases, or agreements on behalf of the commission with other persons;
- (5) is entitled, upon ~~his~~ **the executive director's** written request, to be given access by all governmental agencies to all studies, reports, surveys, records, and other information and material in their possession that are required by ~~him~~ **the executive director** for the accomplishment of the activities and objectives of the commission;
- (6) shall propose annually a budget for the operation of the commission and administer the budget as approved by the commission;
- (7) shall keep the records and care for and preserve all papers and documents of the commission; and
- (8) shall perform other duties and may exercise other powers that the commission or the executive board delegates to ~~him~~ **the executive director**.

SECTION 182. IC 36-7-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) The commission shall prepare and adopt an annual appropriation budget for its operation, which shall be apportioned to each participating county on a pro rata per capita basis. After adoption, any amount that does not exceed an amount for each participating county equal to thirty cents (\$0.30) per capita shall be certified to the respective county auditor who shall advertise the amount and establish the rate in the same manner as other county budgets. Any amount of the adopted budget that exceeds an amount equal to thirty cents (\$0.30) per capita for each participating county is subject to review by the county fiscal body in the usual manner of budget review. The tax so levied and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax, as collected by the county treasurer, shall be transferred to the commission.

(b) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from the federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

SEA 505 — Concur



(c) After approval no sums may be expended except as budgeted unless the commission authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance, for payment as provided by law.

(d) Any two (2) of the following officers may allow claims:

- (1) ~~Chairman.~~ **Chair.**
- (2) Vice ~~chairman.~~ **chair.**
- (3) Secretary.
- (4) Treasurer.

The treasurer of the commission may receive, disburse, and otherwise handle funds of the commission subject to applicable statutes and procedures established by the commission.

(e) The commission shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(f) Any appropriated money remaining unexpended or unencumbered at the end of the year becomes part of a nonreverting cumulative fund to be held in the name of the commission. Unbudgeted expenditures from this fund may be authorized by vote of the commission and upon other approval as required by statute. The commission is responsible for the safekeeping and deposit of such sums, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the commission. The books, records, and accounts of the commission shall be periodically audited by the state board of accounts, and these audits shall be paid for as provided by statute.

SECTION 183. IC 36-7-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. A person aggrieved by a decision of the county department of buildings or other regulating agency under this chapter may appeal as in other civil actions. The appellant must, by registered mail, give the county executive a fifteen (15) day written notice of ~~his~~ **the appellant's** intention to appeal. The notice must concisely state the appellant's grievance.

SECTION 184. IC 36-7-11-4, AS AMENDED BY P.L.119-2012, SECTION 200, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) A unit may establish, by ordinance, a historic preservation commission with an official name designated in the ordinance. The commission must have not less than three (3) nor more than nine (9) voting members, as designated by the ordinance. The voting members shall be appointed by the executive of the unit, subject to the approval of the legislative body. Voting members shall each serve for a term of three (3) years. However, the



terms of the original voting members may be for one (1) year, two (2) years, or three (3) years in order for the terms to be staggered, as provided by the ordinance. A vacancy shall be filled for the duration of the term. In the case of a commission with jurisdiction in a city having a population of more than one hundred thousand (100,000) but less than one hundred ten thousand (110,000), the commission must after June 30, 2001, include as a voting member the superintendent of the largest school corporation in the city.

(b) The ordinance may provide qualifications for members of the commission, but members must be residents of the unit who are interested in the preservation and development of historic areas. The members of the commission should include professionals in the disciplines of architectural history, planning, and other disciplines related to historic preservation, to the extent that those professionals are available in the community. The ordinance may also provide for the appointment of advisory members that the legislative body considers appropriate.

(c) The ordinance may:

- (1) designate an officer or employee of the unit to act as administrator;
- (2) permit the commission to appoint an administrator who shall serve without compensation except reasonable expenses incurred in the performance of the administrator's duties; or
- (3) provide that the commission act without the services of an administrator.

(d) Members of the commission shall serve without compensation except for reasonable expenses incurred in the performance of their duties.

(e) The commission shall elect from its membership a ~~chairman~~ **chair** and vice ~~chairman~~ **chair**, who shall serve for one (1) year and may be reelected.

(f) The commission shall adopt rules consistent with this chapter for the transaction of its business. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. All meetings of the commission must be open to the public, and a public record of the commission's resolutions, proceedings, and actions must be kept. If the commission has an administrator, the administrator shall act as the commission's secretary, otherwise, the commission shall elect a secretary from its membership.

(g) The commission shall hold regular meetings, at least monthly, except when it has no business pending.

(h) A final decision of the commission is subject to judicial review



under IC 36-7-4 as if it were a final decision of a board of zoning appeals.

SECTION 185. IC 36-7-11.2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 26. The commission member who is an employee of the department of metropolitan development serves as ~~chairman~~ **chair** of the commission.

SECTION 186. IC 36-7-11.2-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 32. (a) The ~~chairman~~ **chair** of the commission:

- (1) may, in the ~~chairman's~~ **chair's** discretion; or
- (2) shall, at the written request of at least two (2) members of the commission;

call a special meeting of the commission to consider or determine a matter for which a petition has been filed.

(b) The meeting shall be scheduled for a date:

- (1) not less than thirty (30); and
- (2) not more than forty-five (45);

days after the filing of the petition.

SECTION 187. IC 36-7-11.2-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 33. For good cause shown the ~~chairman~~ **chair** of the commission may, at or before a regular or special meeting, continue any matter docketed for consideration or determination at the meeting until:

- (1) the next regular meeting of the commission; or
- (2) a special meeting set for a date not more than thirty (30) days following the date of the meeting for which the matter was previously docketed.

SECTION 188. IC 36-7-11.2-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 36. (a) A member of the commission is not disqualified from hearing and voting upon a matter coming before the commission because the member:

- (1) owns or occupies a Meridian Street or bordering property; or
- (2) belongs to a neighborhood association.

(b) A member of the commission may abstain from voting on a matter if the member states the reasons in the record.

(c) A member of the commission is disqualified from voting if:

- (1) the member is an owner or occupant of:
  - (A) the subject property; or
  - (B) Meridian Street or bordering property of which a part lies within one hundred (100) feet of the subject property; or
- (2) the member is a person described by section 56(a)(2)(D) of this chapter.



(d) If by virtue of the abstention of a member of the commission there is not present at a hearing upon a matter at least six (6) members of the commission able to vote on the matter, the **chairman chair** shall redocket the matter for a hearing or rehearing at:

- (1) the next regular meeting of the commission; or
- (2) a special meeting set for a date not more than thirty (30) days following the date of the meeting at which the matter was or was to be heard.

SECTION 189. IC 36-7-11.3-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 26. (a) The **chairman chair** of the commission:

- (1) may, in the **chairman's chair's** discretion; or
- (2) shall, at the written request of at least two (2) members of the commission;

call a special meeting of the commission to consider or determine a matter for which a petition has been filed.

(b) The meeting shall be scheduled for a date:

- (1) not less than thirty (30); and
- (2) not more than forty-five (45);

days after the filing of the petition.

SECTION 190. IC 36-7-11.3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 27. For good cause shown, the **chairman chair** of the commission may, at or before a regular or special meeting, continue any matter docketed for consideration or determination at the meeting until:

- (1) the next regular meeting of the commission; or
- (2) a special meeting set for a date not more than thirty (30) days following the date of the meeting for which the matter was previously docketed.

SECTION 191. IC 36-7-11.3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 30. (a) A member of the commission is not disqualified from hearing and voting upon a matter coming before the commission because the member:

- (1) owns or occupies primary or secondary property; or
- (2) belongs to a neighborhood association.

(b) A member of the commission may abstain from voting on a matter if the member states reasons in the record.

(c) A member of the commission is disqualified from voting if:

- (1) the member is an owner or occupant of:
  - (A) the subject property; or
  - (B) primary or secondary property of which a part lies within one hundred (100) feet of the subject property; or





(2) the member is a person described by section 50(a)(2)(D) of this chapter.

(d) If by virtue of the abstention of a member of the commission there is not present at a hearing upon a matter at least six (6) members of the commission able to vote on the matter, the ~~chairman~~ **chair** shall redocket the matter for a hearing or rehearing at:

- (1) the next regular meeting of the commission; or
- (2) a special meeting set for a date not more than thirty (30) days following the date of the meeting at which the matter was or was to be heard.

SECTION 192. IC 36-7-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) After the adoption of an ordinance establishing a department of economic development, the clerk of the fiscal body establishing the department shall promptly notify the executives and fiscal bodies required to make selections and nominations by this chapter. The officers required to make selections and nominations shall do so within fifteen (15) days after receiving that notice. Each selectee and nominee shall be appointed by the appropriate executive officer within ten (10) days after ~~he the executive officer~~ receives the ~~nominations~~ **nomination**.

(b) At the expiration of the respective terms of each of the original economic development commissioners, their respective successors shall be selected and nominated, before the expiration of the term, in the same manner as the original commissioner, and each succeeding commissioner shall serve for a term of four (4) years. A commissioner shall hold over after the expiration of ~~his the commissioner's~~ term until ~~his the commissioner's~~ successor is appointed and has qualified.

SECTION 193. IC 36-7-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) If a fiscal body fails to make a nomination within the time specified by section 9 of this chapter, the executive may select and appoint a person without a nomination.

(b) If a person appointed as an economic development commissioner fails to take the oath of office required by section 11 of this chapter within ten (10) days after the notice of ~~his the~~ appointment is mailed to ~~him~~ **the person**, or if any commissioner, after qualifying, dies, resigns, vacates ~~his the commissioner's~~ office, or is removed from office, a new commissioner shall be appointed to fill the vacancy in the same manner as the commissioner in respect to whom the vacancy occurs was appointed. A commissioner appointed under this subsection shall serve for the remainder of the vacated term.

SECTION 194. IC 36-7-12-11 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. Before beginning ~~his~~ **the economic development commissioner's** duties, each economic development commissioner, shall take and subscribe an oath of office in the usual form, to be indorsed upon the certificate of ~~his~~ **the economic development commissioner's** appointment. The certificate shall be promptly filed with the clerk of the fiscal body that established the department.

SECTION 195. IC 36-7-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) An economic development commission shall meet within thirty (30) days after its original appointment, at a time and place designated by the executive of the unit, for the purpose of organization, and shall meet to reorganize in February of each succeeding year.

(b) At the meeting required by subsection (a), an economic development commission shall elect one (1) of its members as president, one (1) as vice president, and one (1) as secretary. Each officer shall serve from the date of ~~his~~ **the officer's** election until January 31 after ~~his~~ **the officer's** election, and until ~~his~~ **the officer's** successor is elected and qualified.

SECTION 196. IC 36-7-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. An economic development commissioner may be removed from office for neglect of duty, incompetency, inability to perform ~~his~~ **the commissioner's** duties, or any other good cause, by the executive or fiscal body that selected or nominated ~~him~~ **the commissioner**. The commissioner removed may obtain judicial review of the removal by filing a complaint in a circuit or superior court in the county, and the burden of proof is upon the executive or fiscal body that removed the commissioner. The cause shall be placed on the advanced calendar and be tried as other civil causes are tried by the court, without a jury. The court's judgment may be appealed in the same manner as any civil action.

SECTION 197. IC 36-7-12-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. An economic development commissioner is not entitled to any salary, but is entitled to:

- (1) reimbursement for expenses necessarily incurred in the performance of ~~his~~ **the commissioner's** duties; and
- (2) a per diem allowance for each day ~~he~~ **the commissioner** attends a commission meeting, if that allowance:
  - (A) does not exceed the per diem allowance for members of the general assembly; and

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(B) is authorized by the fiscal body that established the commission.

SECTION 198. IC 36-7-12-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) An economic development commissioner shall disclose any pecuniary interest in any employment, financing agreement, or other contract made under this chapter before any action by the commission on it, and shall not vote on any such matter.

(b) Notwithstanding any other law, a member of the fiscal body of a unit may have a pecuniary interest in any employment, financing agreement, or other contract made under this chapter if ~~he~~ **the member** discloses ~~his~~ **the member's** pecuniary interest before any action by the fiscal body on it and does not vote on any such matter.

(c) If any property in which an economic development commissioner or member of a fiscal body of a unit has a pecuniary interest is property required for the purposes of this chapter, that property may be acquired, but only by gift or condemnation.

SECTION 199. IC 36-7-12-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 23. (a) The economic development commission shall prepare a report that:

- (1) briefly describes the proposed economic development or pollution control facilities;
- (2) estimates the number and expense of public works or services that would be made necessary or desirable by the proposed facilities, including public ways, schools, water, sewers, street lights, and fire protection;
- (3) estimates the total project costs of the proposed facilities;
- (4) for economic development facilities, estimates the number of jobs and the payroll to be created or saved, or describes the public benefits provided by a waterworks facility; and
- (5) for pollution control facilities, describes the facilities and how they will abate, reduce, or prevent pollution.

(b) The report shall be submitted to the executive director or ~~chairman~~ **chair** of the plan commission, if any, and if the number of new jobs estimated exceeds one hundred (100), to the superintendent of the school corporation where the facilities will be located. The executive director or ~~chairman~~ **chair** of the plan commission and the school superintendent may formulate their written comments concerning the report and transmit their comments, if any, to the commission within five (5) days from the receipt of the report.

(c) In the case of a program financing under section 18.5 of this chapter, the requirements of this section need be complied with only



when and as a condition precedent to financing proposed economic development or pollution control facilities from the program funds.

SECTION 200. IC 36-7-12-27.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 27.5. (a) If an attorney represents an economic development commission, neither ~~he~~ **the attorney** nor a member of ~~his~~ **the attorney's** firm or professional corporation may also represent an applicant for a bond issue from the commission.

(b) A person who violates this section commits a Class A misdemeanor.

SECTION 201. IC 36-7-13.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) The commission:

- (1) shall fix the time for regular meetings; and
- (2) may hold special meetings on call of the ~~chairman~~ **chair** 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.

SECTION 202. IC 36-7-13.5-14, AS AMENDED BY P.L.197-2011, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. (a) The commission shall elect the following officers from among the voting members of the commission:

- (1) A ~~chairman~~ **chair**.
- (2) A vice ~~chairman~~ **chair**.
- (3) A treasurer.

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

SECTION 203. IC 36-7-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) Each redevelopment commissioner shall serve for one (1) year from the first day of January after ~~his~~ **the commissioner's** appointment and until ~~his~~ **the commissioner's** successor is appointed and has qualified, except that the original commissioners shall serve from the date of their appointment until the first day of January in the second year after their appointment. If a vacancy occurs, a successor shall be appointed in the same manner as the original commissioner, and the successor shall serve for the remainder of the vacated term.

(b) Each redevelopment commissioner, before beginning ~~his~~ **the commissioner's** duties, shall take and subscribe an oath of office in the usual form, to be endorsed on the certificate of ~~his~~ **the commissioner's** appointment, which shall be promptly filed with the clerk for the unit



that ~~he~~ **the commissioner** serves.

(c) Each redevelopment commissioner, before beginning ~~his~~ **the commissioner's** duties, shall execute a bond payable to the state, with surety to be approved by the executive of the unit. The bond must be in the penal sum of fifteen thousand dollars (\$15,000) and must be conditioned on the faithful performance of the duties of ~~his~~ **the commissioner's** office and the accounting for all monies and property that may come into ~~his~~ **the commissioner's** hands or under ~~his~~ **the commissioner's** control. The cost of the bond shall be paid by the special taxing district.

(d) A redevelopment commissioner must be at least eighteen (18) years of age, and must be a resident of the unit that ~~he~~ **the commissioner** serves.

(e) If a commissioner ceases to be qualified under this section, ~~he~~ **the commissioner** forfeits ~~his~~ **the commissioner's** office.

(f) Except as provided in subsection (g), redevelopment commissioners are not entitled to salaries but are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

(g) A redevelopment commissioner who does not otherwise hold a lucrative office for the purpose of Article 2, Section 9 of the Indiana Constitution may receive:

- (1) a salary; or
- (2) a per diem;

and is entitled to reimbursement for expenses necessarily incurred in the performance of the redevelopment commissioner's duties.

SECTION 204. IC 36-7-14-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) A person who filed a written remonstrance with the redevelopment commission under section 17 of this chapter and is aggrieved by the final action taken may, within ten (10) days after that final action, file in the office of the clerk of the circuit or superior court a copy of the order of the commission and ~~his~~ **the remonstrator's** remonstrance against that order, together with ~~his~~ **the remonstrator's** bond conditioned to pay the costs of ~~his~~ **the remonstrator's** appeal if the appeal is determined against ~~him~~ **the remonstrator**. The only ground of remonstrance that the court may hear is whether the proposed project will be of public utility and benefit. The burden of proof is on the remonstrator.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear



evidence on the remonstrances, and may confirm the final action of the commission or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

SECTION 205. IC 36-7-14-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 23. Each officer of the unit who has duties in respect to the funds and accounts of the unit shall perform the same duties with respect to the funds and accounts of the department of redevelopment, except as otherwise provided in this chapter. An officer performing these duties is not entitled to any compensation in addition to that paid ~~him~~ **the officer** by the unit.

SECTION 206. IC 36-7-15.1-24, AS AMENDED BY P.L.146-2008, SECTION 754, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 24. (a) Subject to the approval of the legislative body of the consolidated city, and in order to:

- (1) undertake survey and planning activities under this chapter;
- (2) undertake and carry out any redevelopment project, urban renewal project, economic development plan, or housing program;
- (3) pay principal and interest on any advances;
- (4) pay or retire any bonds and interest on them; or
- (5) refund loans previously made under this section;

the commission may apply for and accept advances, short term and long term loans, grants, contributions, loan guarantees, and any other form of financial assistance from the federal government, or from any of its agencies. The commission may apply for and accept loans under this section from sources other than the federal government or federal agencies but only if the loans are unconditionally guaranteed by the federal government or federal agencies. The commission may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the commission considers reasonable and appropriate, as long as those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the consolidated city or its executive departments and officers, as well as the commission, notwithstanding any other provision of this chapter.

(b) Subject to the approval of the fiscal body of the consolidated city, the commission may issue and sell bonds, notes, or warrants:

- (1) to the federal government to evidence short term or long term loans made under this section; or
- (2) to persons or entities other than the federal government to



evidence short or long term loans made under this section that are unconditionally guaranteed by the federal government or federal agencies;

without notice of sale being given or a public offering being made.

(c) Notwithstanding any other law, bonds, notes, or warrants issued by the commission under this section may:

- (1) be in the amounts, form, or denomination;
- (2) be either coupon or registered;
- (3) carry conversion or other privileges;
- (4) have a rank or priority;
- (5) be of such description;
- (6) be secured (subject to other provisions of this section) in such manner;
- (7) bear interest at a rate or rates;
- (8) be payable as to both principal and interest in a medium of payment, at a time or times (which may be upon demand) and at a place or places;
- (9) be subject to terms of redemption (with or without premium);
- (10) contain or be subject to any covenants, conditions, and provisions; and
- (11) have any other characteristics;

that the commission considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the city or redevelopment district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by income, funds, and properties of the project becoming available to the commission under this chapter or by grant funds from the federal government, as the commission specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation as provided by IC 6-8-5.

(f) Bonds, notes, or warrants issued under this section shall be executed by the city executive and attested by the fiscal officer in the name of the "City of \_\_\_\_\_, Department of Metropolitan Development".

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the commission shall certify a copy of that resolution to the officers of the city who have duties with respect to bonds, notes, or warrants of the city. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the



resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the city who have duties with respect to the sale of bonds, notes, or warrants of the city. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if ~~he~~ **the officer** had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the commission without regard to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

SECTION 207. IC 36-7-15.1-35.5, AS AMENDED BY P.L.181-2016, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 35.5. (a) The general assembly finds the following:

(1) Federal law permits the sale of a multiple family housing project that is or has been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development without requiring the continuation of that project based assistance.

(2) Such a sale displaces the former residents of a multiple family housing project described in subdivision (1) and increases the shortage of safe and affordable housing for persons of low and moderate income within the county.

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(3) The displacement of families and individuals from affordable housing requires increased expenditures of public funds for crime prevention, public health and safety, fire and accident prevention, and other public services and facilities.

(4) The establishment of a supplemental housing program under this section will do the following:

(A) Benefit the health, safety, morals, and welfare of the county and the state.

(B) Serve to protect and increase property values in the county and the state.

(C) Benefit persons of low and moderate income by making affordable housing available to them.

(5) The establishment of a supplemental housing program under this section and sections 32 through 35 of this chapter is:

(A) necessary in the public interest; and

(B) a public use and purpose for which public money may be spent and private property may be acquired.

(b) In addition to its other powers with respect to a housing program under sections 32 through 35 of this chapter, the commission may establish a supplemental housing program. Except as provided by this section, the commission has the same powers and duties with respect to the supplemental housing program that the commission has under sections 32 through 35 of this chapter with respect to the housing program.

(c) One (1) allocation area may be established for the supplemental housing program. The commission is not required to make the findings required under section 34(5) through 34(8) of this chapter with respect to the allocation area. However, the commission must find that the property contained within the boundaries of the allocation area consists solely of one (1) or more multiple family housing projects that are or have been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development or have been owned at one time by a public housing agency. The allocation area need not be contiguous. The definition of "base assessed value" set forth in section 35(a) of this chapter applies to the special fund established under section 26(b) of this chapter for the allocation area.

(d) The special fund established under section 26(b) of this chapter for the allocation area established under this section may be used only for the following purposes:

(1) Subject to subdivision (2), on January 1 and July 1 of each year the balance of the special fund shall be transferred to the



housing trust fund established under subsection (e).

(2) The commission may provide each taxpayer in the allocation area a credit for property tax replacement in the manner provided by section 35(b)(7) of this chapter. Transfers made under subdivision (1) shall be reduced by the amount necessary to provide the credit.

(e) The commission shall, by resolution, establish a housing trust fund to be administered, subject to the terms of the resolution, by:

- (1) the housing division of the consolidated city; or
- (2) the department, division, or agency that has been designated to perform the public housing function by an ordinance adopted under IC 36-7-18-1.

(f) The housing trust fund consists of:

- (1) amounts transferred to the fund under subsection (d);
- (2) payments in lieu of taxes deposited in the fund under IC 36-3-2-11 (before its expiration);
- (3) gifts and grants to the fund;
- (4) investment income earned on the fund's assets;
- (5) money deposited in the fund under ~~IC 36-2-7-10(j)~~; **IC 36-2-7-10(k) or IC 36-2-7-10.7**; and
- (6) other funds from sources approved by the commission.

(g) The commission shall, by resolution, establish uses for the housing trust fund. However, the uses must be limited to:

- (1) providing financial assistance to those individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, to enable those individuals and families to purchase or lease residential units within the county;
- (2) paying expenses of administering the fund;
- (3) making grants, loans, and loan guarantees for the development, rehabilitation, or financing of affordable housing for individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, including the elderly, persons with disabilities, and homeless individuals and families;
- (4) providing technical assistance to nonprofit developers of affordable housing; and
- (5) funding other programs considered appropriate to meet the affordable housing and community development needs of lower income families (as defined in IC 5-20-4-5) and very low income families (as defined in IC 5-20-4-6), including lower income elderly individuals, individuals with disabilities, and homeless



individuals.

**(h) After June 30, 2017, at least forty percent (40%) of the money deposited in the housing trust fund shall be used for the following purposes:**

**(1) To assist existing owner occupants with the repair, rehabilitation, or reconstruction of their homes.**

**(2) To finance the acquisition, rehabilitation, or new construction of homes for home buyers.**

**(3) To acquire, rehabilitate, or construct rental housing.**

**(h) (i)** At least fifty percent (50%) of the dollars allocated for production, rehabilitation, or purchase of housing must be used for units to be occupied by individuals and families whose income is at or below fifty percent (50%) of the county's area median income for individuals and families, respectively.

**(h) (j)** The low income housing trust fund advisory committee is established. The low-income housing trust fund advisory committee consists of eleven (11) members. The membership of the low income housing trust fund advisory committee is comprised of:

(1) one (1) member appointed by the mayor, to represent the interests of low income families;

(2) one (1) member appointed by the mayor, to represent the interests of owners of subsidized, multifamily housing communities;

(3) one (1) member appointed by the mayor, to represent the interests of banks and other financial institutions;

(4) one (1) member appointed by the mayor, of the department of metropolitan development;

(5) three (3) members representing the community at large appointed by the commission, from nominations submitted to the commission as a result of a general call for nominations from neighborhood associations, community based organizations, and other social services agencies;

(6) one (1) member appointed by and representing the Coalition for Homeless Intervention and Prevention of Greater Indianapolis;

(7) one (1) member appointed by and representing the Local Initiatives Support Corporation;

(8) one (1) member appointed by and representing the Indianapolis Coalition for Neighborhood Development; and

(9) one (1) member appointed by and representing the Indianapolis Neighborhood Housing Partnership.

Members of the low income housing trust fund advisory committee serve for a term of four (4) years, and are eligible for reappointment. If



a vacancy exists on the committee, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy. A committee member may be removed at any time by the appointing authority who appointed the committee member.

~~(j)~~ **(k)** The low income housing trust fund advisory committee shall make recommendations to the commission regarding:

- (1) the development of policies and procedures for the uses of the low income housing trust fund; and
- (2) long term sources of capital for the low income housing trust fund, including:
  - (A) revenue from:
    - (i) development ordinances;
    - (ii) fees; or
    - (iii) taxes;
  - (B) financial market based income;
  - (C) revenue derived from private sources; and
  - (D) revenue generated from grants, gifts, donations, or income in any other form, from a:
    - (i) government program;
    - (ii) foundation; or
    - (iii) corporation.

~~(k)~~ **(l)** The county treasurer shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

SECTION 208. IC 36-7-16-4, AS AMENDED BY P.L.185-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) As used in this section, "concentrated code delinquency area" means an area of at least one-half (1/2) square block in which:

- (1) at least two-thirds (2/3) of the lots are occupied by improvements;
- (2) at least two-thirds (2/3) of the improvements are homes; and
- (3) an investigation by the agency shows that at least one-half (1/2) of the homes are not in compliance with applicable building code standards.

The agency may conduct an investigation on its own initiative, and shall conduct an investigation on receipt of a petition signed by the occupants of at least one-half (1/2) of the family dwelling units within the proposed area. In conducting the investigation, the agency may use its own staff or hire independent appraisers and inspectors.

(b) Rehabilitation loans may be made to enable the borrower to



make repairs that will bring **his the borrower's** home into compliance with applicable building code standards, if all of the following conditions are present:

(1) The borrower holds marketable title to the property, subject only to mortgage indebtedness or contract for the purchase of the property, the lien of taxes that are not yet due and payable, and any assessment for public improvements that is not yet due and payable.

(2) The property is located within the area of a community development target area designated by an application to the Department of Housing and Urban Development under the 1974 Community Development Act, as amended (42 U.S.C. sections 5301-5318), an urban renewal project, a concentrated code delinquency neighborhood, or an area needing redevelopment.

(3) The agency has determined that the borrower is an acceptable credit risk. In making this determination, the agency shall be guided by the fact that a principal purpose of this chapter is to make rehabilitation available to those who would be unable to obtain such loans through normal commercial channels.

(4) The borrower has in full force and effect a policy of insurance protecting the property in an amount and with an insurer satisfactory to the agency.

(c) Subject to subsection (d), the agency shall use the procedures prescribed by IC 36-7-14-15 through IC 36-7-14-18 to make a finding that an area is an area needing redevelopment.

(d) The agency in a consolidated city shall use the procedures prescribed by law to make a finding that an area is an area needing redevelopment.

SECTION 209. IC 36-7-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) A purchaser under a land sales contract is eligible for a loan to cover the costs of repairs that will bring **his the purchaser's** home into compliance with applicable building code standards, if all of the following conditions are present:

(1) The contract is a written, legally binding instrument involving a residential property containing, after rehabilitation, not more than four (4) dwelling units.

(2) The seller of the property holds fee title to the property, and, while the contract is in good standing, is unable to use the property for collateral or to convey it to any other party, unless the use for collateral or conveyance of fee is subject to the land sales contract. The agency shall record this agreement, or the contract,

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promptly after loan settlement.

(3) Under the contract, the seller and any subsequent holder of the fee to the property is obligated, without qualification, to deliver to the purchaser fee simple title and a deed to the property upon full payment of the contract price, or some lesser amount.

(4) Under the contract, the purchaser has:

(A) full use, possession, and quiet enjoyment of the property;

(B) equitable title to the property; and

(C) full rights of redemption for a period of not less than ninety (90) days.

(5) The purchaser has had possession and use of the property under the contract for at least twelve (12) months before the date of application for a loan. If the loan is to include an amount to refinance the balance due under a land sales contract, this requirement does not apply.

(b) The agency may purchase the property from the contract seller at any time by the exercise of any right of accelerated payment that is provided for under the contract, by negotiation with the contract seller, or by the exercise of the power of eminent domain.

SECTION 210. IC 36-7-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) A person or community organization may apply for the program by completing a bid application.

(b) The following applicants are qualified and shall be approved to receive real property offered under this chapter:

(1) A person who:

(A) is at least eighteen (18) years of age;

(B) possesses the financial resources to support a loan, the necessary skills to rehabilitate the property, or a combination of both; and

(C) has, including immediate family, not previously participated in the program.

(2) A community organization as described in IC 36-7-9-2.

(c) Approved applicants are entitled to receive a list of all properties owned by the unit that are available under this chapter.

(d) Approved applicants may apply for each dwelling in which they are interested. A drawing shall be held to determine those applicants receiving the dwellings. Persons applying under this chapter shall receive priority over community organizations if both indicate an interest in the same dwelling. Each approved person and ~~his or her~~ **the approved person's** immediate family may receive only one (1) dwelling in the drawing. Each approved community organization may

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receive as many dwellings as the agency considers proper.

SECTION 211. IC 36-7-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) The agency shall convey the real property acquired for the purposes of this chapter to those persons or community organizations qualified under section 6 of this chapter by using the methods prescribed by subsection (b), (c), or (d).

(b) The real property may be conveyed by a conditional sales contract, with title to remain in the agency for a period of at least one (1) year.

(c) The title to real property may be conveyed to a person purchasing the property as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language "The property is conveyed on the conditions that the purchaser:

- (1) will reside in the dwelling as **his the purchaser's** principal place of residence for a period of not less than three (3) years;
- (2) will bring the residence up to minimum code standards in twelve (12) months;
- (3) will carry adequate fire and liability insurance on the dwelling at all times; and
- (4) will comply with such additional terms, conditions, and requirements as the agency requires before \_\_\_\_\_ (date of the deed) under IC 36-7-17."

(d) The title to real property may be conveyed to a community organization purchasing the property as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language: "The property is conveyed on the conditions that the purchaser:

- (1) will list the property for sale within twelve (12) months of taking possession;
- (2) will bring the residence up to minimum code standards within twelve (12) months;
- (3) will carry adequate fire and liability insurance on the dwelling at all times; and
- (4) will comply with any additional terms, conditions, and requirements as the agency requires before \_\_\_\_\_ (date of the deed) under IC 36-7-17."

SECTION 212. IC 36-7-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) The executive or fiscal body appointing the first commissioners of a housing authority shall fix their terms as follows:

- (1) One (1) year for two (2) of the commissioners.

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- (2) Two (2) years for two (2) of the commissioners.
- (3) Three (3) years for one (1) of the commissioners.
- (4) Four (4) years for two (2) of the commissioners.

After that, appointments to the authority are for a term of four (4) years, except that all vacancies shall be filled for the unexpired term. A commissioner serves until ~~his~~ **the commissioner's** successor is appointed and qualified.

(b) A certificate for the appointment or reappointment of a commissioner of a housing authority must be filed with the clerk of the fiscal body of the unit. The certificate is conclusive evidence of the proper appointment of the commissioner.

SECTION 213. IC 36-7-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) A commissioner of a housing authority may be removed for inefficiency, neglect of duty, or misconduct in office, by:

- (1) the city executive, for a city housing authority;
- (2) the town fiscal body, for a town housing authority; or
- (3) the county fiscal body, for a county housing authority.

(b) A commissioner may be removed under subsection (a) only if ~~he~~ **the commissioner** was given a copy of the charges at least ten (10) days before a hearing on the charges and had an opportunity to be heard in person or by counsel. In a city, the fiscal body shall appoint the hearing officer for the hearing, which may not be the city executive when ~~he~~ **the city executive** is the person bringing the charges. The commissioner against whom the charges are made may require that the hearing be open to the public. After the removal of a commissioner, a record of the proceedings, together with the charges and findings, shall be filed in the office of the clerk of the fiscal body of the unit.

SECTION 214. IC 36-7-18-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) Except as provided in subsection (b), a commissioner or an employee of a housing authority may not acquire or have any direct or indirect interest in:

- (1) a housing project;
- (2) any property included or planned to be included in a project;
- or
- (3) a contract or proposed contract for materials or services to be furnished or used in connection with any housing project.

(b) A commissioner or an employee of a housing authority may have an interest described in subsection (a) if that interest is in:

- (1) a bank or similar financial institution in which housing authority money is deposited;





(2) a contract for materials or services provided on an emergency basis under IC 5-22-10-4 in which time is of the essence, if:

(A) the materials or services are priced at a cost comparable to the same materials or services provided on a competitive basis; and

(B) a declaration of emergency is recorded in the housing authority's minutes;

(3) a contract for materials or services provided by a minority business enterprise (as defined under IC 4-13-16.5-1) that are not available through other minority business enterprises, if the materials and services are priced at a cost comparable to the same materials or services provided on a competitive basis;

(4) a contract for materials or services that cannot be reasonably obtained from other suppliers; or

(5) a lease under which an employee is a tenant of the housing authority.

(c) If a commissioner or an employee of a housing authority owns or controls a direct or an indirect interest in any property included or planned to be included in a housing project, ~~he~~ **the commissioner or employee** shall immediately disclose that interest in writing to the authority. The disclosure shall be entered upon the minutes of the authority, and the commissioner holding the interest may not vote on the acquisition of the property by the authority. Failure to disclose such an interest constitutes misconduct in office.

SECTION 215. IC 36-7-18-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) The executive or fiscal body appointing the first commissioners of a housing authority shall select one (1) of those commissioners to be the first ~~chairman~~ **chair** of the authority. When the office of the ~~chairman~~ **chair** becomes vacant, the commissioners shall elect a ~~chairman;~~ **chair**, who must be a commissioner.

(b) The commissioners of a housing authority shall elect a vice ~~chairman~~ **chair** for the authority, who must be a commissioner.

SECTION 216. IC 36-7-18-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 33. (a) For purposes of this chapter, the following persons are considered obligees of a housing authority:

(1) A holder of bonds, notes, or warrants.

(2) A trustee for such a holder.

(3) A person who leases property to the authority for use in connection with a housing project, or an assignee of that person's interest.



(4) The federal government, when it is a party to a contract with the authority.

(b) In addition to ~~his~~ **an obligee's** other rights and subject only to any contractual restrictions binding upon ~~him~~, **an obligee**, an obligee of a housing authority may:

(1) by proceedings at law or in equity compel the authority and its commissioners, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to perform all duties imposed upon it by this chapter; and

(2) by proceedings in equity enjoin unlawful conduct or the violation of any of ~~his~~ **the obligee's** rights as an obligee of the authority.

(c) A housing authority may, by resolution, trust indenture, mortgage, lease, or other contract, confer upon any obligee holding or representing a specified amount in bonds, notes, or warrants, or holding a lease, the right, upon the happening of an event of default as defined in the resolution or contract, to:

(1) cause possession of a housing project, or any part of a project, to be surrendered to ~~him~~; **the obligee**;

(2) require the authority and its commissioners to account as if they were the trustees of an express trust; and

(3) obtain the appointment of a receiver of a housing project, or any part of a project, and of rents and profits from it.

If a receiver is appointed under subdivision (3), ~~he~~ **the receiver** may enter, take possession of, operate, and maintain the project. The receiver may collect all fees, rents, and other revenues arising from the project, and ~~he~~ **the receiver** shall keep them in one (1) or more separate accounts and apply them in accordance with the obligations of the authority, as directed by the court.

SECTION 217. IC 36-7-23-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. The members shall elect:

(1) a ~~chairman~~; **chair**;

(2) a vice ~~chairman~~; **chair**;

(3) a secretary; and

(4) other officers determined to be necessary for the board to function;

at the first meeting of the board in January of each year.

SECTION 218. IC 36-7-23-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17. (a) A majority of



the members of the board constitutes a quorum for the transaction of business. The affirmative vote of a majority of the board is necessary for an action to be taken by the board.

(b) A member may vote by written proxy delivered in advance to the **chairman chair** or secretary of the board.

(c) A vacancy in the membership of the board does not impair the right of a quorum to exercise all rights and perform all duties of the board.

SECTION 219. IC 36-7-23-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. Meetings of the board shall be held at the call of the **chairman chair** or at the request of at least three (3) members. The board shall meet at least once every three (3) months to attend to the business of the authority.

SECTION 220. IC 36-7-23-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 25. The bonds:

- (1) shall be executed by the manual or facsimile signature of the **chairman chair** of the board;
- (2) shall be attested by the manual or facsimile signature of the secretary of the board;
- (3) shall be imprinted or impressed with the seal of the authority;
- (4) may be authenticated by a trustee, registrar, or paying agent; and
- (5) constitute valid and binding obligations of the authority, even if the **chairman, chair**, the secretary, or both, whose manual or facsimile signature appears on the bond, no longer hold those offices.

SECTION 221. IC 36-7-23-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 45. All money of the authority, except as provided in this chapter, shall be deposited as soon as practicable in a separate account or accounts in one (1) or more financial institutions. The money in these accounts shall be paid on checks signed by the **chairman chair** or other officers or employees of the authority or by wire transfer or other electronic means that the board authorizes. All deposits of money shall, if required by the board, be secured in a manner that the board determines to be prudent.

SECTION 222. IC 36-7-24-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) The powers of an authority are vested in a board of directors of the authority. The board consists of the following members:

- (1) The county executive of each county participating in the authority, or the county executive's designee.
- (2) A juvenile court judge of each county participating in the



authority. However, if a county participating in the authority does not have a juvenile court judge, the circuit court judge of the county is a member of the board.

(3) A member of the county fiscal body of each county participating in the authority, or the member's designee.

(b) The members of the board shall select a member to be the **chairman chair** of the board.

(c) An authority may select an executive director by a majority vote of the members of the board.

SECTION 223. IC 36-8-3-3, AS AMENDED BY P.L.118-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members ~~chairman;~~ **chair**, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing the member to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

- (1) the members and other employees of the police department other than those in an upper level policymaking position;
- (2) the members and other employees of the fire department other than those in an upper level policymaking position;
- (3) a market master; and
- (4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body not later than November 1 of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and



fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey the city executive's orders and directions, notwithstanding any law or rule to the contrary.

SECTION 224. IC 36-8-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. If a building in the city is on fire, or if a building adjacent to it is liable to take or convey fire to other buildings and cause great destruction of property, the fire chief, or ~~his~~ **the fire chief's** assistant acting as chief with the concurrence of the executive or of the safety board, may take down, blow up, or destroy the building or buildings. An action may not be maintained against a person for this action, but the owner of such a building may, in a civil action, recover damages from the city for its destruction.

SECTION 225. IC 36-8-3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. A humane officer shall be appointed in every city from among the members of the police department. The humane officer shall detect and arrest persons violating humane statutes. ~~He~~ **The humane officer** is entitled to the same pay as other police officers of the city and is subject to the control and discipline of the police department. If there is an incorporated humane society in the city, the humane officer shall attend the stated and special meetings of the society and shall report to it, at least once a month, on all matters relating to ~~his~~ **the humane officer's** duties under law for the previous month. If a humane statute or ordinance has, to ~~his~~ **the humane officer's** knowledge, been violated, ~~he~~ **the humane officer** shall, if directed by the president of the humane society, file ~~his~~ **the humane officer's** affidavits before a court charging the person violating the law with the violation.

SECTION 226. IC 36-8-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. (a) The safety board may appoint a police matron, including assistants that are necessary. The matron shall receive, search, and properly care for, at the jail or station house, all female prisoners who are arrested and detained in custody in the city. The matron is not a member of the police department of the city, but has all the authority delegated to a police officer. The matron is subject to rules that are prescribed for ~~her~~ **the matron** by the safety board or by ordinance and may be removed by the board for good cause shown.

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(b) The matron shall be given proper accommodations for ~~herself~~ **the matron** and for all prisoners under ~~her~~ **the matron's** control. ~~She~~ **The matron** is the jailer in charge of the ~~woman's~~ **women's** department of the station house or jail and may summon a police officer or other person to ~~her~~ **the matron's** aid when aid is required. The matron and ~~her~~ **the matron's** assistant or assistants shall be paid the compensation or salaries that are set for other employees of the police department. The matron, or ~~her~~ **the matron's** assistant, shall attend all courts when female prisoners are to be tried and shall take charge of all female prisoners while they are awaiting trial or transfer to or from a place of detention.

(c) The matron must be at least twenty-one (21) years of age, fully qualified, and of good moral character.

SECTION 227. IC 36-8-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) Within sixty (60) days after the adoption of an ordinance or resolution establishing a merit system, the safety board shall give at least three (3) weeks' notice to all active members of the department that a meeting will be held to approve or reject the merit system. The notice shall be given by posting it in prominent places in all stations of the department. The notice must designate the time, place, and purpose of the meeting.

(b) A copy of the ordinance or resolution shall be distributed to each active member of the department at least one (1) week before the date of the meeting.

(c) Only active members of the department may attend the meeting, and at the meeting one (1) of them shall be selected as ~~chairman~~ **chair**. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the safety board and shall be posted in accordance with subsection (a).

(d) If a majority of the active members of the department vote to approve the merit system, the merit system takes effect on January 1 following the vote. Appointments to the merit commission shall be made by March 1 following that January 1.

(e) If a majority of the active members of the department vote to reject the merit system, another proposal may not be put to a vote within one (1) year after the day the meeting is held.

SECTION 228. IC 36-8-3.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) An election to be made by the active members of the department shall be made at a meeting called specifically for that purpose by the safety board. The board shall give at least three (3) weeks' notice of the meeting to all active members of the department by posting the notice in prominent



locations in stations of the department. The notice shall also be read during shift roll calls. The notice must designate the time, place, and purpose of the meeting.

(b) Only active members of the department may attend the meeting, and at the meeting one (1) of them shall be selected as ~~chairman~~ **chair**. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the safety board and shall be posted in accordance with subsection (a).

SECTION 229. IC 36-8-3.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) The commission may appoint and remove members of the department, except for a member in an upper level policymaking position. The executive of the unit shall appoint and may remove a member in an upper level policymaking position.

(b) The chief of a fire department shall be selected from the members of the department, and ~~he the chief~~ must have at least five (5) years service in the department before ~~his the chief's~~ appointment. These requirements may be waived by a majority vote of the unit's legislative body upon request of the unit's executive. However, the chief must still have at least five (5) years service in a full-time, paid fire department or agency.

(c) To be appointed chief or deputy chief of a police department, an applicant must meet the qualifications in IC 36-8-4-6.5.

(d) The removal of a member from an upper level policymaking position is removal from rank only and not from the department. When the member is removed, ~~he the member~~ shall be appointed by the commission to the rank in the department that ~~he the member~~ held at the time of ~~his the member's~~ upper level appointment or to any rank to which ~~he the member~~ had been promoted during ~~his the member's~~ tenure in the upper level position. If such a rank is not open in either case, the member is entitled to the pay of that rank and shall be promoted to that rank as soon as an opening is available.

SECTION 230. IC 36-8-3.5-12, AS AMENDED BY P.L.115-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) Subject to IC 36-8-4.7, to be appointed to the department, an applicant must be:

- (1) a citizen of the United States;
- (2) a high school graduate or equivalent; and
- (3) at least twenty-one (21) years of age, but under thirty-six (36) years of age.

However, the age requirements do not apply to a person who has been previously employed as a member of the department.

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(b) A person may not be appointed, reappointed, or reinstated if **he the person** has a felony conviction on **his the person's** record.

(c) Applications for appointment or reappointment to the department must be filed with the commission. The applicant must produce satisfactory proof of the date and place of **his the applicant's** birth.

(d) Applicants for appointment or reappointment to the department must pass the general aptitude test required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5. The general aptitude test shall:

- (1) reflect the essential functions of the job;
- (2) be conducted according to procedures adopted by the commission; and
- (3) be administered in a manner that reasonably accommodates the needs of applicants with a disability.

The results of the general aptitude test shall be filed with the commission. If the commission finds that the applicant lacks the proper qualifications, it shall reject the applicant.

(e) The applicants shall then be rated on the selection criteria and testing methods adopted by the commission, which may include mental alertness, character, habits, and reputation. The commission shall adopt rules for grading the applicants, including the establishment of a passing score. The commission shall place the names of applicants with passing scores on an eligibility list by the order of their scores and shall certify the list to the safety board.

(f) This subsection is subject to IC 36-8-4.7. If an applicant for original appointment reaches **his the applicant's** thirty-sixth birthday, **his the applicant's** name shall be removed from the eligibility list. Applicants remain on the list for two (2) years from the date of certification. After two (2) years a person may reapply as an applicant.

(g) When a vacancy occurs in the department, the commission, upon a written request of the chief of the department, shall administer the physical agility test under IC 36-8-3.2-3 or IC 36-8-3.2-3.5 to the applicant having the highest score on the eligibility list. If the appointed applicant successfully completes the physical agility test, the applicant shall then be enrolled as a member of the department to fill the vacancy if:

- (1) the applicant is still of good character; and
- (2) the applicant passes the required examinations identified in IC 36-8-3.2-6 and IC 36-8-8-19.

(h) All appointments are probationary for a period not to exceed one (1) year. If the commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity





of the probationary member is not satisfactory, the commission shall notify ~~him~~ **the member** in writing that ~~he~~ **the member**:

- (1) is being reprimanded;
- (2) ~~that he~~ is being suspended; or
- (3) ~~that he~~ will not receive a permanent appointment.

If a member is notified that ~~he~~ **the member** will not receive a permanent appointment, ~~his~~ **the member's** employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed.

SECTION 231. IC 36-8-3.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. (a) Before a written competitive examination may be held to fill a current or expected vacancy in the ranks, the members eligible to take the examination must be notified of the written materials from which the questions will be taken. The commission may employ instructors, purchase materials, and make other expenditures to provide information for applicants for promotion examinations.

(b) The identity of a member taking the written examination shall be withheld from the person or persons grading the examination, and all written examinations are confidential. The commission shall notify each member in writing of the score that the member received on the examination. The score received by a member on the written examination becomes a part of the permanent file of the member, and the member is entitled to access to this file for examination at any time.

(c) The examination papers shall be kept under the commission's supervision. A member who is aggrieved with the score received on the written examination may appeal to the commission for review of the score. The appeal must be filed within ten (10) days after notice of the score has been sent to ~~him~~. ~~He~~ **the member**. ~~The member~~ may review the questions incorrectly answered by ~~him~~ **the member** and challenge the answer considered correct by the examiner. The commission shall either affirm the score or correct the score according to the findings of a review. The examination papers shall be retired after the two (2) year period during which the eligibility list is valid. The retired papers shall be kept for five (5) years and then destroyed.

SECTION 232. IC 36-8-3.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) The commission shall adopt rules for determining a performance rating. The rules must require that a performance rating be made at least once every six (6) months for each member of the department, including probationary members. The rating shall be made by one (1) or more of the member's superiors, as defined in the commission's rules. Probationary members



shall be rated in the same manner as other members of the department. The ratings shall be submitted to the chief of the department and kept on file in ~~his the chief's~~ office under ~~his the chief's~~ supervision. The chief shall notify each member in writing of the rating that the member received.

(b) A member who is aggrieved with the performance rating given to ~~him the member~~ by ~~his the member's~~ superior may appeal to the commission for a review of the rating. The appeal must be filed within ten (10) days after notice of the rating has been sent to ~~him; the member~~. The commission shall either affirm or correct the rating.

SECTION 233. IC 36-8-3.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) When a vacancy in rank occurs, the commission shall certify to the chief of the department the three (3) members with the highest scores on the eligibility list for that particular rank. Within six (6) months the commission, upon the recommendation of the chief, shall promote one (1) of those members to fill the vacant position.

(b) All promotions are probationary for a period not to exceed one (1) year. At the end of the period, a probationary member's superior shall review the member's performance and recommend to the commission that:

- (1) the promotion be made permanent; or
- (2) the promotion be revoked.

(c) The commission shall prepare a rating chart for the superior's use in making the report. The commission shall review the report and decide what action should be taken. The probationary member is entitled to appear before the commission and be heard on any matter detrimental to ~~him the member~~ in ~~his superior's~~ the report of ~~the member's superior~~. ~~He~~ ~~The member~~ is also entitled to be represented by counsel or another representative of ~~his the member's~~ choice. If the promotion is finally revoked the member may not be returned to a rank lower than that ~~he the member~~ held before the probationary promotion.

(d) Actions by the commission other than making the promotion permanent may be appealed within thirty (30) days to the circuit or superior court of the county, with the unit being named as the sole defendant.

SECTION 234. IC 36-8-3.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) A member who is aggrieved by a decision of the commission to suspend ~~him the member~~ for a period greater than ten (10) calendar days, demote ~~him; the member~~, or dismiss ~~him the member~~ may appeal to the circuit or



superior court of the county in which the unit is located.

(b) The appeal shall be made according to the Indiana rules of trial procedure with the following exceptions:

- (1) The verified appeal must be filed within thirty (30) days after the date of the board's decision.
- (2) The unit shall be named as the sole defendant.
- (3) The unit is assumed to have denied the allegations without filing a responsive pleading.
- (4) The plaintiff must file a bond at the time of filing the complaint conditioned on the plaintiff prosecuting the appeal to a final determination and paying the court costs incurred in the appeal.
- (5) Within thirty (30) days after the service of summons the commission shall file in court a complete transcript of all papers, entries, and other parts of the record relating to the case.

(c) The appeal takes precedence over other litigation pending before the court.

SECTION 235. IC 36-8-3.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. (a) In addition to the disciplinary powers of the commission, the chief of the department, may, without a hearing, reprimand or suspend without pay a member, including a police radio or signal alarm operator or a fire alarm operator, for a maximum of five (5) working days. For the purposes of this subsection, eight (8) hours of paid time constitutes one (1) working day.

(b) If a chief reprimands a member in writing or suspends a member, ~~he~~ **the chief** shall, within forty-eight (48) hours, notify the commission in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended under this section may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the commission review the reprimand or suspension and either uphold or reverse the chief's decision. At its discretion, the commission may hold a hearing during this review. If the board holds a hearing, written notice must be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must contain the information listed under section 17(d) of this chapter. If the decision is reversed, the individual who was suspended is entitled to any wages withheld as a result of the suspension.

SECTION 236. IC 36-8-3.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 21. (a) If it is necessary

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for the safety board to reduce the number of members of the department, the reduction shall be made by granting a temporary leave of absence, without pay or financial obligation to the unit, to the appropriate number of members. The last member appointed shall be put on leave first, with other members also put on leave in reverse hiring order, until the desired level is achieved.

(b) If the department is increased in number again, the members of the department who have been granted leaves of absence under this section shall be reinstated before an applicant on the eligibility list is appointed to the department. The reinstatements begin with the last member granted a leave.

(c) A member on leave of absence shall keep the commission advised of ~~his~~ **the member's** current address. A member shall be informed of ~~his~~ **the member's** reinstatement by written notice. Within ten (10) calendar days after a member receives notice of reinstatement, ~~he~~ **the member** must advise the commission that ~~he~~ **the member** accepts reinstatement and will be able to commence employment on the date specified in the notice. All reinstatement rights granted to a member terminate upon ~~his~~ **the member's** failure to accept reinstatement within that period.

SECTION 237. IC 36-8-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) This section applies only to:

- (1) police departments in second and third class cities having a population of ten thousand (10,000) or more; and
- (2) fire departments in second and third class cities;

that are not governed by a merit system prescribed by statute or ordinance.

(b) Promotion of police officers or firefighters must be from the active personnel of the department.

(c) A person appointed fire chief must have had at least five (5) years of continuous service with the department immediately before ~~his~~ **the fire chief's** appointment. However, this requirement may be waived by a majority vote of the city legislative body upon request of the city executive, although the person must still have at least five (5) years service with a full-time, paid fire department or agency.

(d) A person appointed to a rank other than police or fire chief or deputy police chief must have had at least two (2) years of continuous service with the department immediately before ~~his~~ **the person's** appointment.

SECTION 238. IC 36-8-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) A member of the

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police department may not be required, except in case of a public emergency as determined by the city executive, to work more than six (6) days of eight (8) hours each in one (1) week, or more than an average of forty-eight (48) hours per week in one (1) year.

(b) If a member of the police department is requested or required to appear in court or to perform another service, and the time served does not fall within the limits of ~~his~~ **the member's** normal eight (8) hour shift, then the member may be compensated for the additional time at a rate to be fixed by ordinance.

(c) This section does not apply to the police chief, chief of detectives, superintendent of the department, or matron of the department.

SECTION 239. IC 36-8-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. The safety board may provide that all appointments to the police or fire department are probationary for a period not to exceed one (1) year. If the safety board finds, upon the recommendation of the chief of the department during the probationary period, that the conduct or capacity of a member is not satisfactory, the safety board shall notify the member in writing that ~~he~~ **the member** is being suspended or that ~~he~~ **the member** will not receive a permanent appointment. If a member is notified that ~~he~~ **the member** will not receive a permanent appointment, ~~his~~ **the member's** employment immediately ceases. Otherwise, at the expiration of the probationary period, the member is considered regularly employed.

SECTION 240. IC 36-8-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) The monthly assessments against the salary of a member of a 1925, 1937, 1953, or 1977 fund shall be waived while the member is on temporary leave of absence under section 3 of this chapter or on a leave of absence that qualifies for the protections afforded by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(b) A member of a 1925, 1937, 1953, or 1977 fund does not lose ~~his~~ **the member's** benefits from the fund because ~~he~~ **the member** fails to pay assessments that are assessed against ~~him~~ **the member** while on temporary leave or on a leave of absence that qualifies for the protections afforded by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(c) Notwithstanding any provision of this chapter, a member of the 1925, 1937, 1953, or 1977 fund is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

SECTION 241. IC 36-8-6-1 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, in second and third class cities, and in towns that have established a board of metropolitan police commissioners.

(b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the police officer:**

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981); and
- (3) is rehired after April 30, 1977, by the same employer.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the police officer:**

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);
- (3) was rehired after April 30, 1977, but before February 1, 1979; and
- (4) was made, before February 1, 1979, a member of a 1925 fund.

(d) A police matron is covered by this chapter and not by IC 5-10.3 or IC 36-8-8 if ~~she:~~ **the police matron:**

- (1) was hired before May 1, 1977;
- (2) is a member of a police department in a second or third class city; and
- (3) is employed as a police matron on March 31, 1996.

SECTION 242. IC 36-8-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) The 1925 fund is derived from the following sources:

- (1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest of any money, chose in action, personal property, or real property, or an interest in it. The local board shall take the property in the name of the local board and may hold, assign, transfer, or sell it.
- (2) From money, fees, and awards that are paid or given to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and sold at a public sale in accordance with law.



(3) From an assessment made during the period of ~~his~~ **the member's** employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1925 fund, an amount equal to six percent (6%) of the salary of a first class patrolman. However, the employer may pay all or a part of the assessment for the member.

(b) The secretary of the local board shall prepare a roll of each of the assessments and place opposite the name of every member of the police department the amount of the assessment against ~~him~~ **the member**. The treasurer of the local board shall retain out of the salary paid to the member each month the amount of the assessment, other than any amount paid on behalf of the member, and credit it to the 1925 fund. Except to the extent the assessment is paid on behalf of the member, every person becoming a member of the police department is liable for the payment of the assessments and is conclusively considered to agree to pay it and have it deducted from ~~his~~ **the member's** salary as required in this section.

SECTION 243. IC 36-8-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1925 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

- (1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service;
- or
- (2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. However, the pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in not less than twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) If a member voluntarily retires after twenty (20) or more years of service, the member is entitled to retirement and the pension, without reference to ~~his~~ **the member's** physical condition at the time of application. However, ~~he~~ **the member** then relinquishes all rights to



other benefits or pensions for temporary disability. After retirement the member is not required to render further services on the police department, is no longer subject to the rules of the department, and may not be deprived of other benefits under this chapter that may accrue to ~~him the member~~ or ~~his the member's~~ dependents.

(d) To be retired based upon length of service, only the time served by the member on the regularly constituted police department may be computed. Time served by a member as a special police officer, a merchant police officer, or a private police officer may not be considered in computing length of service.

SECTION 244. IC 36-8-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) A member of the police department placed on the retired list, except those that have served on the department for twenty (20) years or more and have been retired for that reason, shall report for duty to the chief of police as is provided in the bylaws of the local board. A member is then subject to the orders and discipline of the chief and shall perform the duties that are required of ~~him the member~~ and for which, in the opinion of the police surgeon, ~~he the member~~ is fit, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. ~~He The member~~ shall be paid full salary for these duties.

(b) If a retired member refuses to obey orders or breaches discipline, the chief shall report the member at once to the safety board for action that is considered proper for the good of the service. A member is subject to punishment and dismissal in the same manner as officers in active service. The pension to which the retired member is entitled ceases upon ~~his the member's~~ expulsion, and the pension is subject to the action considered proper by the safety board.

(c) The police surgeon of the municipality shall examine members of the police department when:

- (1) the local board requests it;
- (2) a member requests it for the purpose of certifying ~~his the member's~~ physical or mental condition to the local board; or
- (3) ~~he the police surgeon~~ considers it proper.

The ~~police~~ surgeon shall then certify to the local board the true physical or mental condition of the person.

(d) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

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SECTION 245. IC 36-8-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. (a) If there is not sufficient money to the credit of the 1925 fund to pay all claims against it in full, claims arising from the death of members of the department shall be paid in full first with as little delay as possible, after which an equal percentage shall be paid upon all other claims to the full extent of the money on hand, until the fund is replenished.

(b) All pensions shall be paid by the treasurer of the local board at **his the treasurer's** office at the same time and in the same installments as the members of the police department are paid.

(c) All pensions payable out of the 1925 fund are exempt from seizure or levy upon attachment, execution, supplemental process, and all other process, whether mesne or final. Except as provided in section 21 of this chapter, pensions are not subject to sale, assignment, or transfer by a beneficiary.

SECTION 246. IC 36-8-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. A pension may not be paid to an employee of the police department who at the time of **his the employee's** appointment was thirty-six (36) years of age or older, or who failed at that time to pass the medical examination required by the board. However, such a person is exempt from paying or contributing to the 1925 fund.

SECTION 247. IC 36-8-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) Notwithstanding section 15 of this chapter, all employees of the police department at the time a municipality established a 1925 fund, regardless of their age at the time they became members of the department, became members of the 1925 fund and are entitled to all the benefits of it. They shall pay the assessments prescribed by and are subject to this chapter.

(b) A member of the police department who:

- (1) was in active service on March 9, 1935;
- (2) was a member of the 1925 fund;
- (3) passed the physical examination required by the local board;
- (4) had previous service in the police department; and
- (5) was thirty-six (36) years of age or older at the time of **his the member's** reinstatement or reappointment;

is entitled to all of the benefits of the 1925 fund, with all of the years of active service with the police department counted in determining **his the member's** eligibility for retirement.

SECTION 248. IC 36-8-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) A firefighters' pension fund to be known as the 1937 fund is established in each unit



described by section 1(a) of this chapter.

(b) The 1937 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) composed of seven (7) trustees. Two (2) trustees are the executive of the unit and the fire chief, who are ex officio voting trustees. The other trustees are one (1) retired member of the fire department and four (4) active members of the fire department elected for the terms and in the manner provided in this chapter.

(c) The local board has control of the 1937 fund of the unit. The local board shall manage, use, and disburse the fund for the purpose and in the manner prescribed by this chapter. The local board may adopt and enforce bylaws that do not conflict with this chapter and are considered necessary to enable it to achieve the purposes for which it was organized. Each trustee shall, before entering upon the duties of **his the trustee's** office, take an oath to faithfully perform **his the trustee's** duties.

SECTION 249. IC 36-8-7-5, AS AMENDED BY P.L.227-2005, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) An election shall be held each year under this section to elect one (1) trustee from the active members of the fire department for a term of four (4) years, commencing on the day of **his the trustee's** election. The fire chief shall fix a time for holding a convention to nominate candidates for trustees to be elected at each election. Each convention must be held at least five (5) days before the day on which the annual election is held. A convention consists of one (1) delegate from each fire company and one (1) delegate to be selected by the chief and the chief's assistants. The delegate from each fire company shall be elected by ballot by the members of the company at a time to be fixed by the chief in the call for a convention. The election of delegates shall be certified by the captain or other officer of the company, or, if there is not an officer present, then by the oldest member of the company present. The convention, when assembled, shall nominate six (6) members of the fire department to be voted upon as trustees, and the delegates shall report the names of the persons nominated as candidates to their respective companies in writing.

(b) The local board may amend the bylaws of the fund to elect the trustee from the active members of the fire department in an election held on any three (3) consecutive days in February specified in the bylaws. The election shall be called by the fire chief and held at the house or quarters of the respective companies of the fire department. Subject to this section, the election shall be conducted in the manner specified in the bylaws.

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(c) This subsection applies only if the local board does not elect to be governed by subsection (b). The election shall be held at the houses or quarters of the respective companies on the second Monday in February between 9 a.m. and 6 p.m.

(d) Each member of a fire company is entitled to one (1) ballot, and the ballot may not contain the names of more than one (1) person, chosen from the six (6) persons nominated by the convention. The candidate receiving the highest number of votes is elected.

(e) The captain or other officer in command of each of the fire companies, immediately after the casting of all ballots, shall canvass and count the ballots. The captain or other officer shall certify in writing the total number of ballots cast and the number of votes received by each candidate for the office of trustee. After signing the certificate, the officer shall enclose it, together with all the ballots cast by the fire company, in an envelope, securely sealed and addressed, and deliver them to the fire chief. The fire chief shall deliver them to the executive of the unit as soon as the chief receives all the certificates and ballots. Upon receipt the executive shall, in the presence of the chief and the clerk of the unit, open the envelopes, examine the certificates, and determine the total number of votes cast for each of the candidates. The executive shall then issue a certificate of election to the candidate having received the highest number of votes. If two (2) or more candidates have received the same number of votes, the executive and the chief shall immediately determine by lot who will be trustee from the persons receiving an equal number of votes. An election may not be set aside for lack of formality in balloting by the members or in certifying or transmitting the returns of an election by the officers in charge.

(f) This section does not apply to a township if the fire department of the township is consolidated under IC 36-3-1-6.1.

SECTION 250. IC 36-8-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. The 1937 fund is derived from the following sources:

(1) From all money and other property that is given to the local board or 1937 fund for the uses and purposes for which the fund is created. The local board may take by gift, grant, devise, or bequest any money, personal property, real estate, or an interest in it. The gift, grant, devise, or bequest may be absolute or in fee simple or upon the condition that only the rents, income, or profits arising from it may be applied to the purposes for which the fund is established.

(2) All money, fees, rewards, or emoluments that are paid, given,

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devised, or bequeathed to the fire department or one (1) of the fire companies.

(3) All money accruing as interest on the securities or investments that are owned by and held in the name of the local board.

(4) All money received by the local board from the sale or by the maturity of securities or investments owned by the local board.

(5) An assessment made during the period of ~~his~~ **a member's** employment or for thirty-two (32) years, whichever is shorter, on the salary of each member equal to six percent (6%) of the salary of a fully paid first class firefighter. However, the employer may pay all or a part of the assessment for the member. The secretary of the fire department, or the person whose duty it is to make out the payrolls, shall place on the payroll opposite the name of every member the amount of assessment on ~~his~~ **the member's** salary. The unit's fiscal officer shall deduct monthly from the salary of every member the sum listed opposite ~~his~~ **the member's** name, other than any amount paid on behalf of the member, and shall credit that amount to the 1937 fund. Except to the extent the assessment is paid on behalf of the member, every person who becomes a member of the fire department is liable for the assessment and is conclusively considered to agree to pay it by having it deducted from ~~his~~ **the member's** salary as required in this section.

(6) Appropriations that are made for the fund by the unit's fiscal body.

SECTION 251. IC 36-8-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in



Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by ~~him~~: **the fiscal officer**. The **fiscal officer** shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by ~~him~~: **the fiscal officer**. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that the fiscal officer will faithfully discharge the duties of the fiscal officer's office and faithfully account for and pay over to the persons authorized to receive it all money that comes into the fiscal officer's hands by virtue of the fiscal officer's office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

SECTION 252. IC 36-8-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) Notwithstanding section 17 of this chapter, each member of the fire department who was in active service on March 2, 1937, but who was not a member of the firemen's pension fund, is conclusively considered to be a member of the 1937 fund and shall pay, in addition to ~~his~~ **the member's** previous assessments, the same amount into the 1937 fund for unpaid assessments that ~~he~~ **the member** would have paid as assessments if ~~he~~

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**the member** had been a member of the 1937 fund during all of the years of **his the member's** service.

(b) A member of the fire department who:

- (1) was in active service on March 2, 1937;
- (2) was a member of the 1937 fund;
- (3) had previous service in the fire department; and
- (4) who was thirty-six (36) years of age or older at the time of **his the member's** reinstatement or reappointment;

is entitled to all of the benefits of the 1937 fund with all of the years of active service with the fire department counted in determining **his the member's** eligibility for retirement.

SECTION 253. IC 36-8-7.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) A police pension fund to be known as the 1953 fund is established in each consolidated city.

(b) The 1953 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) having nine (9) trustees, as follows:

- (1) The city executive, the county treasurer, and the city police chief.
- (2) One (1) retired member of the police department.
- (3) Five (5) active members of the police department.

(c) The trustee under subsection (b)(2) shall be elected at a meeting of the retired members of the 1953 fund. The trustees under subsection (b)(3) shall be elected at a meeting of the active members of the police department. The trustees are elected for terms of three (3) years, beginning on January 1 following the election, and succeeding those trustees whose terms of office expire on that date.

(d) If a vacancy occurs on the local board among those trustees elected by the police department, the remaining trustees of the local board shall fill the vacancy for the unexpired term of the trustee causing the vacancy, from the same class of members, active or retired, as was the trustee causing the vacancy.

(e) Any trustee of the local board elected as an active member of the police department automatically ceases to be a member of the local board if ~~he~~ **the trustee** ceases, for any reason, to be an active member of the police department and the vacancy shall be filled as provided in subsection (d).

(f) The trustees receive no compensation for their services and shall be paid only their necessary and actual expenses, including travel expenses, out of the fund in the custody of the treasurer, for acting upon matters related to the 1953 fund. The submission of expenses by



any local board member and the authorization by the local board at regular meeting is sufficient authorization to the treasurer for payment.

(g) The local board may make all necessary bylaws for:

- (1) meetings of the trustees;
- (2) the manner of their election, including the counting and canvassing of the votes;
- (3) the collection of all money and other property due or belonging to the 1953 fund;
- (4) all matters connected with the care, preservation, and disbursement of the fund; and
- (5) all other matters connected with the proper execution of this chapter.

SECTION 254. IC 36-8-7.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The city executive is president of the local board, the police chief is its vice president, the county treasurer is its treasurer, and the local board shall elect a secretary. The secretary shall be paid out of the 1953 fund a sum for ~~his~~ **the secretary's** services as fixed by the local board.

(b) The treasurer:

- (1) has custody of all property, money, and securities belonging to the 1953 fund and shall collect the principal and interest on them;
- (2) is liable on ~~his~~ **the treasurer's** bond as a county officer for the faithful accounting of all money and securities belonging to the 1953 fund that come into ~~his~~ **the treasurer's** hands;
- (3) shall keep a separate account showing at all times the true condition of the 1953 fund; and
- (4) shall, upon the expiration of ~~his~~ **the treasurer's** term of office, account to the local board for all money and securities coming into ~~his~~ **the treasurer's** hands, including the proceeds of them, and turn over to ~~his~~ **the treasurer's** successor all money and securities belonging to the fund remaining in ~~his~~ **the treasurer's** hands.

(c) The secretary shall:

- (1) keep a true account of the proceedings of the local board when acting upon matters relating to the 1953 fund;
- (2) keep a correct statement of the accounts of each member with the 1953 fund;
- (3) give the local board a monthly account of ~~his~~ **the secretary's** acts and services as secretary;
- (4) turn over to ~~his~~ **the secretary's** successor all books and papers pertaining to ~~his~~ **the secretary's** office; and

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(5) perform any other duties imposed upon ~~him~~ **the secretary** by the local board.

(d) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of ~~his~~ **the secretary's** duties.

(e) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the city fiscal officer. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

SECTION 255. IC 36-8-7.5-8, AS AMENDED BY P.L.182-2009(ss), SECTION 432, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. The 1953 fund is derived from the following sources:

(1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest any money, chose in action, personal property, real property, or use the same for the purposes of the 1953 fund or for such purposes specified by the grantor.

(2) From money, fees, and awards of every nature that are given to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, all money from gambling cases and from gambling devices as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and confiscated by court order, and sold at a public sale in accordance with law.

(3) From an assessment made during the period of ~~his~~ **a member's** employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1953 fund, an amount equal to six percent (6%) of the salary of a first class patrolman. However, the employer may pay all or a part of the assessment for the member.

(4) From the income from investments of the 1953 fund.

(5) From the proceeds of a tax levied by the police special service district upon taxable property in the district, which the treasurer shall collect and credit to the 1953 fund, to be used exclusively by the 1953 fund, including the payments described in section 10.5 of this chapter.

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SECTION 256. IC 36-8-7.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

- (1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service;
- or
- (2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. The pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) If a member retires upon ~~his~~ **the member's** voluntary application after twenty (20) years or more of active service, ~~he~~ **the member** then relinquishes all rights to other benefits or pensions for disability during the time of ~~his~~ **the member's** retirement.

(d) After retirement the member is not required to render further services on the police department and is no longer subject to the rules of the police department, unless a national emergency has been declared by the local board, on application by the executive, the safety board, and the police chief of the city. Upon declaration of such an emergency, the retired member, if physically able, shall return to active duty under the rank ~~he~~ **the member** attained at the time of ~~his~~ **the member's** retirement, and if ~~he~~ **the member** refuses to return to active duty upon being declared physically fit, ~~he~~ **the member** forfeits ~~his~~ **the member's** right to receive ~~his~~ **the member's** pension until the time ~~he~~ **the member** returns to active duty and again is retired or discharged from service.

(e) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

SECTION 257. IC 36-8-7.5-15 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

(b) The 1953 fund shall be used to pay an amount equal to the pensions, annuities, and benefits provided by this chapter in the case of retirement after twenty (20) years service, to a member of the police department and to the dependents of a member, if the member is dismissed from service for any reason other than conviction of a felony after having been in actual service for twenty (20) years. If the member is dismissed for conviction of a felony, none of the pensions or other benefits provided for in this chapter are payable to the member, **his the member's** beneficiaries, or **his the member's** dependents.

SECTION 258. IC 36-8-7.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) In connection with an application for any pensions, annuities, or benefits other than for disability and other than voluntary retirement after twenty (20) years of active service in the police department, the local board may, if it is satisfied with the facts reported in the application made for the pension, annuity, or benefit, act upon the application and allow the pension, annuity, or benefits applied for.

(b) In connection with an application for the pensions, annuities, or benefits referred to in subsection (a), the local board may deny the application. If the local board denies the application, it may, and shall upon the written request of the applicant, hold a hearing on the application at which time it shall hear any evidence of the applicant or any other person as to the facts contained in the application, and as to any of the requirements stated in this chapter for receiving the pension, annuity, or benefit. After the hearing the board shall decide whether the application shall be granted or denied.

(c) At any hearing held by the local board as provided in this chapter, the local board may subpoena witnesses, and examine all witnesses under oath, and any member of the local board may administer the oath to any witness at any hearing.

(d) The local board shall give due notice of the time and place of the hearing.

(e) The applicant is entitled to be present at the hearing, to be represented by counsel, to examine any witness testifying at the hearing, and to introduce any evidence upon **his the applicant's** behalf as to any question properly before the local board. The local board shall, upon the request of the applicant, subpoena any witness

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requested in writing by the applicant to be present at the hearing.

SECTION 259. IC 36-8-7.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 20. Any pension, annuity, or benefit provided for in this chapter that is paid by the local board contrary to this chapter or on account of the fraud or misrepresentation by the member concerned or any other applicant shall be treated as erroneously paid, and the local board may recover the pension, annuity, or benefit in an action against the person to whom the benefit was paid or against the estate of the person. The local board may also deduct these amounts from any future pensions, annuities, or benefits properly payable to the member or ~~his~~ **the member's** dependents.

SECTION 260. IC 36-8-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) This section applies to all police officers and firefighters who converted their benefits under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981).

(b) A police officer or firefighter who converted ~~his~~ **the police officer's or firefighter's** benefits from a 1925, 1937, or 1953 fund to the benefits and conditions of this chapter is not entitled to receive any benefits from the original fund. However, ~~he~~ **the police officer or firefighter** is entitled to credit for all years of service for which ~~he~~ **the police officer or firefighter** would have received credit before ~~his~~ **the police officer's or firefighter's** conversion in that original fund.

(c) A police officer or firefighter who:

- (1) converted ~~his~~ **the police officer's or firefighter's** benefits from a 1925, 1937, or 1953 fund;
- (2) retired or became disabled on or before June 30, 1998; and
- (3) is entitled to receive benefits provided under this chapter based on the eligibility requirements of this chapter;

shall be treated as a member of this fund for purposes of paying ~~his~~ **the police officer's or firefighter's** benefits from the 1977 fund effective for benefits paid on or after October 1, 1998. Prior to October 1, 1998, ~~he~~ **the police officer or firefighter** remains a member of the original fund entitled to receive only the benefits provided under this chapter based on the eligibility requirements of this chapter.

(d) A police officer or firefighter who:

- (1) converted ~~his~~ **the police officer's or firefighter's** benefits from a 1925, 1937 or 1953 fund;
- (2) who did not retire or become disabled on or before June 30, 1998; and
- (3) who is entitled to receive benefits provided under this chapter

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based on the eligibility requirements of this chapter; remains a member of that original fund but is entitled to receive only the benefits provided under this chapter and based on the eligibility requirements of this chapter.

(e) A police officer or firefighter who converted shall contribute six percent (6%) of the salary of a first class patrolman or firefighter to the 1925, 1937, or 1953 fund. This amount shall be deducted from ~~his~~ **the police officer's or firefighter's** salary each pay period by the disbursing officer of the employer. Contributions under this subsection may not be refunded.

SECTION 261. IC 36-8-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) A fund member is eligible for retirement after ~~he~~ **the member** has completed twenty (20) years of active service.

(b) Unless the member is receiving benefits under subsection (c), unreduced benefits to a retired fund member begin the date:

- (1) the fund member becomes fifty-two (52) years of age; or
- (2) on which the fund member retires;

whichever is later. Benefit payments to a retired fund member under this subsection begin on the first day of the month on or after the date ~~he~~ **the member** reaches fifty-two (52) years of age or on which ~~he~~ **the member** retires, whichever is later.

(c) A retired member may elect to receive actuarially reduced benefits that begin the date:

- (1) the fund member becomes fifty (50) years of age; or
- (2) on which the fund member retires;

whichever is later. Benefit payments to a retired fund member under this subsection begin on the first day of the month on or after the day the member reaches fifty (50) years of age or on which the member retires, whichever is later.

(d) If a fund member:

- (1) becomes fifty-two (52) years of age in the case of unreduced benefits or fifty (50) years of age in the case of reduced benefits; or
- (2) retires on a date other than on the first day of the month;

the amount due the fund member for the initial partial monthly benefit is payable together with the regular monthly benefit on the first of the month following the date the fund member becomes fifty-two (52) or fifty (50) years of age, respectively, or retires, whichever is later.

SECTION 262. IC 36-8-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. As used in this chapter:

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"Board" refers to the sheriff's merit board established under this chapter.

"Department" refers to the sheriff's department of a county.

"Eligible employee" means the sheriff of a county or a county police officer.

"Employee beneficiary" means an eligible employee who has completed an application to become an employee beneficiary and who has had the proper deductions made from ~~his~~ **the eligible employee's** wages as required in the pension trust agreement.

"Net amount paid into the trust fund from wages of an employee beneficiary" means the amount of money actually paid in from the wages of the employee beneficiary, plus interest at the rate of three percent (3%) compounded annually and less a sum including interest at the same rate, paid from the trust fund to the employee beneficiary or to a governmental fund for the credit or benefit of the employee beneficiary.

"Pension engineers" means technical consultants qualified to supervise and assist in the establishment, maintenance, and operation of a pension trust on an actuarially sound basis.

"Trust fund" means the assets of the pension trust and consists of voluntary contributions from the department, money paid from the wages of employee beneficiaries, and other payments or contributions made to the pension trust, including the income and proceeds derived from the investment of them.

"Trustee" refers to the trustee of the pension trust, who may be one (1) or more corporate trustees or the treasurer of the county serving under bond.

SECTION 263. IC 36-8-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) A county police force is established in each county. The members are employees of the county, and the sheriff of the county shall assign their duties according to law.

(b) The expenses of the county police force are a part of the sheriff's department budget. The board may recommend the number and salary of the personnel, but the county fiscal body shall determine the budget and salaries.

(c) The county shall furnish to the sheriff and ~~his~~ **the sheriff's** full-time paid county police officers the uniforms or other clothing they need to perform their duties. However, after one (1) year of service in the sheriff's department, a sheriff or ~~or~~ county police officer may be required by the county to furnish and maintain ~~his~~ **the sheriff's or county police officer's** own uniform clothing upon payment to ~~him~~ **the**



**sheriff or county police officer** by the county of an annual cash allowance of at least two hundred dollars (\$200).

SECTION 264. IC 36-8-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. A member of the department who becomes sheriff either by election or by appointment shall, upon the expiration of ~~his~~ **the member's** term ~~as sheriff~~, and upon ~~his~~ **the member's** written application, be appointed by the board to the rank in the department that ~~he~~ **the member** held at the time of ~~his~~ **the member's** election or appointment as sheriff, if there is a vacancy in the department. However, if the ~~sheriff member~~ during ~~his~~ **the member's** tenure of office ~~as sheriff~~ has qualified in accordance with the promotion procedure prescribed by the board in its rules for a rank in the department that is higher than the rank ~~he~~ **the member** previously held, the board shall, upon the expiration of ~~his~~ **the member's** term as sheriff, appoint ~~him~~ **the member** to the rank for which ~~he~~ **the member** has qualified under the promotion procedure if there is a vacancy in that rank.

SECTION 265. IC 36-8-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) Each member of the department:

- (1) has general police powers;
  - (2) shall arrest, without process, all persons who commit an offense within ~~his~~ **the member's** view, take them before the court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;
  - (3) shall suppress all breaches of the peace within ~~his~~ **the member's** knowledge, with authority to call to ~~his~~ **the member's** aid the power of the county;
  - (4) shall pursue and commit to the jail of the county all felons;
  - (5) may execute all process directed to the sheriff by legal authority;
  - (6) shall attend upon and preserve order in all courts of the county;
  - (7) shall guard prisoners in the county jail;
  - (8) shall serve all process directed to the sheriff from a court or from the county executive according to law; and
  - (9) shall take photographs, fingerprints, and other identification data as shall be prescribed by the sheriff of persons taken into custody for felonies or misdemeanors.
- (b) A person who:
- (1) refuses to be photographed;
  - (2) refuses to be fingerprinted;



- (3) withholds information; or  
 (4) gives false information;  
 as prescribed in subsection (a)(9), commits a Class C misdemeanor.
- SECTION 266. IC 36-8-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 22. (a) This section applies to any county that operates a county jail.
- (b) The sheriff shall hold in trust separately for each inmate any money received from that inmate or from another person on behalf of that inmate.
- (c) If the inmate or ~~his~~ **the inmate's** legal guardian requests a disbursement from the inmate's trust fund, the sheriff may make a disbursement for the personal benefit of the inmate, including but not limited to a disbursement to the county jail commissary.
- (d) Upon discharge or release of an inmate from the county jail, the sheriff shall pay to that inmate or ~~his~~ **the inmate's** legal guardian any balance remaining in ~~his~~ **the inmate's** trust fund.
- (e) If an inmate is found guilty of intentionally destroying or losing county property after a hearing conducted under IC 11-11-5-5, the sheriff may disburse from the inmate's trust fund or commissary account sums of money as reimbursement to the county for the inmate's intentional destruction or loss of county property, including but not limited to clothing, bedding, and other nondisposable items issued by the county to the inmate. Before disbursing money under this subsection, the sheriff shall adopt rules to administer this procedure.
- (f) The sheriff shall maintain a record of each trust fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record.

SECTION 267. IC 36-8-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) This section applies to petitions filed under either section 5 or ~~section~~ 9 of this chapter.

- (b) If two (2) or more freeholders own the same land in joint title, they may be counted as only one (1) freeholder for the purpose of determining what constitutes twenty percent (20%) or a majority of the freeholders.
- (c) A freeholder owning land in joint title may sign the petition and the signature shall be counted. However, if two (2) or more freeholders who own the same land in joint title sign the petition, their combined signatures count only as one (1) signature for the purposes of subsections (a) and (b).
- (d) Any officer authorized by the corporation may sign the petition for a private corporation owning land within the proposed district. ~~His~~

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**The officer's** signature is prima facie evidence of ~~his~~ **the officer's** authorization.

(e) The petition may be circulated in several counterparts and still be considered a single petition.

SECTION 268. IC 36-8-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) The board shall fix the time for holding regular meetings, but it shall meet at least once in the months of January, April, July, and October. The county legislative body may order that regular meetings be held more frequently.

(b) Special meetings of the board may be called by the ~~chairman~~ **chair** or by two (2) trustees, upon written request to the secretary. At least three (3) days before a special meeting, the secretary shall send to all trustees a written notice fixing the time and place of the meeting.

Written notice of a special meeting is not required if:

- (1) the time of the special meeting has been fixed in a regular meeting; or
- (2) all trustees were present at a meeting at which a special meeting was called.

SECTION 269. IC 36-8-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. (a) At the first regular meeting each year, the trustees of the board shall elect a ~~chairman~~ **chair** and vice ~~chairman~~ **chair** from their number. The vice ~~chairman~~ **chair** shall act as ~~chairman~~ **chair** during the absence or disability of the ~~chairman~~ **chair**.

(b) A majority of the trustees constitutes a quorum. An action of the board is official, however, only if it is authorized by a majority of the trustees at a regular or properly called special meeting.

(c) Each trustee may receive not more than twenty dollars (\$20) a day for each day devoted to the work of the district. In addition, each trustee may be reimbursed for actual expenses, including traveling expense at a rate equivalent to that provided by statute for state employees. Claims for expense reimbursement must be accompanied by an itemized written statement and approved by a recorded motion of the board.

(d) At the time the county legislative body initially appoints the board, it shall order where the board will maintain its offices. The offices may not be changed without approval of the legislative body. The board shall arrange for office space and keep a record of all transactions and minutes of all meetings in the office. All records and minutes shall be kept available for public inspection.

SECTION 270. IC 36-8-11-15 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) The board:

- (1) has the same powers and duties as a township executive with respect to fire protection functions, including those duties and powers prescribed by IC 36-8-13, although all cooperative and joint actions permitted by that chapter must be undertaken according to this chapter;
- (2) has the same powers and duties as a township executive relative to contracting with volunteer firefighting companies, as prescribed by IC 36-8-12 and IC 36-8-13;
- (3) shall appoint, fix the compensation, and prescribe the duties of a fiscal officer, secretarial staff, persons performing special and temporary services or providing legal counsel, and other personnel considered necessary for the proper functioning of the district; however, a person appointed as fiscal officer must be bonded by good and sufficient sureties in an amount ordered by the county legislative body to protect the district from financial loss;
- (4) shall exercise general supervision of and make regulations for the administration of the district's affairs;
- (5) shall prescribe uniform rules pertaining to investigations and hearings;
- (6) shall supervise the fiscal affairs and responsibilities of the district;
- (7) may delegate to employees of the district the authority to perform ministerial acts, except in cases in which final action of the board is necessary;
- (8) shall keep accurate and complete records of all departmental proceedings, record and file all bonds and contracts, and assume responsibility for the custody and preservation of all papers and documents of the district;
- (9) shall make an annual report to the executive and the fiscal body of the county that at least lists the financial transactions of the district and a statement of the progress in accomplishing the purposes for which the district has been established;
- (10) shall adopt a seal and certify all official acts;
- (11) may sue and be sued collectively by its legal name ("Board of Fire Trustees, \_\_\_\_\_ Fire Protection District"), with service of process made on the ~~chairman~~ **chair** of the board, but costs may not be taxed against the members individually in an action;
- (12) may invoke any legal, equitable, or special remedy for the enforcement of this chapter or of proper action of the board taken

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in a court;

(13) shall prepare and submit to the fiscal body of the county an annual budget for operation and maintenance expenses and for the retirement of obligations of the district, subject to review and approval by the fiscal body;

(14) may, if advisable, establish one (1) or more advisory committees;

(15) may enter into agreements with and accept money from a federal or state agency and enter into agreements with a municipality located within or outside the district, whether or not the municipality is a part of the district, for a purpose compatible with the purposes for which the district exists and with the interests of the municipality;

(16) may accept gifts of money or other property to be used for the purposes for which the district is established;

(17) may levy taxes at a uniform rate on the real and personal property within the district;

(18) may issue bonds and tax anticipation warrants;

(19) may incur other debts and liabilities;

(20) may purchase or rent property;

(21) may sell services or property that are produced incident to the operations of the district making a fair and reasonable charge for it;

(22) may make contracts or otherwise enter into agreements with public or private persons and federal or state agencies for construction, maintenance, or operations of or in part of the district;

(23) may receive and disburse money; and

(24) may impose a false alarm fee or service charge under IC 36-8-13-4.

(b) Powers granted by this chapter may be used only to accomplish the purpose or purposes as stated in the ordinance or resolution establishing the district. However, an act of the board necessary and proper to accomplish the purposes for which the district is established is not invalid because it incidentally accomplishes a purpose other than one for which the district is established.

SECTION 271. IC 36-8-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. When a volunteer fire department is responding to a fire call and there is no other fire department with overriding jurisdiction present, the fire chief, or in **his** **the fire chief's** absence the ranking officer, shall direct all nonfire emergency activities at the scene until a law enforcement officer

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arrives on the scene.

SECTION 272. IC 36-8-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) All purchases of firefighting apparatus and equipment shall be made in the manner provided by statute for the purchase of township supplies. If the amount involved is sufficient to require notice under statutes for bids in connection with the purchase of apparatus or equipment, the notice must offer all bidders the opportunity of proposing to sell the apparatus and equipment to the township upon a conditional sale or mortgage contract.

(b) A bidder proposing to sell on a conditional sale or mortgage contract shall state in ~~his~~ **the bidder's** bid the proposed interest rate and terms of it, to be considered by the township executive and legislative body in determining the best bid received.

(c) All bids submitted must specify the cash price at which the bidder proposes to sell the apparatus or equipment to the township so that the executive and legislative body may determine whether it is in the best interest of the township to purchase the apparatus or equipment on the terms of a conditional sale or mortgage contract proposed by the bidder or to purchase it for cash if sufficient funds are available or can be raised by negotiating a loan with a financial institution in accordance with this section.

SECTION 273. IC 36-8-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. A township having a regularly organized fire department employing full-time firefighters may procure at the township's expense:

- (1) an insurance policy for each member of the department insuring the member against the loss of ~~his~~ **the member's** life or dismemberment while in the performance of ~~his~~ **the member's** regularly assigned duties; and
- (2) group insurance providing supplemental income protection for a member of the department who has been injured during the course of ~~his~~ **the member's** employment.

The insurance coverage shall be selected with the consent of the members and is supplemental to other benefits provided the injured member by law.

SECTION 274. IC 36-9-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) The board shall fix the time and place for holding regular meetings, and it must meet at least once during each calendar quarter of each calendar year.

(b) Special meetings of the board may be called by the ~~chairman~~ **chair** or by five (5) members of the board upon written request to the

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secretary. The secretary must send to all members, at least forty-eight (48) hours in advance of a special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the time of the special meeting has been fixed in a regular meeting.

SECTION 275. IC 36-9-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) The board shall appoint a person to act as controller for the authority.

(b) The controller shall give bond in the sum and with the conditions prescribed by the board, and with surety to the approval of the board. The bond must be filed and recorded in the office of the county recorder for the county in which the office of the authority is located.

(c) The term of office of the controller is one (1) year, and ~~he~~ **the controller** may be appointed for additional terms of one (1) year each.

(d) All money payable to the authority must be paid to the controller, who shall deposit it in the manner prescribed by IC 5-13-6. The money deposited may be invested under the applicable statutes, including IC 5-13-9.

(e) The controller shall keep an accurate account of all appropriations made and all taxes levied by the authority, all money owing or due to the authority, and all money received and disbursed.

(f) The board may authorize the controller to pay a per diem in advance to a public transportation employee or board member who will attend a training session or other special meeting required as a duty of the public transportation employee or board member.

SECTION 276. IC 36-9-3-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 25. (a) If a labor dispute involving the authority and its employees is not governed by the Federal Labor Management Relations Act, as amended (29 U.S.C. sections 141-197 and 557), or by the Railway Labor Act, as amended (45 U.S.C. sections 151-188), the authority shall offer to submit the dispute to an arbitration team composed of one (1) member appointed by the authority, one (1) member appointed by the labor organization representing the employees, and one (1) member agreed upon by the labor organization and the authority. The member agreed upon by the labor organization and the authority shall serve as ~~chairman~~ **chair** of the team. The determination of the majority of the arbitration team is final and binding on all matters in dispute.

(b) If within the first ten (10) days after the date of the appointment of the arbitrators representing the authority and the labor organization, the third arbitrator has not been selected, then either arbitrator may



request the American Arbitration Association to furnish from a current listing of the membership of the National Academy of Arbitrators the names of seven (7) members of the National Academy from which the third arbitrator shall be selected. After receipt of the list, the arbitrators appointed by the authority and the labor organization shall promptly determine by lot the order of elimination and then alternately eliminate one (1) name from the list at a time until only one (1) name remains. The remaining person on the list is the third arbitrator.

(c) For purposes of this section, the term "labor dispute" shall be broadly construed and includes any controversy regarding the collective bargaining agreements and any grievance that may arise.

(d) Each party shall pay one-half (1/2) of the expenses of arbitration under this section.

SECTION 277. IC 36-9-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) After the creation of a public transportation corporation, territory may be added to the taxing district of the corporation only in accordance with this section.

(b) If the municipality finalizes an annexation or disannexation of territory, the boundaries of the taxing district of the corporation change so as to remain coterminous with the new boundaries of the municipality. Such a change takes effect when the annexation or disannexation takes effect.

(c) Upon written request by a majority of:

- (1) the resident freeholders in a platted subdivision; or
- (2) the owners of any unplatted lands;

in the same county as a public transportation corporation but not within a municipality, the board of directors of the corporation may, by resolution, incorporate all or part of the platted subdivision or unplatted lands into the taxing district. Such a request must be signed and certified as correct by the resident freeholders or landowners making the request, and the original must be preserved in the records of the board. The resolution of the board incorporating an area into the taxing district must be in writing and must include an accurate description of that area. A certified copy of the resolution, signed by the ~~chairman~~ **chair** and secretary of the board, together with a map showing the boundaries of the taxing district and the location of the additional areas, shall be delivered to the auditor of the county within which the corporation is located and shall be properly indexed and kept in the permanent records of the offices of the auditor.

(d) Upon written request by ten (10) or more resident freeholders of a platted subdivision or unplatted territory in the same county as a



public transportation corporation but not within a municipality, the board of directors of the corporation may define the limits of an area that:

- (1) is within the county;
- (2) includes the property of the freeholders; and
- (3) is to be considered for incorporation into the taxing district.

Notice of the defining of the area by the board, and notice of the location and limits of the area, must be given by publication in accordance with IC 5-3-1. The area may then be incorporated into the taxing district upon request, in the manner prescribed by subsection (c).

(e) Property in territory added to the taxing district under subsection (c) or (d) is, as a condition of the special benefits it subsequently receives, liable for its proportion of all taxes subsequently levied by the public transportation corporation. The proportion of taxation shall be determined in the same manner as when territory is annexed by a municipality.

SECTION 278. IC 36-9-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) On the expiration of the term of office of a director of a public transportation corporation, the appointing authority shall appoint a director for a term of four (4) years and until ~~his~~ **the director's** successor is appointed and qualified.

(b) If a director leaves office before ~~his~~ **the director's** term has expired, the appointing authority shall appoint a new director to serve the remainder of the term.

SECTION 279. IC 36-9-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 21. On the first day of the first month after their appointment, and annually after that, the directors of a public transportation corporation shall elect one (1) director as ~~chairman~~ **chair** of the board and one (1) director as secretary.

SECTION 280. IC 36-9-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 22. (a) The board of directors of a public transportation corporation shall, by rule, provide for regular meetings to be held at designated intervals throughout the year.

(b) The board shall convene in a special meeting whenever such a meeting is called by the ~~chairman~~ **chair** or by a majority of the directors. Notice of a special meeting must be given by publication in accordance with IC 5-3-1.

(c) The board shall keep its meetings open to the public.

SECTION 281. IC 36-9-4-27 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 27. (a) The board of directors of a public transportation corporation shall appoint a qualified person to serve as controller. The controller is the chief fiscal officer of the corporation, and ~~he~~ **the controller** must give bond in the sum and with the conditions prescribed by the board and with surety to the approval of the board.

(b) All money payable to the public transportation corporation shall be paid to the controller, and ~~he~~ **the controller** shall deposit it under IC 5-13-6. The controller shall deposit this money in the depositories and in the accounts that the board designates by ordinance.

(c) The controller shall keep an accurate account of all appropriations made and all taxes levied by the public transportation corporation, all money owing or due to the corporation, and all money received and disbursed by the corporation, and ~~he~~ **the controller** shall preserve all vouchers for payments and disbursements.

(d) The controller shall issue all warrants for the payment of money from the funds of the public transportation corporation, but ~~he~~ **the controller** may not issue a warrant for the payment of a claim until the claim has been allowed in accordance with the procedure prescribed by the rules of the board. All warrants must be countersigned by the ~~chairman~~ **chair** of the board.

(e) If the controller is called upon to issue a warrant, ~~he~~ **the controller** may require evidence that the amount claimed is justly due, and for that purpose ~~he~~ **the controller** may summon before ~~him~~ **the controller** any officer, agent, or employee of the public transportation corporation and examine ~~him~~ **the officer, agent, or employee** on oath or affirmation relating to the warrant. The controller may administer the oath or affirmation.

(f) Notwithstanding subsections (d) and (e), the board may authorize the controller to pay a per diem in advance to a public transportation employee or board member who will attend a training session or other special business meeting required as a duty of the public transportation employee or board member.

(g) Each year, and more often if required by the board, the controller shall submit ~~his~~ **the controller's** records of account as controller for audit to the certified public accountant or firm of certified public accountants designated by the board. The certified public accountant or firm of certified public accountants shall submit to the board a certified report of the records of account, exhibiting the revenues, receipts, and disbursements, the sources from which the revenues and funds are derived, and the manner in which they have been disbursed.

SECTION 282. IC 36-9-4-37 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 37. (a) The board of directors of a public transportation corporation may appoint or employ a general manager, accountants, attorneys, traffic engineers, drivers, clerks, secretaries, guards, laborers, and other employees, and may prescribe and define their duties, regulate their compensation, discharge them, and appoint or employ their successors. Employees shall be selected without regard to race, religion, or any personal affiliation. The board shall select ~~the~~ **a person for the position of** general manager on the basis of ~~his~~ **the person's** fitness for the position, taking into account ~~his~~ **the person's** executive ability and ~~his~~ **the person's** knowledge of and experience in the field of mass public transportation.

(b) The board shall bargain collectively and enter into written contracts with authorized labor organizations representing employees other than executive, administrative, or professional personnel. These contracts may provide for the binding arbitration of disputes, wages, salaries, hours, working conditions, health and welfare, insurance, vacations, holidays, sick leave, seniority, pensions, retirement, and other benefits.

SECTION 283. IC 36-9-4-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 44. (a) If the board of directors of a public transportation corporation decides to issue bonds to obtain all or part of the money to be expended for the establishment and maintenance of an urban mass transportation system under this chapter, the board shall adopt an ordinance directing the issuance of the bonds. The board shall certify a copy of the ordinance to the controller of the corporation, who shall then prepare the bonds.

(b) The bonds must be executed by the ~~chairman~~ **chair** of the board and attested by the controller of the corporation.

(c) The controller is responsible for the sale of the bonds.

(d) Except as otherwise provided in this section, the bonds shall be issued in the same manner as bonds for the general purposes of the municipality served by the public transportation corporation. However, the bonds may be sold to the federal government at private sale and without a public offering.

(e) In addition to the general power to issue bonds for the establishment and maintenance of a system, the board may issue bonds specifically:

- (1) for the payment of any judgment against the corporation; and
- (2) to establish or maintain a program of self-insurance or mutual insurance.

SECTION 284. IC 36-9-4-46 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 46. (a) The board of directors of a public transportation corporation that issues bonds under this chapter shall levy a special tax each year upon all the property within the taxing district of the corporation. The tax shall be levied in such a manner as to meet and pay the principal of the bonds as they mature, together with all accruing interest.

(b) The county treasurer shall collect the tax in the same manner as other taxes are collected. As the treasurer collects the tax, ~~he~~ **the treasurer** shall remit it to the controller of the public transportation corporation.

(c) In determining the amount of the levy, the board of directors shall consider any surplus of accumulated revenue derived from the operation of the urban mass transportation system, above the sum considered necessary to be applied upon or reserved for the payment of the operating and capital expenditures of the system, including expenditures for the replacement of and additions to the property of the system and reserves established for the depreciation of the property of the system. If the board finds that this surplus is sufficient, it may apply all or part of the surplus to the payment of the principal of the bonds, together with the interest on them.

SECTION 285. IC 36-9-4-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 48. (a) A cumulative transportation fund to provide money for the acquisition of buses and for the planning, establishment, and maintenance of routes and schedules to assist in implementing this chapter may be established under IC 6-1.1-41 by:

- (1) the legislative body of a municipality that:
  - (A) is making grants to an urban mass transportation system; or
  - (B) has purchased buses for operation under lease by an urban mass transportation system; or
- (2) the board of directors of a public transportation corporation.

(b) In addition to other notices required under IC 6-1.1-41, notices of hearings under IC 6-1.1-41 must be given to the following:

- (1) the municipal executive, for a tax levy by a municipality; and
- (2) the ~~chairman~~ **chair** of the board of directors, for a tax levy by a public transportation corporation.

(c) A tax levy to finance the cumulative transportation fund may be levied in compliance with IC 6-1.1-41. The tax levied under this section may not exceed six and sixty-seven hundredths cents (\$0.0667) on each one hundred dollars (\$100) of taxable property within the corporate boundaries of the municipality or the taxing district of the



public transportation corporation, as the case may be.

SECTION 286. IC 36-9-4-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 49. (a) For each year in which it is anticipated that the total amount available to a public transportation corporation will be insufficient to defray the expenses incurred by the corporation, the board of directors of the corporation shall levy a special tax upon all the property within the taxing district of the corporation at the rate required to defray such expenses. The tax must be based upon the budget formulated and filed by the board under this chapter.

(b) The county treasurer shall collect the tax levied under this section in the same manner as other taxes are collected. As the treasurer collects the tax, ~~he~~ **the county treasurer** shall remit it to the controller of the public transportation corporation.

SECTION 287. IC 36-9-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. The works board may order the removal of any structure in a street, alley, or public place of the city. If the person maintaining the structure fails to remove it, the works board may remove it at ~~his~~ **the person's** expense.

SECTION 288. IC 36-9-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The personnel of the department of traffic engineering consists of a city traffic engineer, ~~his~~ **the traffic engineer's** assistants, and other employees necessary to perform the duties of the department. The city executive shall appoint the traffic engineer.

(b) The traffic engineer must:

- (1) have a thorough knowledge of modern traffic control methods;
- (2) be able to supervise and coordinate diversified traffic engineering activities and prepare engineering reports; and
- (3) either:
  - (A) be a registered professional engineer who has practiced traffic engineering for at least one (1) year;
  - (B) have a certificate of engineer-in-training under IC 25-31 and have practiced traffic engineering for at least two (2) years; or
  - (C) have practiced traffic engineering for at least ten (10) years.

A person must furnish evidence of ~~his~~ **the person's** qualifications under this subsection before ~~he~~ **the person** may be appointed by the executive.

SECTION 289. IC 36-9-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) The traffic

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engineer is responsible only to the city executive or safety board, and ~~he~~ **the traffic engineer** may act only in an advisory capacity to the executive or board.

(b) The traffic engineer has full authority over all ~~his~~ **the traffic engineer's** subordinates.

SECTION 290. IC 36-9-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. The traffic engineer shall:

(1) conduct all research relating to the engineering aspects of the planning of:

- (A) public ways;
- (B) lands abutting public ways; and
- (C) traffic operation on public ways;

for the safe, convenient, and economical transportation of persons and goods;

(2) advise the city executive in the formulation and execution of plans and policies resulting from ~~his~~ **the traffic engineer's** research under subdivision (1);

(3) study all accident records, to which ~~he~~ **the traffic engineer** has access at all times, in order to reduce accidents;

(4) direct the use of all traffic signs, traffic signals, and paint markings, except on streets traversed by state highways;

(5) recommend all necessary parking regulations;

(6) recommend the proper control of traffic movement; and

(7) if directed to do so by ordinance, supervise all employees engaged in activities described by subdivisions (3) through (6).

SECTION 291. IC 36-9-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The expenses of a county surveyor, county engineer, or other person in attending the annual road school, including mileage, lodging, and tuition, shall be paid from the county general fund. On presentation of the proper receipts for these expenses, and with the approval of the county executive, the county auditor shall issue ~~his~~ **the county auditor's** warrant for the expenses.

(b) The municipal legislative body may annually appropriate sums for the necessary expense of mileage, meals, and lodging of a municipal engineer or other person in attending the annual road school.

SECTION 292. IC 36-9-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) All street lamps or systems of lighting constructed, erected, or installed must be uniform in style and shall be installed under the supervision of:

- (1) the municipal civil engineer; or

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(2) some other competent person; as determined by the municipal works board. If the person supervising the work is not already under bond, ~~he~~ **the person** shall file a bond for the faithful performance of ~~his~~ **the person's** duties in the sum and the manner directed by the works board.

(b) At the completion of the work, the person supervising the work shall file with the municipality ~~his~~ **the person's** verified report that the work has been completed and complies in all respects with the drawings, plans, and specifications on file. If the report is found to be correct, the works board shall accept it on behalf of the municipality.

SECTION 293. IC 36-9-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) Whenever a lighting system has been established in accordance with this chapter, and an owner of property within any city block or blocks included in the system wants lighting facilities in front of or near ~~his~~ **the owner's** property that:

- (1) are additional to those described in the plans and specifications on file; and
- (2) consist of either lighting posts or lamps of greater candlepower, or both;

the property owner may file ~~his~~ **the property owner's** petition with the municipal works board. The petition must fully describe the additional lighting facilities that are wanted.

(b) The works board shall grant the petition and refer it to the person who supervises the system, who shall prepare and file:

- (1) plans and specifications for the additional lighting; and
- (2) the estimated annual cost of the additional lighting.

(c) When the plans, specifications, and annual cost are approved by the works board and by the property owner, the works board shall notify the utility operating the lighting system. The utility shall immediately proceed to erect, install, construct, and connect the additional lighting at its own expense. The utility shall then operate and maintain the additional lighting facilities as a part of the original system in return for additional compensation that is:

- (1) agreed upon by all the interested parties and approved by the utility regulatory commission; or
- (2) fixed by the commission.

(d) The property owner who petitioned for the additional lighting facilities shall pay to the municipality the additional annual cost of those facilities. The additional annual cost, which shall be added to the original amount assessable against the petitioner's property, is a lien upon the property and is payable in accordance with this chapter.

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SECTION 294. IC 36-9-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) In connection with the operation of any parking facility, the municipal works board may fix the rates and charges to be collected for the parking of vehicles, or for any other use of the facility, and adopt rules governing the use and operation of the facility so as to promote the maximum use of the facility by the public in a safe, orderly, and efficient manner. In a city, however, these rates, charges, and rules do not become effective until they are approved by ordinance or resolution of the legislative body.

(b) All rates and charges for parking and other services must be reasonable and designed to bring in revenues sufficient to cover the cost of providing and operating necessary parking facilities.

(c) A person handling monies of one (1) or more parking facilities must be properly bonded to insure a faithful accounting for the money coming into ~~his~~ **the person's** hands.

SECTION 295. IC 36-9-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) If a municipality wants to obtain all or part of the money necessary to pay the cost of parking facilities by the issuance of revenue bonds, the bonds must be authorized by ordinance of the municipal legislative body.

(b) The ordinance authorizing the revenue bonds:

- (1) must set out the amount, date, denominations, terms, conditions, and form of the bonds and their interest coupons;
- (2) must set out any covenants relative to safeguarding the interest of the bondholders;
- (3) must specify in detail the revenues pledged to the payment of the interest on and the principal of the bonds; and
- (4) may contain provisions for the issuance of additional bonds of equal priority, or of junior and subordinate priority, from time to time after issuance of the original bonds, under the restrictions set forth in the ordinance.

(c) The revenue bonds may:

- (1) bear interest, payable semiannually, at any rate;
- (2) be payable in the amounts, at times not exceeding fifty (50) years from the date of issuance, and at the place or places, either within or outside of Indiana; and
- (3) be redeemable before maturity on the terms and conditions; specified by the municipal legislative body in the authorizing ordinance.

(d) The bonds shall be executed in the name of the municipality as other bonds of the municipality are executed. If any of the officers



whose signatures or countersignatures appear on the bonds or the coupons cease to be officers before the delivery of the bonds to the purchaser, ~~his~~ **the officer's** signature or countersignature remains valid and sufficient for all purposes as if ~~he~~ **the officer** had remained in office until the delivery of the bonds.

(e) Upon the sale and delivery of the bonds authorized, the ordinance constitutes a contract between the municipality and the bondholders, and may not subsequently be amended or modified so as to adversely affect the rights of the bondholders.

(f) The bonds of a city and the interest on them are payable only out of the special fund or account created by the ordinance authorizing the issuance of the bonds and the revenues pledged to the fund or account. The bonds of a town and the interest on them are payable only out of the parking sinking fund established by section 19 of this chapter and the revenues pledged to that fund.

(g) The bonds are not an indebtedness of the municipality for purposes of any constitutional provision or limitation. A statement to that effect must appear on the face of each bond.

(h) The bonds are payable to bearer, and the interest on them shall be evidenced by coupons attached to them.

(i) The bonds may be registrable as to the principal only in the holder's name on the books of the municipality, with the registration to be noted on the bond by the municipal clerk or other designated officer. After registration, the transfer of a bond is valid only if made on the books of the municipality by the registered holder and similarly noted on the bond. Registered bonds may be discharged from registration by being transferred to bearer, after which they are transferable by delivery but may again be registered as to principal. The registration of the bonds as to principal does not affect the negotiability of the interest coupons by delivery only.

(j) Bonds issued under this section are negotiable instruments. The bonds and the interest on them are exempt from taxation for all purposes.

(k) The proceeds of each issue of bonds shall be used solely for the payment of the cost of the parking facilities for which the bonds were issued, and shall be disbursed in the manner and under the restrictions, if any, that the legislative body specifies in the ordinance authorizing the issuance of the bonds.

(l) If the proceeds of any issue of bonds are less than the cost of the parking facilities, additional bonds may be issued in a similar manner to provide the amount of the deficit. Unless otherwise provided in the ordinance authorizing their issuance, the additional bonds are



considered to be of the same issue and are entitled to payment from the same fund without preference or priority of the bonds first issued.

(m) If the proceeds of any issue of bonds exceed the cost of the parking facilities for which the bonds were issued, the surplus shall be deposited in the fund or account from which the bonds are payable.

SECTION 296. IC 36-9-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. If revenue bonds are issued to finance the cost of parking facilities, the municipality shall keep proper books of records and accounts for the parking facilities, separate from all of its other records and accounts. These records and accounts must contain complete and correct entries showing:

- (1) the application of the proceeds of the bonds;
- (2) the source and disposition of:
  - (A) all revenues collected from or on account of the facilities; or
  - (B) all money supplied by the municipality on account of the facilities; and
- (3) all transactions relating to the facilities.

Within ninety (90) days after the close of each calendar year, the municipal fiscal officer shall prepare an operating and income statement of the facilities. The fiscal officer shall keep the statement on file in ~~his~~ **the fiscal officer's** office, and make it available for examination by any holder of the revenue bonds. A copy of the statement shall be furnished to the original purchaser of the bonds upon request.

SECTION 297. IC 36-9-11.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) Upon the adoption of the declaratory resolution by the board, the resolution, together with the supporting data, shall be submitted to the metropolitan development commission. The commission may determine whether the declaratory resolution and the proposed parking facility improvement plan conform to all zoning ordinances of the consolidated city, and approve as adopted, modify, or disapprove the resolution and proposed parking facility. The declaratory resolution and the proposed plan of improvement may be amended or modified in order to conform them to the requirements of the commission.

(b) The administrator of buildings of the city must then examine and approve the plans and specifications of any structures so proposed to be erected. The board shall then submit the proceedings to the city executive for ~~his~~ **the city executive's** approval and may not proceed with the acquisition of the proposed site until the approving orders of



the executive, the commission, and the building administrator are issued. In determining the location and character of any proposed parking facility, the board and commission shall consider traffic conditions, the effect of the proposed parking facility on surrounding property, and any unusual hardship to those interested in the property.

SECTION 298. IC 36-9-11.1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17. (a) All gifts, donations, bequests, devises, and proceeds derived from the sale of bonds, from the disposition of property, or any payments received or paid to the department for off-street parking purposes shall be delivered to the fiscal officer of the consolidated city. ~~He~~ **The fiscal officer** shall deposit them to the credit of the department, for the account for the parking facility entitled to them, or to its general fund, if not so allocated. All money remaining in each separate parking facility fund and in the general fund at the end of each calendar year continues to belong to those respective funds for use as provided in this chapter. All deposits of the department shall be kept in duly designated depositories for funds of the city.

(b) Separate books of account shall be kept for each parking facility so long as there remain outstanding any bonds issued on account of the acquisition or improvement of the facility. All net revenues derived from any parking facility that are pledged to the payment of the interest on and principal of certain bonds shall be deposited in a separate special account appropriately set up and designated. The money in these accounts shall be used solely for the payment of the interest on and principal of the respective bonds as they fall due, and for no other purposes, until the account contains an amount sufficient to pay the interest on and principal of all bonds payable during the then current calendar year and the interest on and principal of the bonds that will become due during the next succeeding calendar year. Any amount in excess of the amount required for that purpose may be used in the purchase of bonds of that issue, if they can be purchased at less than the then current redemption price, or if not, then for the redemption of outstanding bonds of that issue in accordance with their provisions, all as directed by the board.

SECTION 299. IC 36-9-11.1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. Within ninety (90) days after the close of each calendar year, an operating and income statement of the parking facility or facilities shall be prepared by the fiscal officer of the consolidated city, and kept on file in ~~his~~ **the fiscal officer's** office open to examination by any holder of the revenue bonds. A copy of the statement shall be furnished to the original

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purchaser of the bonds upon request.

SECTION 300. IC 36-9-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) Whenever the county auditor receives a notice that:

- (1) is signed by the presiding officers of the county executive, the county fiscal body, and the municipal fiscal body of the county seat;
- (2) states that those bodies have agreed to hold a public hearing on and consider the creation of a county building authority; and
- (3) fixes a time and place for that hearing;

**he the county auditor** shall give notice by publication of the hearing. The notice shall be published in accordance with IC 5-3-1, and must set out the time, place, and purpose of the hearing.

(b) The members of the executive of the county and the fiscal bodies of the county and county seat shall meet at the time and place fixed in the notice. The presiding officers of each of the three (3) bodies shall elect one (1) of their number to preside as ~~chairman~~ **chair** at the hearing, another as vice ~~chairman~~, **chair**, and another as secretary.

(c) All interested citizens and taxpayers of the county may appear and are entitled to be heard at the hearing.

(d) The authority shall be established if, within sixty (60) days after the hearing, a concurrent resolution declaring a need for the authority is agreed upon and separately adopted by the county executive and county and municipal fiscal bodies.

(e) A copy of the concurrent resolution that is certified by affidavits of the county auditor and municipal clerk showing the date of adoption of the resolution by the three (3) bodies must be filed in the office of the recorder of the county for recording in the miscellaneous records. The certified and recorded copy of the resolution is admissible in evidence in any action or proceeding as proof of the establishment of the authority.

SECTION 301. IC 36-9-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) Within sixty (60) days after the adoption of the concurrent resolution under section 5 of this chapter, a board of building authority trustees shall be appointed. The board consists of five (5) trustees who are appointed in the following manner and for the following initial terms:

- (1) One (1) appointed by the municipal fiscal body of the county seat, for a term of one (1) year.
- (2) One (1) appointed by the county fiscal body, for a term of two (2) years.
- (3) One (1) appointed by the county executive, for a term of three



(3) years.

(4) One (1) appointed by the municipal executive of the county seat, for a term of four (4) years.

(5) One (1) appointed by the county executive, for a term of four (4) years.

(b) A person may be appointed as a trustee only if ~~he~~ **the person**:

(1) is at least thirty (30) years of age;

(2) has been a resident of the county for five (5) years immediately preceding ~~his~~ **the person's** appointment; and

(3) is not an officer or employee of an eligible entity.

(c) The names of all persons appointed under subsection (a) shall be transmitted in writing to the circuit court for the county at least ten (10) days before the end of the sixty (60) day period. The court shall mail a notice of appointment to each trustee immediately after the sixty (60) day period.

(d) Before entering upon ~~his~~ **the trustee's** duties, each trustee shall take and subscribe an oath of office (in the usual form), which shall be endorsed upon ~~his~~ **the trustee's** certificate of appointment. The certificate shall be promptly filed with the county clerk.

SECTION 302. IC 36-9-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) As the term of a trustee expires, ~~his~~ **the trustee's** successor shall be appointed by the same appointing authority, for a term of four (4) years.

(b) A trustee holds over after the expiration of ~~his~~ **the trustee's** term until ~~his~~ **the trustee's** successor is appointed and qualified.

SECTION 303. IC 36-9-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. If a person appointed as a trustee:

(1) fails to qualify within ten (10) days after notice of ~~his~~ **the trustee's** appointment is mailed to ~~him~~; **the trustee**; or

(2) qualifies but then dies, resigns, vacates ~~his~~ **the trustee's** office because ~~he~~ **the trustee** is no longer a resident of the county, or is removed from office under section 18 of this chapter;

a new trustee shall be appointed by the same appointing authority for the remainder of the vacated term.

SECTION 304. IC 36-9-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) The first trustees of the building authority shall, within thirty (30) days after their appointment, meet at a time and place designated by the circuit court for the county for the purpose of electing officers. The trustees shall elect from among themselves a president, a vice president, and a secretary. Each of these officers shall serve from the day of ~~his~~ **the**



**officer's** election until the first Monday in January after **his the officer's** election, and holds over until **his the officer's** successor is elected and qualified.

(b) At the meeting under this section, the trustees shall also appoint the first board of directors of the building authority, in the manner prescribed by section 11 of this chapter.

(c) After appointing the first board of directors of the building authority, the trustees shall meet on the first Monday in January of each year for the purpose of:

- (1) electing officers;
- (2) appointing the directors of the building authority; and
- (3) performing any other duties under this chapter.

SECTION 305. IC 36-9-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) A county building authority is under the control of a board of directors. This board consists of five (5) directors, who shall be appointed by a majority vote of the building authority trustees. Each of the original directors shall serve from the date of **his the director's** appointment until the first day of February in the second year after **his the director's** appointment, and until **his the director's** successor is appointed and has qualified.

(b) A person may be appointed as a director only if ~~he~~ **the person**:

- (1) is at least thirty (30) years of age;
- (2) has been a resident of the county five (5) years immediately preceding **his the person's** appointment; and
- (3) is not an officer or employee of an eligible entity.

(c) Before entering upon **his the director's** duties, each director shall take and subscribe an oath of office (in the usual form), which shall be endorsed upon **his the director's** certificate of appointment. The certificate shall be promptly filed with the county clerk.

SECTION 306. IC 36-9-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. As the term of a director expires, **his the director's** successor shall be appointed by a majority vote of the trustees. The new director shall serve for one (1) year from the first day of February after **his the new director's** appointment, and until **his the new director's** successor is appointed and qualified.

SECTION 307. IC 36-9-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. (a) The first directors of a building authority shall, within thirty (30) days after their appointment, meet for the purpose of electing officers. They shall elect from among themselves a president, a vice president, a secretary, and



a treasurer. Each of these officers shall perform the duties usually pertaining to **his the officer's** office, and shall serve from the date of **his the officer's** election until **his the officer's** successor is elected and qualified.

(b) After the meeting under subsection (a), the directors shall meet on the first Monday in February of each year for the purpose of electing officers.

SECTION 308. IC 36-9-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17. A trustee or director who:

- (1) ceases to be a resident of the county; or
- (2) becomes an officer or employee of an eligible entity;

vacates **his the trustee's or director's** office.

SECTION 309. IC 36-9-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) A person seeking the removal of a trustee for:

- (1) neglect of duty;
- (2) incompetence;
- (3) inability to perform **his the trustee's** duties; or
- (4) any other good cause;

may file a complaint in the circuit or superior court for the county in which the building authority is located. The complaint must set forth the charges preferred. The action shall be placed on the court's advanced calendar, and the court shall try the action in the same manner as other civil cases, without a jury. If the charges are sustained, the court shall declare the trustee's office vacant.

(b) The trustees may summarily remove a director from office at any time.

SECTION 310. IC 36-9-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. A trustee or director is not entitled to a salary but is entitled to reimbursement for expenses necessarily incurred in the performance of **his the trustee's or director's** duties.

SECTION 311. IC 36-9-13-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 38. (a) Except as otherwise provided in this chapter, all money coming into possession of the building authority shall be deposited, held, and secured in accordance with the general statutes concerning the handling of public funds. The handling and expenditure of money coming into possession of the authority is subject to audit and supervision by the state board of accounts.

(b) Any employee of the building authority authorized to receive,



disburse, or in any other way handle money or negotiable securities of the authority shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana. The bond must be in an amount determined by the board of directors of the authority and must be conditioned upon the faithful performance of the employee's duties and the accounting for all money and property that may come into ~~his~~ **the employee's** hands or under ~~his~~ **the employee's** control. The cost of the bond shall be paid by the authority.

SECTION 312. IC 36-9-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) This section applies when:

- (1) any part of the cost of a sewer, whether local or general, storm, sanitary, combination, or otherwise, is to be assessed against the owners of real property;
- (2) the proposed sewer is to be connected into sewage works constructed under this chapter; and
- (3) the owners did not contribute to the cost of those sewage works.

(b) There shall be included in:

- (1) the engineer's estimate submitted to the municipal works board before the hearing on the proposed sewer; and
- (2) the assessments;

a sum equal to the amount provided in or computed from the contract as the fair pro rata share due from the owners upon and for the contracted sewage works, including any interest owed. The sum included in the engineer's estimate must be separately itemized.

(c) If an owner elects to pay ~~his~~ **the owner's** assessment by installments in anticipation of which bonds and coupons are issued, the amount of the bonds and coupons must include the fair pro rata share of the cost of the contracted sewage works. However, an owner may elect to pay the fair pro rata share in cash within sixty (60) days after the assessment is final and to pay the remainder of the assessment in installments.

SECTION 313. IC 36-9-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) A sanitary board established under this chapter consists of:

- (1) the municipal executive; and
- (2) two (2) persons appointed by the municipal legislative body, one (1) of whom must be a registered professional engineer.

The legislative body may not appoint any paid or unpaid municipal officer or employee to the board.

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(b) One (1) of the original appointees to the sanitary board serves for a term of two (2) years, and the other serves for a term of three (3) years.

(c) When the term of a member of the sanitary board expires, a successor shall be appointed for a term of three (3) years in the manner prescribed by subsection (a).

(d) Vacancies on the sanitary board shall be filled for the unexpired term in the manner prescribed by subsection (a).

(e) The municipal executive is the ~~chairman~~ **chair** of the sanitary board.

(f) The sanitary board shall select a vice ~~chairman~~ **chair** from its members, and shall select a secretary and a treasurer, who need not be members of the board. However, the board may combine the offices of secretary and treasurer into a single office of secretary-treasurer. The officers selected under this subsection serve at the pleasure of the board.

(g) Each member of the sanitary board is entitled to the compensation, if any, that is fixed by:

(1) the executive, with the approval of the legislative body, in a city; or

(2) the legislative body, in a town;

as a salary or as payment for meetings attended. Each member is also entitled to payment for reasonable expenses incurred in the performance of ~~his~~ **the member's** duties.

(h) The compensation of the secretary and treasurer of the sanitary board shall be fixed by:

(1) the executive, with the approval of the legislative body, in a city; or

(2) the legislative body, in a town.

(i) The municipal legislative body shall fix the bond required of each member of the sanitary board and of the treasurer of the board. These bonds shall be filed with the county recorder under IC 5-4-1-5.1.

(j) The sanitary board may establish rules and bylaws for its own government.

SECTION 314. IC 36-9-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) All necessary preliminary expenses actually incurred by the board before the issuance and delivery of revenue bonds, including expenses incurred in:

(1) making surveys;

(2) estimating costs and revenues;

(3) employing engineers or other employees;

(4) giving notices; and

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(5) taking options;  
 may be paid in the manner prescribed by this section.

(b) The board shall, from time to time, certify the items of expense to the municipal fiscal officer, directing ~~him~~ **the fiscal officer** to pay the amounts certified. The fiscal officer shall draw a warrant or warrants in the correct amounts on the general fund, without appropriation. If there is no money in the general fund, the fiscal officer shall request the municipal legislative body to transfer from other funds of the municipality an amount sufficient to meet the items of expense, or to make a temporary loan for this purpose. The legislative body shall comply with the request promptly.

(c) Money transferred under subsection (b) shall be repaid by the board to the fund from which it was taken, out of the first proceeds of the sale of revenue bonds and before any other disbursements are made from those proceeds. The amount advanced to pay the preliminary expenses constitutes a first charge against the proceeds resulting from the sale of the revenue bonds until repaid.

SECTION 315. IC 36-9-23-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 28. (a) The legislative body of a municipality that operates sewage works under this chapter may, by ordinance, require the owners, lessees, or users of property served by the works to pay a deposit to ensure payment of sewer fees.

(b) The deposit required may not exceed the estimated average payment due from the property served by the sewage works for a three (3) month period. The deposit must be retained in a separate fund.

(c) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:

- (1) has been conveyed or transferred to another person; or
- (2) no longer uses or is connected with any part of the municipal sewage system.

A statement under subdivision (1) must include the name and address of the person to whom the property is conveyed or transferred.

(d) If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of ~~his~~ **the depositor's** use or ownership of the property served, ~~he~~ **the depositor** forfeits ~~his~~ **the depositor's** deposit and all accrued interest. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner prescribed by section 31 or 32 of this chapter.

(e) A deposit may be used to satisfy all or part of any judgment awarded the municipality under section 31 of this chapter.

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(f) A deposit made under this section that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of the municipality. IC 32-34-1 (unclaimed property) does not apply to a deposit described in this subsection.

SECTION 316. IC 36-9-25-3, AS AMENDED BY P.L.119-2012, SECTION 231, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) A department of public sanitation is established as an executive department of the municipality. However, in the case of a district described in subsection (b)(2), the department is established as an executive department of each municipality in the district.

(b) The department is under the control of a board of sanitary commissioners, which is composed as follows:

(1) If the department is established under section 1(a) of this chapter, the board consists of not less than three (3) but not more than five (5) commissioners. All of the commissioners shall be appointed by the municipal executive, unless one (1) commissioner is the municipal engineer. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not more than three (3) may be of the same political party.

(2) Notwithstanding subdivision (1), if the department is established under section 1(a) of this chapter and the district contains at least one (1) city having a population of less than one hundred thousand (100,000) and at least one (1) town, the board consists of one (1) commissioner from each municipality in the district. The executive of each of those municipalities shall appoint one (1) commissioner. If after all appointments are made the board has fewer than five (5) commissioners, the executive of the municipality with the largest population shall appoint the number of additional commissioners needed to bring the total to five (5). Not more than three (3) of the commissioners may be of the same political party.

(3) If the department is established under section 1(b) of this chapter, the board consists of not less than three (3) commissioners but not more than five (5) commissioners. One (1) commissioner is the city civil engineer. All other commissioners shall be appointed by the city executive. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not more than three (3) of the commissioners may be of the same political





party. However, if the department is located in a county having a population of:

(A) more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000);

(B) more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000);

(C) more than one hundred seventy thousand (170,000) but less than one hundred seventy-five thousand (175,000); or

(D) more than one hundred twenty-five thousand (125,000) but less than one hundred thirty-five thousand (135,000);

and the city does not have a city civil engineer, one (1) of the commissioners must be a licensed engineer, appointed by the executive, with at least five (5) years experience in civil or sanitary engineering. In addition, in such a city the commissioners may not hold another public office. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not more than three (3) of the commissioners may be of the same political party.

(c) Before beginning the commissioner's duties, each commissioner shall take and subscribe the usual oath of office. The oath shall be endorsed upon the certificate of appointment and filed with the municipal clerk.

(d) Each commissioner shall also execute a bond in the penal sum of five thousand dollars (\$5,000) payable to the state and conditioned upon the faithful performance of the commissioner's duties and the faithful accounting for all money and property that comes under the commissioner's control. The bond must be approved by the municipal executive.

(e) The appointed commissioners are entitled to a salary of not less than three thousand six hundred dollars (\$3,600) a year during actual construction and not less than six hundred dollars (\$600) a year in other years.

(f) Notwithstanding IC 36-1-8-10, whenever this section requires that the membership of the board of sanitary commissioners not exceed a stated number of members from the same political party, at the time of appointment the appointee must:

(1) have voted in the two (2) most recent primary elections held by the party with which the appointee claims affiliation; or

(2) if the appointee did not vote in the two (2) most recent primary elections or only voted in one (1) of those elections, be certified as a member of the party with which the appointee



claims affiliation by that party's county ~~chairman~~ **chair** for the county in which the appointee resides.

SECTION 317. IC 36-9-25-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) A commissioner may not be removed from office except upon charges preferred before the municipal executive and a hearing held on them. The only permissible reasons for removal are neglect of duty and incompetence. The commissioner must be given at least ten (10) days' notice of the time and place of the hearing and the opportunity to produce evidence and examine and cross-examine witnesses. All testimony shall be given under oath. The municipal executive shall put ~~his~~ **the municipal executive's** findings in writing and file them with the municipal clerk.

(b) If the charges are sustained and the commissioner removed, ~~he~~ **the commissioner** may appeal the findings within ten (10) days after the date they are filed with the clerk to the circuit or superior court of the county in which the municipality is located. The commissioner shall file an original complaint against the executive, stating the charges preferred and the findings made. The court shall hear the appeal within thirty (30) days after it is filed without a jury and shall either ratify or reverse the finding of the executive. The judgment of the court is final and an appeal may not be taken.

SECTION 318. IC 36-9-25-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) The fees for the treatment and disposal of sewage may be based on:

- (1) a flat charge for each sewer connection;
- (2) the amount of water used on the premises;
- (3) the number and size of water outlets on the premises;
- (4) the amount, strength, or character of sewage discharged into the sewers;
- (5) the size of sewer connections; or
- (6) any combination of these factors or other factors that the board determines necessary in order to establish just and equitable rates and charges.

(b) The board may enter into contracts with a water utility furnishing water service to users or property served in the district relative to:

- (1) ascertaining the amount of water consumed;
- (2) the computation of the amount of charge to be billed to each user or property served;
- (3) the billing and collection of the amounts; and
- (4) the discontinuance of water service to delinquent users as provided in section 11.5 of this chapter.



(c) As an alternative to subsection (b), the board may require a water utility furnishing water service to users or property served in the district to perform the functions listed in subsection (b). If the water utility and the board do not agree upon the reasonable compensation to be paid to the water utility for the services described in subsection (b), the board or the water utility may apply to the utility regulatory commission to establish the reasonable compensation for the services. Upon receipt of an application, the utility regulatory commission, after notice to the water utility and the board and after a hearing, shall establish the reasonable compensation to be paid for the services. The water utility shall then render the services described in return for the compensation fixed.

(d) If a person owns or occupies real property that is connected to the sewage works and either directly or indirectly uses water obtained from a source other than a water utility that is not measured by a water meter acceptable to the board, then the board may require the person, at **his the person's** own expense, to furnish, install, and maintain a water or sewage measuring device acceptable to the board.

SECTION 319. IC 36-9-25-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) The board, on its own initiative, whenever any territory, by its contour and watershed, or because of the extension of sewers by the municipality, is capable of draining sewage into or connecting with the sanitary system, may incorporate any territory, whether platted or unplatted, into the district by adopting a resolution to that effect describing the reason it is to be included. A certified copy of the resolution is conclusive evidence in any proceeding that the territory described was properly incorporated and constitutes a part of the district, subject to this chapter.

(b) Immediately after the passage of a resolution under subsection (a), a notice stating the time and place for a public hearing on the resolution shall be published in accordance with IC 5-3-1. By the date and time of the hearing any affected person may file in the office of the board a written remonstrance to having **his the person's** lands included. The board shall either confirm, modify, or rescind the resolution after the hearing. An appeal may be taken from the decision by one (1) or more persons considering themselves aggrieved or injuriously affected, as long as those appealing have filed written remonstrances, as provided in this subsection, by filing their complaint within thirty (30) days after the final decision of the board. The appeal shall be governed by IC 34-13-6.

(c) If the court is satisfied upon hearing an appeal under subsection (b):

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(1) that less than seventy-five percent (75%) of the persons owning property in the territory sought to be incorporated in the district have remonstrated; and

(2) that the incorporation of the territory into the district will be for its interest and will cause no manifest injury to the persons owning property in the territory;

the court shall so find and the incorporation shall be ordered. If the court is satisfied that seventy-five percent (75%) or more of the persons owning property in the territory sought to be incorporated have remonstrated, then the incorporation may not be ordered unless the court further finds from the evidence that unless it is incorporated, the health and welfare of residents of the territory or of the adjoining lands will be materially affected and that the safety and welfare of the inhabitants and property of other persons and property will be endangered.

(d) Pending an appeal under subsection (b) and during the time within which the appeal may be taken, the territory sought to be incorporated is not a part of the district. Upon the determination of the appeal, the judgment must particularly describe the resolution upon which the appeal is based. The clerk of the court shall deliver a certified copy of the judgment to the secretary of the board, who shall record it in the minute book of the board and make a cross-reference to the page upon the margin where the original resolution was recorded. If a decision is adverse to an incorporation, further proceedings may not be taken by the board to incorporate that territory within the district for a period of one (1) year after the rendition of the judgment.

SECTION 320. IC 36-9-25-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17. (a) All preliminary expenses actually incurred by the board in providing necessary records, giving notice, employing clerks, engineers, attorneys, and other employees, making surveys, and all other expenses that must be paid before the issue and sale of the bonds under section 27 of this chapter, and before the collection of taxes levied under section 32 of this chapter, shall be met and paid according to this section. The board shall, from time to time, certify items of expense to the municipal fiscal officer, directing ~~him~~ **the municipal fiscal officer** to pay those amounts. The fiscal officer shall at once draw ~~his~~ **the fiscal officer's** warrant, with the warrant to be paid out of the unappropriated part of the general fund of the municipality, without a special appropriation being made by the municipal legislative body.

(b) If there is no unappropriated money in the general fund, the fiscal officer shall recommend to the legislative body either the

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temporary transfer from other funds of the municipality of a sufficient amount to meet the items of expense, or the making of a temporary loan for this purpose. The legislative body shall, at once, make the transfer or authorize the temporary loan in the same manner that other temporary loans are made by the municipality. However, the fund or funds of the municipality from which payments are made must be fully reimbursed and repaid by the board:

- (1) out of the first proceeds of the sale of bonds to the extent that expenses paid are chargeable to the cost of acquiring land or the construction of a work under a resolution adopted and confirmed under section 18 of this chapter; or
- (2) out of the fund raised by taxation under section 32 of this chapter to the extent that expenses paid are in the nature of a general expense of the board.

SECTION 321. IC 36-9-25-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) If upon investigation it is found by the board of a municipality located on or near a watercourse that:

- (1) the watercourse is being polluted by the discharge of sewage, drainage, or other harmful matter from the sewage or drainage systems of the municipality;
- (2) a system of sewage disposal is necessary for the public health and welfare; and
- (3) the construction of a system for the disposal of the sewage and drainage of the territory will be of public utility and benefit;

the board shall have prepared general plans for the entire project, including a plat showing the general scope of it and the location and bounds of all real property then considered necessary to be acquired or removed, or that would be injuriously affected, in connection with the project. It shall also have prepared separate descriptions of all real property and of all personal property affected, and shall determine the estimated cost of all the work, including the estimated damages to be awarded to the owners of the real and personal property. The adoption or filing of any specifications covering all or parts of the project and details of other matters is optional with the board, and it may also receive and file alternate plans and specifications, submitted by any person for all or any part of the project. The board may, at the final hearing, adopt all or any of these materials in place of the board's plans and specifications.

(b) When general plans under subsection (a) have been prepared by the board, it shall adopt a resolution declaring that, upon investigation, it has been found:

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(1) that the watercourse particularly described in the resolution is being polluted by the discharge of sewage, drainage, or other harmful matter accumulating within the boundaries of the district; and

(2) that it is necessary for the public health and welfare and will be of public utility and benefit to construct and maintain sewage works to prevent the pollution of the watercourse, and, for that purpose, to appropriate the property described.

The board shall adopt all general plans and estimates in the resolution, which must be open to inspection by all persons interested in or affected by the appropriation of property or the construction of the work.

(c) Upon the adoption of the resolution, the board shall, in accordance with IC 5-3-1, publish notice of:

(1) the adoption; and

(2) the fact that general plans and estimates have been prepared and can be inspected.

The notice must name a date on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings and when it will determine the public utility and benefit of the project. A similar notice shall be mailed to each owner of land to be appropriated under the resolution. If a nonresident owner's residence is unknown to the board, then ~~he~~ **the nonresident owner** is considered to have been notified of the pendency of the proceedings by the publication of notice. All persons affected in any manner by the proceeding, including all taxpayers in the district, are considered to be notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the board by the original notice by publication.

(d) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by metes and bounds whether the property is composed of one (1) or more lots or parcels and whether it is owned by one (1) or more persons. If the land or a part of it is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(e) The board may, at any time before the adoption of the resolution, obtain from the owner or owners of the land an option for its purchase or may enter into a contract for its purchase upon terms and conditions that the board considers best. The option or contract is subject to the final action of the board confirming, modifying, or rescinding the

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resolution and to the condition that the land may be paid for only out of the special fund resulting from the sale of sanitary district bonds as provided in this chapter.

(f) The title to any land, rights-of-way, or other property acquired under the resolution, whether by purchase or by appropriation, does not vest in the municipality until it is paid for out of the special fund created by the sale of bonds. Neither an indebtedness nor an obligation of any kind is incurred by the municipality in its corporate capacity because of the acquisition of land, rights-of-way, or other property. All land, rights-of-way, or other property acquired shall be held by the municipality in trust for sanitary purposes for the use and benefit of the district and for the general public.

(g) At or before the time fixed for the hearing, an owner of land, rights-of-way, or other property to be appropriated under the resolution or injuriously affected, including any person owning real or personal property located within the boundaries of the district, may file a written remonstrance with the board. At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering them, the board shall take final action determining the public utility and benefit of the proposed proceedings and confirm, modify and confirm, or rescind the resolution. The final action shall be recorded, and is final and conclusive upon all persons. However, a person who has remonstrated in writing as provided in this subsection and who is aggrieved by the decision of the board, may, within ten (10) days, take an appeal to the superior court of the county in which the district is located.

(h) The remonstrator shall file in the office of the clerk of the court a copy of the order of the board and ~~his~~ **the remonstrator's** remonstrance, together with ~~his~~ **the remonstrator's** bond conditioned to pay the costs of the appeal if the appeal is determined against ~~him~~. **the remonstrator**. The only ground of remonstrance that the court has jurisdiction to hear on appeal is whether it will be of public utility and benefit to establish and construct the proposed sewage works described in the resolution. The burden of proof is on the remonstrator. The cause shall be summarily tried by the court without a jury as other civil cases are tried. All of the judges of the court shall sit in the trial. All remonstrances upon which an appeal is taken shall be consolidated and heard as one (1) cause of action by the court. The cause shall be heard and determined by the court within thirty (30) days after the time of the filing of the appeal. Upon the date fixed for hearing, the court shall hear evidence upon the remonstrances and shall either confirm the final



action of the board or sustain the remonstrance. The judgment of the court is final and conclusive upon all persons, and an appeal may not be taken from the judgment of the court.

SECTION 322. IC 36-9-25-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 21. (a) After completion of the list, the board shall consider, determine, and award the damages sustained by the owners of the parcels of land or rights-of-way required to be taken and appropriated or that will be injuriously affected. When the awards are completed, the board shall have a written notice served upon the owner of each piece of property, showing the amount of the award, by leaving a copy at ~~his~~ **the owner's** last usual place of residence in the municipality or county or by delivering the copy to the owner personally.

(b) If the person is a nonresident, or if ~~his~~ **the person's** residence is unknown, ~~he~~ **the person** shall be notified by publication in accordance with IC 5-3-1. The notice must name a date on which the board shall receive or hear remonstrances from persons regarding the amount of their respective awards of damages. Persons not included in the lists of awards, but claiming to be entitled to them, are considered to have been notified of the pendency of the proceedings by the original notice of the resolution of the board as provided in section 18 of this chapter.

SECTION 323. IC 36-9-25-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 25. (a) The board shall, upon the completion of the award of damages or upon the determination of appeals taken, make out certificates for the proper amounts and in favor of the proper persons. Upon the presentation of the certificate to the municipal fiscal officer, the person is entitled to the amount due out of the separate and specific fund derived from the sale of bonds provided in section 27 of this chapter. The payments may not be made from other sources or funds.

(b) Certificates or vouchers shall, whenever practical, be actually tendered to the person entitled to them. If this is impractical, they shall be kept for the persons in the office of the board. The making and filing of the certificates constitute valid and effectual tender to the person entitled to them at the time or as soon as there is sufficient money to pay them. They shall be delivered to ~~him~~ **the entitled person** on request.

(c) In case of dispute or doubt as to which person is entitled to the money, the board shall make out the certificate in favor of the attorney appointed by the board for the use of persons entitled to it. The attorney shall then draw the money and pay it into the court in a proceeding requiring the various claimants to interplead and have their respective





rights determined.

(d) If an injunction is obtained because damages have not been paid or tendered, the board may tender the certificate for the amount with interest from the time of entry upon the property if entry has been made, plus all accrued costs. The injunction shall then be disposed of, if there is sufficient money to pay the certificate. The pendency of an appeal as provided in section 24 of this chapter does not affect the validity of a tender made under this section, but the board may enter upon and take possession of the property in question.

SECTION 324. IC 36-9-25-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 26. (a) If the board, or the court hearing an appeal, finally confirms the resolution, the board shall have published, in accordance with IC 5-3-1, a notice of the general nature of the work and of the fact that detailed plans, drawings, and specifications are on file in the office of the board.

(b) The board may advertise for and receive construction bids at any time after confirming the resolution. The board shall require each bidder to deposit with ~~his~~ **the bidder's** bid a certified check or satisfactory bond by an incorporated surety company in good standing and qualified to do business in Indiana in an amount that the board determines to be at least sufficient to insure the execution of the contract for which the bid is made. Each bidder shall also file with ~~his~~ **the bidder's** bid an affidavit that ~~he~~ **the bidder** has not, directly or indirectly, entered into any combination, collusion, understanding, or agreement with another bidder to maintain the price of the work or contract, to prevent another bidder from bidding, or to induce a bidder to refrain from bidding on the contract or work. The affidavit must also state that the bidding is made without regard to any other bidder and without any agreement, understanding, or combination, either directly or indirectly, with any other persons concerning the bidding.

(c) If, after a contract has been let, it appears that the successful bidder is guilty of collusion, combination, understanding, or agreement, as defined in the affidavit, the successful bidder forfeits the contract and the work shall be relet by the board. The board may impose conditions upon the bidders regarding bond surety, guaranteeing the good faith and responsibility of the bidders and the faithful performance of the work according to contract, keeping the work in repair for a given length of time, or for another purpose. The board may reject any bids, but if it does reject all bids notices must be published as originally required before other bids may be received.

(d) The board may let part of the proposed work under different contracts. A contract may not be let at a bid higher than the estimate of



cost of the work to be performed under the contract. However, the board may make a new estimate of the cost of the work at any time after the adoption of the resolution required by section 18 of this chapter and before the advertising for the receipt of bids for the construction of the work. If a new estimate is made, notice shall be given by publication in accordance with IC 5-3-1 naming a date when a public hearing will be held to determine the public utility of the new estimate.

(e) The contracts must expressly state that payments for all work shall be made only from the special fund derived from the proceeds of bonds authorized for this purpose. If a contract is executed for the construction of sewage works under this chapter, the validity of the contract may be questioned only in an action to enjoin the performance of the contract brought within fifteen (15) days after the date of execution. Sixteen (16) days after execution, all proceedings and orders of the board preliminary to and including the contract are valid, conclusive, and binding upon all persons and are not subject to attack.

(f) Additions or extensions to sewage works constructed under this chapter shall be built under contract entered into under this section in the same manner as the contract for the original works. The cost of additions or extensions, including additional land or rights-of-way acquired by the board, may be met by the sale of additional bonds to be issued and sold by the board and the levy of special taxes to retire the bonds as provided in this chapter.

SECTION 325. IC 36-9-27-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. (a) The board shall organize at a meeting each January, by electing one (1) of its members as ~~chairman~~ **chair** and one (1) of its members as vice ~~chairman~~ **chair**. At the same time, the board shall elect a secretary, who need not be a member of the board.

(b) The county surveyor may not hold an office on the board.

(c) The board shall fix the time and dates for regular meetings, which shall be held in the office of the county surveyor. However, if the surveyor's office is not adequate, the county executive shall provide an adequate meeting place.

(d) Special meetings of the board may be called by the ~~chairman~~, **chair**, any two (2) members, or the county surveyor, by mailing a written notice setting forth the time, date, and place of the meeting to each member not less than five (5) days before the date of the meeting. A member may waive the mailing of notice of a special meeting by filing a written waiver with the secretary or by ~~his~~ **the member's** presence at the meeting.

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(e) Meetings of the board may be adjourned from day to day or to a day certain without written notice being given.

(f) All meetings of the board must be open to the public, and the minutes of the meetings are open to public inspection.

(g) A majority of the voting members of the board constitutes a quorum, and the concurrence of a majority of the voting members present at a meeting is necessary to authorize any action under this chapter.

SECTION 326. IC 36-9-27-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) Each member of the board and each person employed by the board under this chapter shall be paid at a rate equal to that provided by law for state employees for each mile necessarily traveled while performing the duties of **his the member's or employee's** office.

(b) The county fiscal body may provide the members of the county executive who serve as members of the board with per diem for their services as members of the board, in an amount fixed by the county fiscal body for each day or major part of a day devoted to the work of the board.

(c) Each appointed freeholder member serving on the board is entitled to a per diem in an amount fixed by the county fiscal body for each day or major part of a day devoted to the work of the board.

SECTION 327. IC 36-9-27-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 12. (a) This section does not apply to a joint board that includes three (3) or more counties in a drainage basin of more than one hundred thousand (100,000) acres.

(b) Whenever it appears, in any proceeding for the construction, reconstruction, or maintenance of a regulated drain, that a member of the board has an interest in the proceedings because of **his the member's** ownership of real property affected by the drain, that member shall immediately disqualify himself **or herself** from serving on the board in those proceedings. However, the fact that county highways will be affected by any proceedings does not disqualify a regular member of the board.

SECTION 328. IC 36-9-27-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) This section applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) There is established a county drainage advisory committee. The executive of each township in the county shall appoint one (1) resident of **his the executive's** township to serve on the committee. Committee

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members serve for four (4) year terms. Members may not receive per diem or mileage for service on the committee.

(c) The county drainage advisory committee shall advise and assist the board in the performance of its powers, duties, and functions. The board or the county legislative body may assign responsibilities to the committee concerning drainage. The committee may select one (1) of its members as ~~chairman~~ **chair** and may meet at ~~his~~ **the chair's** call or at the call of any three (3) of its members.

SECTION 329. IC 36-9-27-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. (a) Whenever it appears to the county surveyor that any proceedings instituted under this chapter may affect land in more than one (1) county, ~~he~~ **the county surveyor** shall immediately forward notification of that fact to the ~~chairman~~ **chair** of the board of each county in which the land is located, by certified mail with return receipt requested. The notice must state the number of counties involved and fix a date, hour, and place for a meeting of a joint board. The date for the meeting may not be less than twenty (20) nor more than thirty (30) days after the notice is mailed.

(b) After the notice is given, all proceedings in the matter shall be heard and determined by a board appointed from the membership of the board of each county in which lands that may be affected are located, as follows:

(1) If land in two (2) counties may be affected, the ~~chairman~~ **chair** of the board of each county shall appoint two (2) of the members of ~~his~~ **the chair's** board, other than the county surveyor, to serve on the joint board. In addition, a fifth member shall be appointed by the four (4) members of the joint board. The fifth member must reside in a county that is not affected by the drainage problem.

(2) If land in more than two (2) counties may be affected, the ~~chairman~~ **chair** of the board of each county shall appoint one (1) of the members of ~~his~~ **the chair's** board, other than the county surveyor, to serve on the joint board. If, as a result of the appointments, the board has an even number of members, the members of the joint board shall appoint an additional member to the joint board. The additional member must reside in a county that is not affected by the drainage problem.

(3) The surveyor of the county having the greatest length of drain or proposed drain serves as an ex officio member of the joint board, and has the same duties, powers, and responsibilities ~~he~~ **the county surveyor** would have if the proposed construction,



reconstruction, or maintenance affected lands lying solely within one (1) county.

(c) A joint board may authorize the employment of one (1) or more persons to assist the county surveyor who serves on the board in the performance of **his the county surveyor's** duties in connection with the joint board. The joint board shall set the rate of compensation for the assistants and authorize an advance on the general drain improvement fund of each county in proportion to the apparent percentage of the total land area in each county to be affected by the drain. The cost of the assistants and the advance is a part of the operating expense of the joint board, which shall be finally adjusted and allocated as provided in subsection (e).

(d) Whenever the county surveyor finds that a joint board should be appointed and that:

- (1) the area of affected land in **his the county surveyor's** county exceeds eighty percent (80%) of the total area of land affected by the drain; or
- (2) ninety percent (90%) or more of the length of the affected drain lies within **his the county surveyor's** county;

**he the county surveyor** may request in writing that each board in the lesser affected county or counties waive the right to be represented on a joint board and that the board of **his the county surveyor's** county be the board for the proceedings. The request and all subsequent communications in the proceedings, including notice of any benefits or damages to the lands within a lesser affected county, shall be forwarded by certified mail with return receipt requested to the **chairman chair** of the board of each lesser affected county. If the **county** surveyor does not receive a negative response to **his the county surveyor's** request from the board of a lesser affected county within thirty (30) days, the surveyor may request **his the county surveyor's** board to resolve itself as the board for the proceedings. The board shall serve notice only on the board of a lesser affected county and shall certify to the auditor of that county a single claim for all benefits in that county, unless the surveyor or board of that county furnishes to the board full and acceptable information concerning all individual parcels of affected land in that county, including maps.

(e) If the joint board proceeds with the proposed improvement or maintenance, all operating expense of the joint board, including the compensation of the fifth member appointed under subsection (b)(1) and the additional member appointed under subsection (b)(2) shall be:

- (1) divided among the counties represented on it in the same proportion that the total land assessment allocated to each county



bears to the total cost of the improvement or maintenance; or  
 (2) paid from the joint drain's maintenance fund after the fund is established and maintenance funds are collected.

If the joint board does not proceed, all operating expense of the joint board shall be apportioned by the joint board to the counties represented on it as justice requires.

(f) To the extent applicable, a joint board is governed by the provisions of this chapter concerning:

- (1) the powers, duties, and procedures of a board that serves one (1) county; and
- (2) the rights and remedies of owners affected by the proceedings of a board that serves one (1) county.

SECTION 330. IC 36-9-27-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17. (a) Whenever:

- (1) an owner wants to construct or extend a private or mutual drain, and outlet that drain into a regulated drain that is subject to this chapter; and
- (2) the construction or extension will not go through land owned by other persons;

the owner shall file with the county surveyor having jurisdiction of the regulated drain for permission to connect ~~his~~ **the owner's** drain with the regulated drain.

(b) The owner shall file with ~~his~~ **the owner's** request the plans and specifications of the private or mutual drain that will be constructed or extended. However, if the private or mutual drain will have a tiled outlet of twelve (12) inches or less, and ~~he~~ **the owner** alleges this in ~~his~~ **the owner's** request, no specifications need be filed.

(c) If the county surveyor determines that the regulated drain is adequate to handle the additional flow of water, if any, that would result from the connection, and that no harmful pollution is likely to result from the connection, ~~he~~ **the county surveyor** shall grant the request.

(d) If the county surveyor determines that the regulated drain is not adequate to handle the additional flow of water resulting from the connection without being reconstructed, ~~he~~ **the county surveyor** shall deny the request, and the request may not be granted until the regulated drain is reconstructed under sections 49 through 52 of this chapter.

SECTION 331. IC 36-9-27-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) Whenever all of the owners affected by a private or mutual drain request the board in writing to assume jurisdiction over the private or mutual drain, the board shall refer the request to the county surveyor, who shall

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determine whether the private or mutual drain meets the standards of design and construction established under section 29 of this chapter.

(b) If the **county** surveyor determines that the private or mutual drain meets the standards of design and construction, ~~he~~ **the county surveyor** shall make a written report of that fact to the board, which shall issue an order granting the request. The drain becomes a regulated drain when the request is granted.

(c) If the **county** surveyor determines that the private or mutual drain does not meet the standards of design and construction, ~~he~~ **the county surveyor** shall make a written report of that fact to the board, which shall deny the request.

SECTION 332. IC 36-9-27-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 23. (a) Whenever:

- (1) a person wants to connect a drain with a regulated drain that is subject to this chapter; and
- (2) the connection would result in the discharge into the regulated drain of liquid wastes that would cause or contribute to pollution of the receiving waters;

the person seeking the connection must obtain written approval from the department of environmental management for the discharge, and shall file that written approval with the board having jurisdiction of the regulated drain when filing ~~his~~ **the person's** request to connect.

(b) The board may deny a connection request, even though approval of the department of environmental management is given or is not required.

(c) The board shall deny a connection request whenever the approval of the department of environmental management is required and is not obtained.

(d) The provisions of this section requiring department of environmental management approval do not apply to the discharge of sewage from a single or two (2) family residence.

SECTION 333. IC 36-9-27-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 29. The county surveyor is the technical authority on the construction, reconstruction, and maintenance of all regulated drains or proposed regulated drains in the county, and ~~he~~ **the county surveyor** shall:

- (1) investigate, evaluate, and survey all regulated drains or proposed regulated drains, and prepare all reports, plans, profiles, and specifications necessary or incident to any proposed construction, reconstruction, or maintenance of regulated drains;
- (2) prepare and make public standards of design, construction, and maintenance that will apply to all regulated drains and their



appurtenances, taking into consideration in preparing these standards the published recommendations made by Purdue University, the American Society of Agricultural Engineers, the American Society of Civil Engineers, the United States Department of Agriculture, the department of natural resources, the United States Army Corps of Engineers, and other reliable sources of information;

(3) supervise all construction, reconstruction, and maintenance work performed under this chapter;

(4) catalog and maintain a record of all surveying notes, plans, profiles, and specifications of all regulated drains in the county, and of all mutual and private drains when available; and

(5) perform the functions set forth in sections 67 through 69 of this chapter concerning all urban drains under ~~his~~ **the county surveyor's** jurisdiction.

In preparing plans under subdivision (1), the **county** surveyor shall, when feasible, include the seeding of the banks of all open drains. The surveyor shall, when feasible, use United States Geological Survey data on plans and profiles prepared under subdivision (1).

SECTION 334. IC 36-9-27-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 35. (a) The county surveyor shall submit to the board a written report setting forth ~~his~~ **the county surveyor's** classification of regulated drains in order of priority for action by the board. This report may be made from time to time during the **county** surveyor's process of classification.

(b) The board may adopt the classifications and order of work priority as made by the county surveyor, or may modify them.

(c) If ten percent (10%) of the owners' request the board to classify or reclassify a drain affecting their land, the board shall, after giving notice to all affected owners, conduct a hearing on the request and adopt a proper classification. The notice shall be given by publication in accordance with IC 5-3-1. Notice shall be given to an attorney of record in the manner provided in section 110 of this chapter.

SECTION 335. IC 36-9-27-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 38. When the board refers a regulated drain classified in need of periodic maintenance to the county surveyor, ~~he~~ **the county surveyor** shall prepare a maintenance report that includes the following items:

(1) The estimated annual cost of periodically maintaining the drain.

(2) The name and address of each owner of land that will be affected by the proposed maintenance, and the legal description





of the land of each owner, as shown by the tax duplicate or record of transfers of the county in which the land is located. However, a public way owned by a county or by the state shall be described by its name or number, and the right-of-way of a railroad may be described as the right-of-way of the owner through section, township, and range. If the name of an owner is not known, and cannot be discovered through diligent inquiry, the report may describe the land as belonging to the person who appears to be the owner according to the last tax duplicate or record of transfers of the county where the land is located.

(3) The nature of the maintenance work required and how frequently the work should be performed.

SECTION 336. IC 36-9-27-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 40. (a) The board shall fix a date, time, and place for a hearing on the maintenance report of the **county** surveyor and on the schedule of assessments, and shall prepare a written notice for each owner of land proposed to be assessed. The notice, which must describe the land to be assessed, must state:

- (1) the name and identifying number by which the drainage proceedings are known;
- (2) that the maintenance report of the county surveyor and the schedule of assessments made by the board have been filed and are available for public inspection in the office of the surveyor;
- (3) that the **county** surveyor has estimated that the annual cost of periodically maintaining the drain is in the sum of \_\_\_\_\_ dollars;
- (4) that the land of the owner is shown by the schedule of assessments to be annually assessed \_\_\_\_\_ percent of the total cost of periodically maintaining the drain;
- (5) that the land of the owner is shown by the schedule of assessments to be annually assessed in the sum of \_\_\_\_\_ dollars for periodically maintaining the drain; and
- (6) the date, hour, and place of the hearing before the board on the **county** surveyor's maintenance report and on the schedule of assessments.

(b) Not less than thirty (30) nor more than forty (40) days before the date of the hearing, the board shall mail a copy of the notice in a five (5) day return envelope to each owner named in the schedule of assessments.

(c) The board shall publish a notice in accordance with IC 5-3-1. The notice must:

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- (1) identify the drainage proceedings;
- (2) be addressed to whom it may concern and to the addressee on each letter that was mailed under subsection (b) and was returned undelivered; and

(3) state that:

(A) the maintenance report of the **county** surveyor and the schedule of assessments made by the board have been filed and are available for public inspection in the office of the county surveyor; and

(B) a hearing will be held before the board on the schedule of assessments, specifying the time and place of the hearing.

(d) Not less than five (5) days before the hearing, any owner of land named in the schedule of assessments may file with the board a written objection alleging that ~~he~~ **the objector** is the owner of land assessed as benefited and the benefits assessed against ~~his~~ **the objector's** land are excessive. Each objector may file written evidence in support of ~~his~~ **the objector's** objection. The failure of an owner to file an objection constitutes a waiver of ~~his~~ **the owner's** right to subsequently object, on the ground stated in this subsection, to any final action of the board.

(e) On or before the day of the hearing, the **county** surveyor shall, and any owner of land named in the schedule of assessments may, cause written evidence to be filed in support of or in rebuttal to any objection filed under subsection (d).

(f) The board shall consider the objections and evidence filed, may adjourn the hearing from day to day or to a day certain, and may issue an order permitting additional written evidence to be filed in support of or in rebuttal to the objections and evidence previously filed.

(g) After considering all objections and evidence, the board may amend the schedule of assessments as justice may require. Before final adjournment of the hearing, the board shall issue an order adopting the schedule of assessments as originally filed or as amended, mark the order filed, and publicly announce the order at the hearing. Immediately after that, the board shall publish a notice in accordance with IC 5-3-1. The notice must identify the drainage proceedings and state that the findings and order of the board have been filed and are available for inspection in the office of the county surveyor.

(h) If judicial review of the findings and order of the board is not requested under section 106 of this chapter within twenty (20) days after the date of publication of the notice, the order becomes conclusive.

(i) The notice required by subsections (a) and (b) for each owner of land proposed to be assessed is not required for a joint board that



includes three (3) or more counties in a drainage basin that exceeds eighty thousand (80,000) acres, except that when the proposed assessment affects land owned by a public utility or railroad the requirements of subsections (a) and (b) shall be met as to the public utility or railroad.

SECTION 337. IC 36-9-27-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 42. (a) The board may at any time increase or decrease the amount annually assessed for periodic maintenance of a regulated drain if the board finds that the county surveyor's estimate of the cost of maintaining the drain was insufficient or excessive.

(b) The board may decrease the amount annually assessed without notice to the affected owners if the percentage of benefit assigned to all tracts of land affected is not changed from that originally determined by the board.

(c) The board may increase the amount annually assessed once without notice to the affected owners if:

- (1) the percentage of benefit assigned to all tracts of land affected is not changed from that originally determined by the board; and
- (2) the increase does not exceed twenty-five percent (25%) of the amount initially established.

(d) If the board:

- (1) finds that the percentage of benefit assigned to any particular tract or tracts of land should be increased due to a change in land use or for any other reason; or
- (2) proposes an increase or decrease that would affect all of the lands assessed for the maintenance of the drain and that is not exempted from the giving of notice under subsection (b) or (c);

the board shall mail a notice to the owner or owners of the land. The notice must state the proposed change in the assessment, and specify a date, time, and place, not less than ten (10) days after the notice is mailed, when the board will hear objections to the change. An owner may file written objections to the proposed change on or before the date of the hearing. At the hearing, the board shall consider all objections and evidence filed and shall enter an order as justice may require. The board shall mail a copy of its order to the owner or owners affected. If an owner does not request judicial review of the order under section 106 of this chapter within twenty (20) days after ~~his~~ **the owner's** receipt of the copy of the order, the order becomes conclusive.

(e) A joint board that includes three (3) or more counties in a drainage basin that exceeds one hundred thousand (100,000) acres shall publish notice in accordance with IC 5-3-1 instead of mailing

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notice to the owner or owners of land as required by subsection (d).

SECTION 338. IC 36-9-27-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 47. (a) Whenever any person:

- (1) goes upon any land under any contract, easement, or statute; and
- (2) damages a regulated drain or impedes the flow of such a drain by placing pipe, cable, or other material over, under, or through the drain;

the board shall serve upon the person an order requiring ~~him~~ **the person** to immediately repair the damages and remove the obstruction.

(b) If the person fails to comply with the order, the county surveyor shall repair the damage and remove the obstruction. The board may then bring an action against the person to recover damages, including the reasonable cost of repairing the damage and removing the obstruction, along with reasonable attorney's fees.

SECTION 339. IC 36-9-27-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 48. (a) Whenever, in the construction or reconstruction of a regulated drain, the county surveyor determines that:

- (1) the proposed drain will cross a pipeline, cable, or similar equipment of a public utility; and
- (2) the equipment will interfere with the proper operation of the drain;

~~he~~ **the county surveyor** shall include in ~~his~~ **the county surveyor's** plans the relocation requirements of the equipment. The **county** surveyor shall, by registered mail, send a copy of the requirements to the public utility owning the equipment.

(b) If requested by the public utility, the county surveyor shall meet with the public utility at a time and place to be fixed by the **county** surveyor and hear objections to the requirements. After the hearing, the **county** surveyor may change the requirements as justice may require.

(c) If the board finds that the relocation of a pipeline, cable, or similar equipment owned by a public utility is necessary in the construction or reconstruction of a regulated drain, the cost of relocation shall be paid by the public utility.

SECTION 340. IC 36-9-27-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 49. (a) When the board refers a regulated drain to the county surveyor for a reconstruction report, the **county** surveyor shall determine and set forth in ~~his~~ **the county surveyor's** report the best and cheapest method of reconstructing the drain so that it will adequately drain all affected



land.

(b) The county surveyor shall make the necessary surveys, maps, profiles, plans, and specifications, and ~~he~~ **the county surveyor** may include in them:

- (1) all of the repairs or changes specifically set forth in section 34(b) of this chapter; and
- (2) any other repairs or changes that good engineering practice requires, including arms where none existed before.

(c) The county surveyor shall estimate the costs of the proposed reconstruction, including costs of notices and advertising, and ~~he~~ **the county surveyor** shall also estimate the annual cost of periodically maintaining the proposed reconstruction.

(d) The county surveyor shall include in ~~his~~ **the county surveyor's** report the name and address of each owner of land that will be affected by the proposed reconstruction, and the legal description of the land of each owner as shown by the tax duplicate or record of transfers of the county in which the land is located. However, a public way owned by a county or by the state shall be described by its name or number, and the right-of-way of a railroad may be described as the right-of-way of the owner through section, township, and range. If the name of an owner is not known, and cannot be discovered through diligent inquiry, the report may describe the land as belonging to the person who appears to be the owner according to the last tax duplicate or record of transfers of the county where the land is located.

SECTION 341. IC 36-9-27-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 50. When the county surveyor files a reconstruction report, ~~he~~ **the county surveyor** shall consult with the board, and the board shall take the following actions:

- (1) Prepare a schedule of assessments containing a description of each tract of land determined to be benefited by the reconstruction, and the name and address of the owner of the land. The name, address, and description shall be taken from the **county** surveyor's report. The board shall enter in the assessment schedule the percentage of the total cost of the reconstruction to be assessed against each tract of land, with the percentage to be based upon the benefit accruing to the land from the reconstruction. The percentage allocated to all lands benefited must be at least one hundred percent (100%) and as near to one hundred percent (100%) as is practicable.
- (2) Determine the amount of damages sustained by any owner as a result of the reconstruction, and prepare a schedule of damages containing:

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- (A) the name and address of each owner determined to be damaged and a description of the owner's land, as shown by the **county** surveyor's report;
- (B) the amount of each owner's damages; and
- (C) an explanation of the injury upon which the determination was based.

The **county** surveyor shall add the damages to all lands as determined by the board to the estimated costs and expenses contained in ~~his~~ **the county surveyor's** report, and the result constitutes the total estimated cost of the reconstruction.

(3) Set forth the amount of each owner's assessment based on the total estimated cost of the reconstruction.

(4) Set forth the amount of each owner's annual assessment based on the estimated periodic maintenance cost of the reconstruction.

The percentage used in computing the annual assessment may, but need not be, the same for each tract of land as the percentage used in computing the general assessment.

The board may consider the factors listed in section 112 of this chapter in preparing the schedules.

SECTION 342. IC 36-9-27-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 52. (a) When the schedules of damages and assessments are completed and marked filed, the board shall fix a date, time, and place for a hearing on the reconstruction report of the county surveyor and on the schedules of damages and assessments, and shall prepare a notice for each owner of land affected by the reconstruction. The notice must state:

- (1) the name and identifying number by which the proposed reconstruction is known;
  - (2) that the reconstruction report of the **county** surveyor and the schedules of damages and benefits as determined by the board have been filed and are available for inspection in the office of the surveyor;
  - (3) that the land of the owner is shown by the schedule of damages to be damaged in the sum of \_\_\_\_\_ dollars;
  - (4) that the land of the owner is shown by the schedule of assessments to be assessed \_\_\_\_\_ percent of the total cost of reconstruction, and that \_\_\_\_\_ percent of the estimated total cost of the reconstruction is in the sum of \_\_\_\_\_ dollars;
  - (5) that the land of the owner is shown by the schedule of assessments to be annually assessed in the sum of \_\_\_\_\_ dollars for estimated periodic maintenance of the reconstruction;
- and

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(6) the date, hour, and place of the hearing on the surveyor's reconstruction report and on the schedules of damages and assessments.

(b) Not less than thirty (30) nor more than forty (40) days before the date of the hearing, the board shall mail a copy of the notice in a five (5) day return envelope to each owner named in the schedules of damages and assessments.

(c) The board shall publish a notice in accordance with IC 5-3-1. The notice must:

- (1) identify the proposed reconstruction;
- (2) be addressed to whom it may concern and to the addressee on each letter that was mailed under subsection (b) and was returned undelivered; and
- (3) state that:
  - (A) the reconstruction report of the county surveyor and the schedules of damages and assessments made by the board have been filed and are available for public inspection in the office of the county surveyor; and
  - (B) a hearing will be held before the board on the report and schedules, specifying the time and place of hearing.

(d) Not less than five (5) days before the board's hearing on a reconstruction report, an owner of lands affected by the report or by the schedules of damages and assessments may file with the board written objections to the report, schedules, or both. The objections may be for one (1) or more of the following causes:

- (1) The costs, damages, and expenses of the proposed reconstruction will exceed the benefits that will result to the owners of all land benefited.
- (2) The objector is the owner of land assessed as benefited, and the benefits assessed against ~~his~~ **the objector's** land are excessive.
- (3) The objector is the owner of land damaged by the reconstruction, and:
  - (A) the board failed to find that ~~his~~ **the objector's** land is damaged; or
  - (B) the damages assessed to ~~his~~ **the objector's** land are inadequate.

Each objector may file written evidence in support of ~~his~~ **the objector's** objections. The failure of an owner to file objections constitutes a waiver of ~~his~~ **the owner's** right to subsequently object, on the grounds stated in this subsection, to any final action of the board.

(e) On or before the day of the hearing, the county surveyor shall,



and any owner of land affected by the proposed reconstruction may, cause written evidence to be filed in support of or in rebuttal to any objection filed under subsection (d).

(f) The board shall consider the objections and evidence filed, may adjourn the hearing from day to day or to a day certain, and may issue an order permitting additional written evidence to be filed in support of or in rebuttal to the objections and evidence previously filed.

(g) After considering all of the objections and evidence, the board may amend the schedules of damages and assessments, and the county surveyor may modify ~~his~~ **the county surveyor's** report, as justice may require.

(h) Before final adjournment of the hearing, the board shall determine in writing whether the costs, damages, and expenses of the proposed reconstruction will be less than the benefits accruing to the owners of land benefited by the construction. If the board answers this question in the negative, it shall dismiss the proceedings. If the board answers the question in the affirmative, it shall adopt the reconstruction report of the county surveyor and the schedule of damages and assessments, including annual assessments for periodic maintenance, as originally filed or as amended, into its findings, and issue an order declaring the proposed reconstruction established. The board shall mark the findings and order filed and publicly announce the findings and order at the hearing. Immediately after that, the board shall publish a notice in accordance with IC 5-3-1. The notice must identify the drainage proceedings and state that the findings and order of the board have been filed and are available for inspection in the office of the surveyor.

(i) If judicial review of the findings and order of the board is not requested under section 106 of this chapter within twenty (20) days after the date of publication of the notice, the findings and order become conclusive.

SECTION 343. IC 36-9-27-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 54. (a) When one (1) or more persons want to establish a new regulated drain, and that drain cannot be established in the best and cheapest manner without affecting land owned by other persons, the person or persons seeking to establish the drain must file a petition with the board. If the proposed drain will affect land in two (2) or more counties, the petition shall be filed in each of the affected counties. The petition shall be entitled "In the Matter of the \_\_\_\_\_ Drain Petition".

(b) The petition may be filed by:

(1) the owners of:

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- (A) ten percent (10%) or more in acreage; or
  - (B) twenty-five percent (25%) or more of the assessed valuation;
- of the land that is outside the corporate boundaries of a municipality and is alleged by the petition to be affected by the proposed drain;
- (2) a county executive that wants to provide for the drainage of a public highway;
  - (3) a township executive or the governing body of a school corporation that wants to drain the grounds of a public school; or
  - (4) a municipal legislative body that wants to provide for the drainage of the land of the municipality.
- (c) The petition must include the following items:
- (1) A statement showing that each petitioner is qualified to file the petition.
  - (2) The legal description of each tract of land that a petitioner believes will be affected by the proposed drain, and the name and address of each owner, as shown by the tax duplicate or record of transfers of the county. However, a public way owned by a county or by the state shall be described by its name or number, and the right-of-way of a railroad may be described as the right-of-way of the owner through section, township, and range. The petition must describe an area of land equal to three-fourths (3/4) or more in area of all the affected land.
  - (3) The general route of the proposed drain.
  - (4) A statement that in the opinion of the petitioner the costs, damages, and expenses of the proposed drain will be less than the benefits accruing to the owners of land likely to be benefited by the drain.
  - (5) A statement that in the opinion of the petitioner the proposed drain will:
    - (A) improve the public health;
    - (B) benefit a public highway in a county or a public street in a municipality;
    - (C) drain the grounds of a public school; or
    - (D) be of public utility.
  - (6) The name of the attorney representing the petitioner in the drainage petition.
  - (7) A statement that the petitioner shall pay the cost of notice and all legal costs, if the petition is dismissed.

The petitioner shall post a bond sufficient to pay the cost of notice and all legal costs if the petition is dismissed.

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(d) The petition must be signed by each petitioner and filed in duplicate with the county surveyor, who shall receive it on behalf of the board. The **county** surveyor shall examine the petition and if it is in proper form ~~he~~ **the county surveyor** shall mark it filed, showing the date of filing, and give it a distinguishing name by insertion in its caption. If the petition is not in proper form, the surveyor shall return it to the attorney for the petitioner, pointing out in what respects the petition fails to comply with this chapter. The attorney may then amend the petition and refile it with the **county** surveyor.

SECTION 344. IC 36-9-27-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 55. When the county surveyor has accepted a petition and marked it filed under section 54 of this chapter, ~~he~~ **the county surveyor** shall make a personal inspection of the land described in the petition and file with the board a written preliminary report stating:

- (1) whether the proposed drain is practicable;
- (2) whether the proposed drain will improve the public health, benefit a public highway in a county or a public street in a municipality, drain the grounds of a public school, or be of public utility; and
- (3) whether the costs, damages, and expenses of the proposed drain will probably be less than the benefits accruing to the owners of land likely to be benefited.

In determining whether the proposed drain is practicable, the **county** surveyor may consider changing the route of the proposed drain from that set forth in the petition to conform with sound engineering principles.

SECTION 345. IC 36-9-27-56 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 56. (a) If the county surveyor's report concerning any of the three (3) subdivisions of section 55 of this chapter is wholly in the negative, the board shall have a copy of the **county** surveyor's preliminary report served upon the attorney for the petitioner.

(b) Within twenty (20) days after service is made under subsection (a), the petitioner may file with the board written objections to the report, along with written evidence in support of the objections.

(c) The board shall consider any objections and written evidence filed by petitioner, and may then adopt the **county** surveyor's preliminary report as filed or amend it as justice may require. However, if the board finds that the report concerning any of the three (3) subdivisions of section 55 of this chapter should be wholly in the negative, it shall dismiss the petition, whether or not the petitioner has



filed objections and evidence.

(d) The board shall serve a copy of its findings and the notice of dismissal, if any, on the attorney for the petitioner. The petitioner may file an appeal from the order of the board under section 106 of this chapter within twenty (20) days after service of the order on **his the petitioner's** attorney.

SECTION 346. IC 36-9-27-57 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 57. (a) If the county surveyor, in **his the county surveyor's** preliminary report, or the board, after a hearing under section 56 of this chapter, finds that the report concerning each of the three (3) subdivisions of section 55 of this chapter should be in the affirmative, the **county** surveyor shall determine if any land other than that described in the petition will be affected by the proposed drain. If the **county** surveyor finds that additional land will be affected, **he the county surveyor** shall make a written report to the board, setting forth the boundary of the additional area of affected land.

(b) After receiving the county surveyor's report under subsection (a), the board shall determine if the petition describes an area of land equal to three-fourths (3/4) or more of all the affected land.

(c) If the board's determination under subsection (b) is in the negative, the board shall enter an order dismissing the petition, unless within a time specified by the board a supplementary petition describing a sufficient area contiguous to the area described in the original petition, with the signatures required to qualify the supplementing petition, is filed with the board. The board shall serve a copy of the report of the county surveyor and order of dismissal upon the attorney for petitioner. The dismissal does not prohibit the subsequent filing of a proper petition.

(d) If the county surveyor determines that additional land will be affected by the proposed drain, and that the petition described a sufficient area of land, **he the county surveyor** shall prepare a written report describing the boundary of the additional area and have a copy of the report served on the attorney for the petitioner. The petitioner, within thirty (30) days after service of the report upon **his the petitioner's** attorney, shall file with the **county** surveyor an amendment to the petition, including:

- (1) the names and addresses of the owners of all land within the additional area described in the **county** surveyor's report; and
- (2) a legal description of each owner's land.

The names, addresses, and legal descriptions shall be described in the manner prescribed by section 54(c)(2) of this chapter. If the petitioner

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fails to file the amendment to the petition within the thirty (30) day period, or within any additional time granted to the petitioner by the **county** surveyor or the board, the **county** surveyor shall report that fact to the board at its next meeting. The board shall then enter an order dismissing the petition and serve a copy of the order on the attorney for **the** petitioner.

(e) If the county surveyor determines that the petition described all of the land that may be affected by the proposed drain, or if the **county** surveyor determines otherwise and a proper amendment to the petition is filed under subsection (d), the **county** surveyor shall immediately fix a date, hour, and place for a hearing before the board on the petition and shall have written notice of the hearing served on the attorney for the petitioner. The date of the hearing may not be less than thirty (30) nor more than forty (40) days after the date of service of notice upon the petitioner's attorney. The surveyor shall call a special meeting of the board for the date, time, and place fixed in the notice unless a meeting of the board is already scheduled for the date, time, and place.

SECTION 347. IC 36-9-27-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 58. (a) Within seven (7) days after the attorney for the petitioner is served with notice of a hearing under section 57(e) of this chapter, **he the attorney for the petitioner** shall prepare a written notice setting forth:

- (1) the fact of the filing and pendency of the petition;
- (2) the name and identifying number by which the petition is known;
- (3) the general route of the proposed drain; and
- (4) the date, hour, and place of the hearing before the board.

(b) The attorney for the petitioner shall, within the seven (7) day period, mail a copy of the notice in a five (5) day return envelope to each owner named in the petition.

(c) The attorney for the petitioner shall have a copy of the notice published in accordance with IC 5-3-1. The published notice shall be directed to whom it may concern and to the addressee on each letter that was mailed under subsection (b) and was returned undelivered.

(d) On or before the day of the hearing, the attorney for the petitioner shall file with the board affidavits showing the mailing of the notices under subsection (b) and the publication of notice under subsection (c). The mailing and publication of the notice under this section constitute public notice to all owners of the pendency of the petition, whether or not they were individually named and notified, and are sufficient to give the board jurisdiction over those owners.

SECTION 348. IC 36-9-27-60 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 60. (a) At its hearing on a petition to establish a new regulated drain, the board shall consider:

- (1) any remonstrance filed under section 59(a) of this chapter; and
- (2) any objection filed under section 59(b) of this chapter.

(b) If the board finds that a proper remonstrance has been filed, it may dismiss the petition. If the board does not dismiss the petition, it shall forward the petition to the county surveyor for a final report.

(c) If the board finds that a proper objection has been filed, the person against whom the objection is made shall disqualify himself **or herself** from any further action in the proceedings to establish the drain.

SECTION 349. IC 36-9-27-61 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 61. When the board refers a petition to the county surveyor for a final report under section 60(b) of this chapter, the **county** surveyor shall do the following:

- (1) Make the necessary survey for the proposed drain.
- (2) Prepare plans for structures other than bridges or culverts crossing a railroad right-of-way or a highway owned by the state. In preparing the plans, the **county** surveyor shall include all appurtenances needed to complete the proposed drain.
- (3) Prepare maps showing the location of the land proposed to be assessed.
- (4) Prepare profiles showing the cuts and gradient of the proposed work.
- (5) Determine the best and cheapest method of drainage, which may be by:
  - (A) removing obstructions from a natural or artificial watercourse;
  - (B) diverting a natural or artificial watercourse from its channel;
  - (C) deepening, widening, or changing the channel of a natural or artificial watercourse;
  - (D) constructing an artificial channel, with or without arms or branches;
  - (E) tiling all or part of an open drain;
  - (F) converting all or part of a tiled drain to an open drain;
  - (G) constructing a new drain as a part or the whole of the work; or
  - (H) any combination of these methods.
- (6) Determine and describe the termini, route, location, and character of the proposed work, including grades, bench marks,

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and all necessary arms. The **county** surveyor may vary the line of the work from the line described in the petition, and ~~he~~ **the county surveyor** may fix the beginning and outlet so as to secure the best results.

(7) Divide the proposed drain into sections of not more than one hundred (100) feet in length, and compute and set out the number of cubic yards of excavation in each section.

(8) Estimate the cost of the proposed drain, including construction, seeding or sodding of disturbed areas and the banks of open drains, notices, advertising, and the attorney's fee for the petitioner's attorney. The amount of the attorney's fee is computed as follows:

(A) If the estimated cost of constructing the drain is less than one thousand five hundred dollars (\$1,500), the fee is fifteen percent (15%) of that cost.

(B) If the estimated construction cost is one thousand five hundred dollars (\$1,500) or more, but less than twenty-five thousand dollars (\$25,000), the fee is two hundred twenty-five dollars (\$225) plus five percent (5%) of the amount by which that cost exceeds one thousand five hundred dollars (\$1,500).

(C) If the estimated construction cost is twenty-five thousand dollars (\$25,000) or more, the fee is one thousand four hundred dollars (\$1,400) plus one percent (1%) of the amount by which that cost exceeds twenty-five thousand dollars (\$25,000).

SECTION 350. IC 36-9-27-62 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 62. (a) When the county surveyor has completed the maps, profiles, and plans required by section 61 of this chapter, ~~he~~ **the county surveyor** shall meet with the board, and the board shall take the following actions:

(1) Prepare a schedule of assessments containing a description of each tract of land determined to be benefited by the proposed drain and the name and address of the owner of the land. The name, address, and description shall be taken from the petition. The board shall enter in the assessment schedule the percentage of the total cost of the drain to be assessed against each tract of land. The percentage allocated to all lands benefited must be at least one hundred percent (100%) and as near to one hundred percent (100%) as is practicable.

(2) Determine the amount of damages sustained by all owners as a result of the proposed drain, and prepare a schedule of damages containing:



- (A) the name and address of each owner determined to be damaged and a description of the owner's land, as shown by the petition;
- (B) the amount of each owner's damages; and
- (C) an explanation of the injury upon which the determination was based.

The **county** surveyor shall add the damages to all lands as determined by the board to the estimated costs and expenses contained in ~~his~~ **the county surveyor's** report, and the result constitutes the total estimated cost of the proposed drain.

(3) Set forth the amount of each owner's assessment based on the total estimated cost of the proposed drain.

(4) Set forth the amount of each owner's annual assessment based on the estimated periodic maintenance cost of the proposed drain.

The percentage used in computing the annual assessment may, but need not, be the same for each tract of land as the percentage used in computing the general assessment.

The board may consider the factors listed in section 112 of this chapter in preparing the schedules.

(b) If land that was not included in the petition is determined to be benefited or damaged, the names of the owners and a description of the land shall be taken from the tax duplicates or record of transfers of the county.

SECTION 351. IC 36-9-27-63 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 63. (a) When the schedules of assessments and damages prepared under section 62 of this chapter are completed and marked filed, the board shall fix the date, time, and place for a hearing on the county surveyor's report and on the schedules of assessments and damages. The board shall serve notice of the hearing, along with a copy of the schedules, upon the attorney for the petitioner. The date fixed by the board for the hearing may not be less than thirty (30) nor more than forty (40) days after service of notice upon the petitioner's attorney.

(b) Within five (5) days after service upon ~~him~~ **the attorney for the petitioner** of the notice of hearing, the attorney for the petitioner shall mail a notice in a five (5) day return envelope addressed to each owner named in the schedule of benefits and damages. The notice must state:

- (1) the name and identifying number by which the proposed drain is known;
- (2) that the report of the **county** surveyor and the schedules of damages and benefits as determined by the board have been filed and are available for inspection in the office of the county



surveyor;

(3) that the land of the owner is shown by the schedule of damages to be damaged in the sum of \_\_\_\_\_ dollars;

(4) that the land of the owner is shown by the schedule of assessments to be assessed \_\_\_\_\_ percent of the total cost of the drain, and that \_\_\_\_\_ percent of the estimated total cost of the drain is in the sum of \_\_\_\_\_ dollars;

(5) that the land of the owner is shown by the schedule of assessments to be annually assessed in the sum of \_\_\_\_\_ dollars for the estimated periodic maintenance of the drain; and

(6) the date, hour, and place of hearing on the **county** surveyor's report and on the schedules of damages and assessments.

(c) The attorney for the petitioner shall publish a notice in accordance with IC 5-3-1. The notice:

(1) shall be entitled "In the matter of the \_\_\_\_\_ drain petition";

(2) shall be addressed to whom it may concern and to the addressee on each letter that was mailed under subsection (b) and was returned undelivered; and

(3) must state that:

(A) the report of the county surveyor and the schedules of damages and assessments made by the board have been filed and are available for public inspection in the office of the **county** surveyor; and

(B) a hearing will be held before the board on the report and schedules, specifying the time and place of the hearing.

(d) When the plans and specifications of the county surveyor disclose that part or all of the proposed drain will involve the construction of an open drain, the attorney for the petitioner shall mail a notice to the Indiana department of natural resources. The notice must give the time, date, and place of the hearing and state that the proposed drain will involve the construction of an open drain.

SECTION 352. IC 36-9-27-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 64. (a) Whenever:

(1) a new open drain is to be constructed under this chapter; and

(2) the drain will cross a tract of land in such a manner that the owner of the tract will be deprived of ingress and egress to part of the tract unless a private crossing is constructed across the drain;

the board shall award damages to the owner in an amount equal to the cost of constructing a proper crossing. In determining the type and quality of the crossing, the board shall consider the use of the inaccessible land, the frequency of the crossing's use, the purpose of

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the crossing's use, and any other appropriate factors.

(b) When an owner is entitled to damages under subsection (a), **he the owner** may, in lieu of accepting damages awarded by the board, file with the board **his the owner's** written consent to the construction of the crossing as part of the construction of the drain. The county surveyor shall then include the construction of the crossing in **his the county surveyor's** plans and specifications for the drain, but the future maintenance of the crossing will then be the responsibility of the owner.

SECTION 353. IC 36-9-27-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 65. (a) Not less than five (5) days before the board's hearing on a petition for a new regulated drain, any owner of land affected by the report of the county surveyor or by the schedules of damages and assessments may file with the board written objections to the report, schedules, or both. The objections may be for one (1) or more of the following causes:

- (1) The proposed drain, as reported by the **county** surveyor, is not practicable and will not adequately drain the affected land. An objection on this ground must point out the impracticable aspects of the proposed drain and describe the specific lands that will not be adequately drained.
- (2) The costs, damages, and expenses of the drain will exceed the benefits that will result to the owners of all land benefited.
- (3) The proposed drain will not:
  - (A) improve the public health;
  - (B) benefit a public highway in a county or a public street in a municipality;
  - (C) drain the grounds of a public school; or
  - (D) be of public utility.
- (4) The objector is the owner of land damaged by the drain, and:
  - (A) the board failed to find that **his the objector's** land is damaged; or
  - (B) the damages assessed to **his the objector's** land are inadequate.
- (5) The objector is the owner of lands assessed as benefited, and the benefits assessed against **his the objector's** lands are excessive.

Each objector may file written evidence in support of **his the objector's** objections. The failure of an owner to file objections constitutes a waiver of **his the owner's** right to subsequently object, on the **grounds grounds** stated in this subsection, to any final action of the board.

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(b) On or before the day of the hearing, the county surveyor shall, and any owner of affected land may, cause written evidence to be filed in support of or in rebuttal to any objection filed under subsection (a).

(c) The board shall consider the objections and evidence filed, may adjourn the hearing from day to day or to a day certain, and may issue an order permitting additional written evidence to be filed in support of or in rebuttal to the objections and evidence previously filed.

(d) After considering all of the objections and evidence, the board may amend the schedules of damages and assessments, and the county surveyor may modify **his the county surveyor's** report, as justice may require.

(e) Before final adjournment of the hearing, the board shall determine in writing:

(1) whether the proposed drain, as reported by the county surveyor, is practicable and will adequately drain the affected land;

(2) whether the costs, damages, and expenses of the proposed drain will be less than the benefits accruing to the owners of land benefited by the drain; and

(3) whether the proposed drain will improve the public health, benefit a public highway in a county or a public street in a municipality, drain the grounds of a public school, or be of public utility.

If the board finds the issues set forth in subdivision (1), (2), or (3) in the negative, it shall dismiss the petition. If the board finds the issues set forth in subdivisions (1), (2), and (3) in the affirmative, it shall adopt the schedules of damages and assessments, including annual assessments for periodic maintenance, as originally filed or as amended, into its findings, and issue an order declaring the proposed drain established. The board shall mark the findings and order filed and publicly announce them at the hearing. Immediately after that, the board shall publish a notice in accordance with IC 5-3-1. The notice must identify the proceedings and state that the findings and order of the board have been filed and are available for inspection in the office of the **county** surveyor.

(f) If judicial review of the findings and order of the board is not requested under section 106 of this chapter within twenty (20) days after the date of publication of the notice, the findings and order become conclusive.

(g) When the proposed drain is finally and conclusively established, the board shall allow the attorney for the petitioner the fee computed under section 61(8) of this chapter.

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SECTION 354. IC 36-9-27-66 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 66. (a) Whenever:

- (1) land has been assessed as benefited by the construction, reconstruction, or maintenance of a regulated drain;
- (2) there is no open or tiled drain connecting the land with the regulated drain; and
- (3) the waters from the land flow over or through land owned by others to reach the regulated drain;

the owner of the land assessed may petition the board to construct through the land of the other owners a new drain that will connect the petitioner's lands with the regulated drain. The petition must describe the land through which the new regulated drain will run, state the name and address of each owner of that land, describe the general route of the proposed new regulated drain, and state the proposed method of construction.

(b) The board shall refer the petition to the county surveyor for a report.

(c) If the county surveyor determines that the proposed drain is not practicable, ~~he~~ **the county surveyor** shall report that fact to the board and the board shall deny the petition.

(d) If the county surveyor determines that the proposed drain is practicable, ~~he~~ **the county surveyor** shall, in the manner ~~prescribed~~ **prescribed** by sections 49 through 52 of this chapter, prepare plans and specifications and all things necessary for the construction of the drain. The board shall, in the manner prescribed by sections 49 through 52 of this chapter, prepare a schedule of benefits and damages, serve the schedule upon the owners of land benefited or damaged, and hold a hearing on the schedule. Objections to the proceedings may be filed only on the grounds that:

- (1) the objector is the owner of land damaged by the proposed drain and the board failed to so find or, if it did so, find, the damages awarded were insufficient; and
- (2) the objector is the owner of land found by the board to be benefited, and the benefits assessed are excessive.

After the hearing, the board shall enter its order and findings in the manner prescribed by section 52 of this chapter.

(e) Any owner aggrieved by the final award of damages under subsection (d) may obtain judicial review under section 106 of this chapter. When the order of the board becomes conclusive, the board shall proceed to construct the drain in the manner prescribed by this chapter.

SECTION 355. IC 36-9-27-67 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 67. (a) In **his the county surveyor's** written report setting forth **his the county surveyor's** order of priority for regulated drains under section 35 of this chapter, the county surveyor may designate any drain that is classified as in need of reconstruction as an urban drain. In adopting the classification and in making public the long-range plan, the board shall consider each designation of an urban drain and shall indicate the order of priority of action on urban drains.

(b) A drain shall be designated as an urban drain when:

(1) the drain will not, without construction or reconstruction, provide proper drainage for urban land or will not properly impound water in a small lake;

(2) it appears that after a practicable construction or reconstruction proper drainage for urban land can be provided; and

(3) either or both of the following factors is present:

(A) A reasonable part of the land within the watershed has been or is being converted from rural land to urban land.

(B) It appears to the board that one (1) or more tracts within the watershed is or will be changing from rural land to urban land, and that change requires the drainage provided by an urban drain.

(c) A petition for a new regulated drain under section 54 of this chapter may state, or may be amended to state, that in the opinion of the petitioners the new regulated drain should be designated as an urban drain. The board shall consider that statement in referring the petition to the county surveyor for a final report.

SECTION 356. IC 36-9-27-68 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 68. The county surveyor shall perform the following duties with respect to all urban drains within **his the county surveyor's** jurisdiction:

(1) Prepare and make available to the public design standards of rainfall intensity and frequency for urban land, design standards of storm water runoff for urban land, or both. In preparing these standards, the **county** surveyor shall consider official weather bureau information, design criteria of the Indiana department of natural resources, the published recommendations of the United States bureau of public roads, and all available local, topographical, geological, and statistical information that may affect the design standard of runoff from urban land. The **county** surveyor may give special consideration to those weather events in which rainfall occurs under conditions when soil tends to be



impervious due to frost or other natural causes.

(2) Prepare hydraulic calculations for the channel design of the urban drain, taking into consideration hydraulic gradients, friction factors, dimensions, and other engineering variables.

(3) Design the channel or dam required for the urban drain, including any necessary rerouting and taking into consideration the structures and structural characteristics of the soil.

(4) Furnish design information for all new drainage structures (including local flood control dikes) that may be needed to properly drain urban land or impound water in a small lake in the most efficient and economical manner.

(5) Keep available maps, listings, or other information showing current land use and projections of future land use in the area affected by the urban drain. In preparing this information, the **county** surveyor shall consider recommendations of state and local planning agencies, plan commissions, zoning boards, and similar bodies.

(6) Include in ~~his~~ **the county surveyor's** report to the board on the construction or reconstruction of an urban drain ~~his~~ **the county surveyor's** recommended designation of each parcel of affected land in the watershed of the urban drain as either urban land or rural land.

SECTION 357. IC 36-9-27-69 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 69. (a) After the county surveyor has filed ~~his~~ **the county surveyor's** report on the construction or reconstruction of an urban drain, ~~he~~ **the county surveyor** shall consult with the board, and the board may adopt or modify the designations recommended by the surveyor. The board shall then prepare a schedule of benefits, assessments, and damages.

(b) The board shall determine and compute benefits, assessments, damages, total estimated cost, and percentage allocations in the manner provided by section 50 or ~~section~~ 62 of this chapter. However, in determining benefits and assessments for an urban drain, the board shall consider the following factors:

(1) The watershed, or entire land area drained or affected by the urban drain, shall be considered to be benefited and shall be assessed.

(2) If specific parts of urban land are to be served by new drainage arms, routings, special structures, or other similar new features that are part of the total cost of the urban drain, those specific parts of urban land may be considered to have extra benefits greater than the benefits to the other affected urban land.



(3) Except for urban land that has extra benefits, all urban land within the watershed shall be considered to be equally benefited, and the benefits shall be computed in proportion to the number of acres in each tract.

(4) If a tract of urban land has been platted or subdivided into lots, and the subdivision contains streets, parkways, parks, or similar common use areas, the board may determine the per lot benefits by:

(A) ascertaining the total approximate benefits in proportion to the area of the tract before the subdividing; and

(B) apportioning the total benefits in substantially equal amounts to each lot.

Additional assessments may not be imposed on a right-of-way apportioned to the lots under this subdivision.

(5) Rights-of-way of a public highway, railroad company, pipeline company, or public utility that lie within or adjoin urban land shall be considered to be benefited and shall be assessed in the same manner as urban land.

(6) Rural land affected by an urban drain is benefited only as rural land and shall be assessed on that basis. Whenever the board finds that a drain would have drained rural land without reconstruction, the board may reduce the assessment apportioned to rural land, subject to section 84(c) of this chapter.

(c) The notice to landowners in the case of an urban drain must:

(1) state that the drain has been designated as an urban drain;

(2) describe the land of the owner to whom the notice is addressed; and

(3) state that the land described is shown by the schedule of assessments to be assessed as either rural land or urban land.

(d) Before final adjournment of the hearing, the board shall find in writing that the drain is an urban drain or that it is a rural drain and is not an urban drain. If the board finds that the drain is not an urban drain, the board shall then request the county surveyor to deny all future connections to the drain, as provided in section 17 of this chapter, and the board shall make this request and finding public.

SECTION 358. IC 36-9-27-72 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 72. (a) When, in the reconstruction or periodic maintenance of a regulated drain, the county surveyor determines that a private crossing will not adequately handle the flow of water from the drain or will be endangered by such flow, ~~he~~ **the county surveyor** shall in ~~his~~ **the county surveyor's** plans call for the removal of the crossing.

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(b) The replacement of a private crossing, when necessary, may be accomplished as a part of the work of the reconstruction or maintenance. The estimate by the county surveyor of the cost for the replacement shall be assessed against the land that would otherwise be deprived of ingress and egress. However, when a private crossing has been lawfully established and maintained, the board may assess any part of the cost of its replacement against all affected lands.

(c) A private crossing, control dam, or other permanent structure may not be placed over or through an open drain unless the plans and specifications for the structure are first approved by the county surveyor. The **county** surveyor shall disapprove the plans and specifications if they do not show that the structure will meet hydraulic requirements that will permit the drain to function properly.

(d) All maintenance of a private crossing or of a private structure within the drain, whether privately constructed or constructed as a part of work on a drain under this chapter, is the responsibility of the owners of land served by the private crossing or structure. The owners are directly responsible for any obstruction or damage to the drain that results from the existence of the private crossing or structure, notwithstanding any other provisions of this chapter.

SECTION 359. IC 36-9-27-78 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 78. (a) Whenever the board is ready to let contracts, it shall publish notice in accordance with IC 5-3-1. The notice must:

- (1) state that at a date, time, and place the board will receive bids on the work;
- (2) generally and concisely describe the nature of the work to be done and materials to be furnished;
- (3) invite sealed bids; and
- (4) state that prospective bidders may obtain plans, specifications, and forms from the county surveyor in charge of the work.

A defect in the form of the notice does not invalidate proceedings under the notice.

(b) Each bidder shall deposit with ~~his~~ **the bidder's** bid, at ~~his~~ **the bidder's** option, either a certified check made payable to the board in the sum of five percent (5%) of the bid or a bid bond in the sum of five percent (5%) of the bid. If a bidder elects to deposit a bid bond, the bond must be payable to the board with sufficient sureties, and the bond must be conditioned upon the bidder's execution of a contract in accordance with ~~his~~ **the bidder's** bid if accepted by the board and must provide for the forfeiture of five percent (5%) of the amount of the bid upon ~~his~~ **the bidder's** failure to do so. The board shall return all checks

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and bonds submitted by unsuccessful bidders, and shall return a successful bidder's check or bond when ~~he~~ **the successful bidder** enters into a contract with the board.

(c) At the hour specified in the notice for receiving the bids, the board shall open and examine all bids. The board shall then promptly award the contract or contracts to the lowest bidder or bidders it finds to be qualified. In determining whether a bidder is qualified, the board shall consider the complexity and magnitude of the work to be performed, and the skill and experience of the bidder. Within five (5) days after the acceptance of a bid, the successful bidder shall enter into a contract with the board that complies with subsection (d). If a successful bidder fails to enter into such a contract, ~~he~~ **the successful bidder** forfeits to the board, as liquidated damages, the check or bond deposited under subsection (b).

(d) The contract between the board and a successful bidder must provide:

- (1) that the contractor will perform the work under the supervision of the county surveyor and in accordance with the plans, specifications, and profiles adopted by the board;
- (2) that a claim for payment under the contract will not be approved by the board until the work for which the claim is presented has been approved by the **county** surveyor;
- (3) the time within which the work must be completed;
- (4) that fifteen percent (15%) of the contract price shall be withheld by the board for a period of sixty (60) days after the completion of the work, for the purpose of securing payment of suppliers, laborers, and subcontractors; and
- (5) for other terms that the board considers appropriate.

(e) Upon execution of the contract, the successful bidder shall give to the board a bond payable to the board, in an amount fixed by the board but not less than the amount of the bid, and with a corporate surety licensed to do business in Indiana. The bond must be conditioned on the faithful performance of the contract and the payment of all expenses and damages incurred under the contract, including payment of all suppliers, laborers, and subcontractors. However, in lieu of a corporate surety bond, the board may accept:

- (1) a cash bond;
- (2) a property bond; or
- (3) a bond from a sufficiently financed private bonding company.

SECTION 360. IC 36-9-27-81 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 81. The county surveyor may, without first obtaining the approval of the board,

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authorize partial or progress payments to a contractor for work performed in amounts not in excess of eighty-five percent (85%) of the contract price of the work then completed. The **county** surveyor shall report such an approval to the board at its next meeting. The **county** surveyor may not give an approval under this section unless ~~he~~ **the county surveyor** has first inspected the work done.

SECTION 361. IC 36-9-27-83 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 83. (a) A subcontractor, laborer, or other person may file a claim with the board if:

- (1) at the request of a contractor, ~~he~~ **the subcontractor, laborer, or other person** has performed any work or other service or has furnished any material used under the contract; and
- (2) ~~he~~ **the subcontractor, laborer, or other person** has not been paid.

The claim must be filed within sixty (60) days after the performance of the work or service or the furnishing of the material, and must state the amount due and describe the work done or materials furnished. The board shall withhold the amount of the claim from the final payment due the contractor unless the claimant files a written withdrawal of the claim with the board.

(b) If, sixty (60) days after acceptance of the work by the surveyor, the contractor files with the board a written ~~acknowledgement~~ **acknowledgment** of the correctness of all claims, and if the amount withheld by the board is sufficient to pay all claims, the board shall have the claims paid out of the amount withheld from the contractor and shall pay the balance remaining to the contractor.

(c) If the contractor does not file an ~~acknowledgement~~ **acknowledgment** under subsection (b), or if there is not a sufficient amount withheld to pay all claims, the board shall interplead all claimants and the contractor in the circuit or superior court of the county in which the board is located and have the amount of the claims, or the amount withheld by the board, whichever is smaller, paid into court. The board is then discharged from liability.

(d) This section does not relieve the surety on the contractor's bond from liability under its obligation as set forth in the bond.

SECTION 362. IC 36-9-27-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 92. (a) Whenever the owner of a tract of land assessed under this chapter subdivides or otherwise transfers part of the tract to another owner, ~~he~~ **the owner of the tract** may file with the board a written request for reassessment in recognition of the transfer. The request must include the name and address of each owner of a part of the tract, together with the



description of that part.

(b) The board shall promptly determine and file a proposed reassessment or amendment to the schedule of assessments to recognize the transfer, set a date for hearing the request, and mail notice to each affected owner in a five-day return envelope. The service of further notice to the addressee of any letter that is returned undelivered is the responsibility of the owner making the request. The notice, which must describe the land to be reassessed, must state:

- (1) the date, hour, and place of a hearing before the board on the proposed reassessment;
- (2) that the land of the owner is shown by the proposed reassessment to be assessed in the sum of \_\_\_\_\_ dollars; and
- (3) that failure to file objections or evidence at or before the hearing constitutes a waiver of the right of the owner to object, on the grounds stated in subsection (c), to any final action of the board.

The notice shall be mailed at least twenty (20) days before the hearing. However, written consent of all the affected owners, or the presence of all those owners at the hearing, constitutes a waiver of any defect in notice.

(c) In determining any reassessment, the board may consider only whether the reassessment is made in the manner required for justice to all affected land, taking into consideration section 84(c) of this chapter.

(d) At the hearing, the board shall consider all evidence and objections and may modify the proposed reassessment as justice to all affected land requires. Before final adjournment of the hearing, the board shall adopt the reassessment or amendment to the schedule of assessments into its findings and shall order the schedule amended. The board shall then announce its findings and order by certified mail to each affected owner, or shall have one (1) notice of its findings and order published in a newspaper of general circulation throughout the county. The notice must identify the proceedings and state that the findings and order of the board have been filed and are available for inspection in the office of the county surveyor.

(e) If judicial review of the findings and order of the board is not requested under section 106 of this chapter within twenty (20) days after the date of receipt of the announcement or after the date of publication of the notice, the findings and order become conclusive.

(f) When the findings and order become conclusive, the board shall certify the schedule of reassessments to the auditor of each county in which there is land assessed by the reassessment, and the auditor and the county treasurer shall promptly proceed upon any reassessment in



the manner prescribed for proceeding upon an originally certified assessment.

SECTION 363. IC 36-9-27-104 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 104. (a) Whenever:

(1) a petition to construct a new drain is filed under sections 54 through 65 of this chapter, a board initiates proceedings to reconstruct a drain under sections 49 through 52 of this chapter, or proceedings are initiated in Illinois, Kentucky, Michigan, or Ohio to construct or reconstruct a drain; and

(2) the proposed construction or reconstruction will affect land in both Indiana and the other state;

the board may join with the proper officials of the other state in a joint effort to construct or reconstruct the drain.

(b) Whenever proceedings are instituted in Indiana under subsection (a), the board shall fix a date, time, and place for a joint meeting with the proper officials of the other state for the purpose of forming an interstate board, and shall have a notice of the meeting served on those officials.

(c) Upon receipt by the board of an acceptance of the offer to meet, or, when the offer to meet has come from the other state, upon acceptance by the board, the board and the officials of the other state shall proceed at the specified date, time, and place to form an interstate board by electing one (1) of their number ~~chairman~~ **chair** and one (1) of their number clerk. The ~~chairman~~ **chair** and the clerk may not be residents of the same state.

(d) Without regard to the number of members of the interstate board who are present, the members from Indiana are entitled to cast one-half (1/2) of all votes on all questions, and that vote shall be represented equally by the different members from Indiana who are present.

SECTION 364. IC 36-9-27-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 105. (a) The county surveyor representing a board from Indiana that is part of an interstate board shall work with the surveyor or engineer representing the officials of the other state in the performance of the duties required of ~~him~~ **the county surveyor** by this chapter. The interstate board may employ an engineer to work with and assist the surveyor or surveyors, but an engineer may not be permanently employed unless the interstate board has determined that the proposed construction or reconstruction is necessary for the public health, welfare, or convenience, and that the cost of the construction or reconstruction will probably be less than the benefits to the affected land.

(b) The surveyors and engineer, if one is employed, shall:

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- (1) prepare all surveys, plans, specifications, and other things required by this chapter for construction or reconstruction solely within Indiana;
- (2) estimate the total cost of the construction or reconstruction for the part of the drain located in each state, together with an estimate of the total cost of location; and
- (3) in their report, make a fair and just apportionment between the two (2) states of the cost of location and construction or reconstruction.

The report shall be filed with the interstate board and, when that board adopts the report by proper resolution, a certified copy of the report shall be filed with the board in Indiana.

(c) Upon receiving the report, the board in Indiana shall assess the benefits and damages to each tract of land affected in Indiana, in accordance with this chapter as applied to a drain located solely within Indiana.

(d) All provisions of this chapter, including the giving of notices, the right to object and remonstrate, and the right to judicial review, apply to the board, the surveyor, and all affected persons.

(e) When the construction or reconstruction is finally and conclusively established in both states, and when money is available in both states to pay for the proposed work, the interstate board shall meet and let the work contracts. Payment from funds in Indiana shall be made by voucher approved by the interstate board, countersigned by the ~~chairman~~ **chair** of the board in Indiana, and filed with the county auditor. The payments shall be limited to the amount apportioned to Indiana under subsection (b).

SECTION 365. IC 36-9-27-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 107. (a) Whenever a petition for judicial review is filed on the ground that:

- (1) the board found that the petitioner's land would be benefited by the construction, reconstruction, or maintenance of a drain, and the benefits assessed were excessive; or
- (2) the petitioner's lands would be damaged by the construction, reconstruction, or maintenance of a drain, and:
  - (A) the board failed to so find; or
  - (B) the amount of damages awarded was inadequate;

the court shall proceed to hear the issue of benefits or damages de novo. A change of venue may be taken from the judge and from the county, and a jury trial may be obtained, in accordance with the rules governing the trial of civil actions. An appeal may be taken in accordance with the rules governing appellate procedure.

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(b) Whenever a petition for judicial review is filed on any ground other than those set forth in subsection (a), the review shall be heard by the court without the intervention of a jury. The court may not try or determine the cause de novo, but shall consider and determine the cause exclusively upon the record made before the board and filed with the court. A change of venue may be taken from the judge under the rules governing a change of venue in civil actions, but a change of venue may not be taken from the county. The proceedings shall be advanced upon the docket of the court. If the court finds from the record before it that:

(1) the person filing the petition for review has complied with all procedures required under this chapter to properly present the matters set forth in the petition for review, and has exhausted ~~his~~ **the person's** administrative remedies; and

(2) the decision or determination of the board is arbitrary, capricious, unlawful, or not supported by substantial evidence; the court shall order the decision or determination of the board set aside and shall remand the matter to the board for further proceedings consistent with the findings and order of the court. If the court finds otherwise, the decision of the board shall be affirmed.

(c) In affirming or setting aside a decision or determination of the board, the court shall enter its findings and order or judgment on the record.

(d) When a petition for judicial review presents issues that shall be heard de novo and issues that may not be heard de novo, the court shall separate the issues and shall proceed to determine the issues that may not be heard de novo. When the court's judgment on the issues that may not be heard de novo becomes final, or when the appeal is decided if an appeal is taken, the board shall proceed in accordance with the final judgment or appellate decision despite the fact that the issues to be heard de novo may be undecided and pending before the court or on appeal.

SECTION 366. IC 36-9-28-6, AS AMENDED BY P.L.84-2016, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) After the letting of a contract or contracts under section 5 of this chapter, the court shall appoint three (3) competent, disinterested residents of the county to serve as the board of assessors for the project. The assessors shall take an oath to honestly and faithfully perform their duties as assessors.

(b) The board of assessors shall:

(1) inspect the line of the proposed project and the property within the area affected by the project;



- (2) estimate and assess the benefits against each piece of property to be benefited by the project;
- (3) award damages to each piece of property to be injuriously affected by the project; and
- (4) prepare and file with the clerk of the circuit court an assessment roll of the assessment against each property owner.

The clerk shall then give written notice of the assessment and the right to appeal by certified mail or personal service upon each of the property owners being assessed as **his the property owner's** name and address appears on the tax records of the county. The clerk shall make and file in **his the clerk's** records an affidavit of the giving of the notice.

(c) Appeals from the assessments may be made to the circuit court within fifteen (15) days after the time of the filing of the clerk's affidavit of service. The appeals shall be conducted in the manner directed by the court.

- (d) In hearing appeals of assessments, the board of assessors shall:
  - (1) sit at the times and places directed by the court;
  - (2) administer oaths;
  - (3) send for persons and papers; and
  - (4) hear testimony concerning the question of benefits and damages to be assessed.

The hearing may be continued from day to day.

(e) After hearing any appeals, the board of assessors shall finalize the roll of property owners whose property will be benefited or injured by the project, including:

- (1) a description of the property affected; and
- (2) the amount of the benefits or damages to the property, listed opposite each description;

and shall file it with the court.

(f) The board of assessors may correct a mistake or supply an omission in the roll at any time. Proceedings under this chapter are not defective or void because of an omission or defect in the roll, and a property owner may not object to the proceedings on the ground of any mistake in or omission of:

- (1) the name of any person; or
- (2) the description of any property.

The court may call the board together to make any necessary additions or corrections to the roll.

(g) An action to contest the assessments and the acts of the board of assessors must be commenced within:

- (1) thirty (30) days after the affidavit of service by the clerk of the



circuit court; or

(2) if an appeal is taken, within thirty (30) days after the filing of the final report with the court.

(h) The court shall make reasonable allowances to the board of assessors and for attorney's fees, and shall tax these allowances with the other costs of the proceedings. The allowances are payable out of money available from bond proceeds, assessments, or the municipal treasury.

SECTION 367. IC 36-9-28-11, AS AMENDED BY P.L.84-2016, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) After a project is completed and approved under this chapter, the care, management, control, repair, and maintenance of the project may be placed under the jurisdiction of a board of directors appointed under this section.

(b) A petition requesting the appointment of a board of directors for the project may be filed with the clerk of the circuit court. The petition may be signed by:

(1) the municipal works board, if all or part of the municipality is located in the area affected by the project;

(2) the executive and legislative body of a township, if all or part of the township is located in the area affected by the project;

(3) any twenty-five (25) landowners who reside in a municipality and whose lands are located in the area affected by the improvement; or

(4) any twenty-five (25) landowners who do not reside in a municipality and whose lands are located in the area affected by the project.

The petition shall be docketed as a pending action, and the court shall fix a time when the petition shall be heard.

(c) After the petition is filed and docketed, the clerk of the circuit court shall give notice of the hearing by publication in accordance with IC 5-3-1. The notice shall be addressed to all persons who were originally assessed for the construction of the project.

(d) Any person owning land located in the area affected by the project may appear at the hearing and be heard, either in person or by **his the person's** attorney.

(e) If the court determines that a board of directors should be appointed and assessments should be imposed for the care, management, control, repair, and maintenance of the project, the court shall enter a judgment accordingly. If the court enters such a judgment, two (2) members of the board of directors shall be appointed by the county executive and one (1) member of the board of directors shall be



appointed by the municipal executive. The three (3) appointed persons must be qualified under section 12 of this chapter.

(f) If the court determines that a board of directors should not be appointed, it shall dismiss the petition.

SECTION 368. IC 36-9-28-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. Each member of a board of directors appointed under this chapter is entitled to compensation, at a rate fixed by the circuit court but not to exceed thirty-five dollars (\$35) per day, for ~~his~~ **the member's** services under this chapter. The compensation of the board shall be paid from the assessments made under section 16 of this chapter.

SECTION 369. IC 36-9-28-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) A board of directors appointed under this chapter shall make all repairs necessary to keep the project in its original condition. If, in making the repairs, it is necessary to change the line and location of a ditch at any point, the board may do so, but the board may not change its general line or location.

(b) The board of directors shall keep a record of its proceedings and shall note in that record all expenses incurred in making repairs. The board shall file with the county auditor a statement showing the cost and expenses of making the repairs, specifying the amounts due to each person. The auditor shall then draw ~~his~~ **the auditor's** warrant in favor of each person for the amount due them. The amounts due shall be paid out of county revenues and shall be reimbursed to the county from the assessments made under section 16 of this chapter.

SECTION 370. IC 36-9-28-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) The money necessary to pay costs incurred by a board of directors in the management and maintenance of a project, including money to be reimbursed to a county under section 15 of this chapter, shall be derived from assessments made under this section.

(b) The board of directors shall determine:

- (1) the total number of acres of land benefited by the project and located outside the municipality;
- (2) the total number of lots benefited by the project and located outside the municipality; and
- (3) the total number of lots benefited by the project and located inside the municipality.

Each lot, whether it is located inside or outside the municipality, shall be counted as one-half (1/2) acre of land, and each major fraction of an acre shall be counted as one (1) full acre.





(c) When the board of directors has determined the total number of acres subject to assessment and the total amount of money required for the next year, the board shall divide the total amount required by the total number of acres assessed. The quotient obtained is the amount per acre to be assessed for the next calendar year.

(d) If repairs have been rendered necessary by the act or negligence of the owner or occupant of any lands, or of **his the owner's or occupant's** employee or agent, the cost of the repairs shall be assessed against only **his the owner's** lands.

(e) All assessments shall be made before August 2 of each year.

(f) The board of directors shall certify the total amount assessed against lots located inside the municipality to the municipal fiscal officer. This amount shall be included in the municipal budget, appropriated by the municipal legislative body, and paid out of the municipal general fund.

(g) The board of directors shall make out a certified copy of the assessments made on land outside the municipality, and shall file the copy with the auditor of the county in which the lands and lots are located. The auditor shall place the assessments against the land upon the next tax duplicate. The assessment is a lien from the time the certified copy of the assessments is filed, and shall be collected as other state and county taxes are collected. All the laws regulating the payment and collection of state and county taxes, the assessment of penalties and interest, and the sale of property for delinquent taxes apply to the payment and collection of assessments placed upon tax duplicates under this subsection.

SECTION 371. IC 36-9-29-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) If a flood control district is established under this chapter, the construction of the flood control works shall be carried out under the control of a flood control board, to be known as "Board of Commissioners, \_\_\_\_\_ Flood Control District" (designating the name of the city instituting the proceedings for the establishment of the district).

(b) The flood control board consists of:

- (1) the members of the works board of the city petitioning for the establishment of the flood control district; and
- (2) the executive of each town or township included in whole or in part in the district.

(c) Before entering upon **his the commissioner's** duties, each commissioner of the flood control board shall take and subscribe the usual oath of office, and shall file it with the clerk of the circuit court.

(d) If any commissioner of the flood control board fails or refuses

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to qualify, or after qualifying fails or refuses to take part in the proceedings of the board, then the board, by a majority vote, may petition the circuit court for the appointment of a new commissioner. After a hearing and a showing of cause, the court may remove the offending commissioner. If the court removes a commissioner, the executive of the city shall appoint a new commissioner. The new commissioner must be a freeholder residing in the part of the district previously represented by the commissioner removed.

(e) Each commissioner of a flood control board is entitled to a salary fixed by the board, subject to the approval of the legislative body of the city petitioning for the establishment of the flood control district.

(f) Within ten (10) days after the entry of the decree establishing the flood control district, the commissioners of the flood control board shall meet at the office of the works board of the city petitioning for the establishment of the district, and shall organize by electing one (1) of their number president and one (1) vice president. These officers shall perform the duties usually pertaining to their offices, and shall serve for a period of one (1) year or until their successors are elected and qualified. The board shall also appoint a secretary pro tempore to keep the records of the proceedings until the board appoints a permanent secretary. The minutes of the board shall be kept in a permanent minute book, and the first entry in the book must be a copy of the decree establishing the district and fixing its boundaries.

(g) A majority of the commissioners of the flood control board constitutes a quorum for the transaction of any business. If the board consists of an even number of commissioners and there is a tie vote on any question, the vote of the president on the question is controlling.

(h) The flood control board may:

- (1) sue and be sued;
- (2) exercise the power of eminent domain;
- (3) adopt rules governing the holding of regular meetings, the calling of special meetings, methods of procedure, and similar matters; and
- (4) perform all acts necessary and proper for carrying out the purposes of the flood control district.

(i) The office of the flood control board shall be maintained at the office of the works board of the city petitioning for the establishment of the district, or at another place furnished by the city. All records of the board shall be kept at the office and are public records, open to inspection by the public during business hours.

(j) A commissioner, appointee, or employee of the flood control board may not have any direct or indirect interest in any contract let by



the board, or in the furnishing of supplies or materials to the board.

SECTION 372. IC 36-9-29-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) The flood control board shall appoint an executive secretary. The executive secretary may not be a commissioner of the board before the completion of the flood control works, but may be after their completion.

(b) The salary of the executive secretary shall be fixed by the flood control board.

(c) The executive secretary may be required to furnish bond in the amount the flood control board finds necessary. The cost of the bond may be borne by the district.

(d) The executive secretary:

- (1) is the custodian of the records of the district;
- (2) shall assist the board in the performance of its duties, as directed by the board; and
- (3) shall certify copies of the official records and files of the district that may be required of ~~him~~ **the executive secretary** by this chapter, or by any person ordering copies and paying the reasonable cost of transcription.

Certification of a record by the executive secretary is prima facie evidence of the record's accuracy.

SECTION 373. IC 36-9-30-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 20. (a) An action to question the validity of the revenue bonds or to prevent their issuance may not be brought after the date fixed for their sale.

(b) Any holder of any of the revenue bonds or the coupons attached to them may bring any action necessary to:

- (1) protect and enforce ~~his~~ **the holder's** rights under this chapter or the ordinance authorizing the bonds; and
- (2) enforce and compel performance of all duties required by this chapter or the ordinance authorizing the bonds, including the making and collecting of reasonable and sufficient fees for the use of and services rendered by the facilities for the disposal of solid waste.

However, the unit may not be compelled to pay fees on behalf of other users or owners.

(c) If there is a failure to pay the principal or interest of any of the bonds on the date named for payment, any court having jurisdiction of the action may appoint a receiver to administer the facilities on behalf of the unit and the bondholders. The receiver may:

- (1) charge and collect from all users or owners fees sufficient to provide for the payment of the expenses of operation, repair, and



maintenance;

(2) pay any bonds and interest outstanding; and

(3) apply the revenues in conformity with this chapter and the ordinance authorizing the bonds.

SECTION 374. IC 36-9-31-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) The waste disposal district constitutes a special taxing district for the purpose of levying a special benefit tax for the purpose of providing the disposal of waste and the recovery of byproducts from waste.

(b) Whenever, upon investigation, the board determines that a facility or facilities for waste disposal is necessary for the public health and welfare, and that the construction, modification, or acquisition of the facility or facilities will be of public utility and benefit, the board may, upon approval of the city-county legislative body, issue waste disposal district bonds under this section for the payment of the cost of the facility.

(c) Before authorizing the waste disposal district bonds the board may either accept public bids for the facility or adopt a resolution approving a request for proposals all as provided in section 4 of this chapter.

(d) When plans and specifications have been prepared according to the public bidding requirements of IC 36-1-12, or a resolution adopted by the board approving a request for proposals, the board shall adopt a resolution declaring that, upon investigation, it has been found that it is necessary for the public health and welfare and will be of public utility and benefit to construct, modify, or acquire (and maintain where constructed) the facility or facilities and to acquire the property described for that purpose. The resolution shall be kept open to inspection by all persons interested in or affected by the acquisition of the property or the construction of the facility. Upon adoption of the resolution, the board shall give public notice of the adoption and its purpose, which notice must name a date not less than ten (10) days after the date of the last publication on which the board will receive or hear remonstrances from persons interested in or affected by the facility or facilities and will determine their public utility and benefit.

(e) At the time fixed for the hearing, or at any time before that, any person owning real or personal property within the waste disposal district may file a written remonstrance with the board. At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances filed. After considering the remonstrances, the board shall take final action determining the public utility and benefit of the proposed proceedings

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and confirm, modify and confirm, or rescind the resolution, which final action shall be duly recorded. This action is final and conclusive upon all persons, except that any person who has remonstrated in writing and who is aggrieved by the decision of the board may take an appeal as provided in subsection (f).

(f) Any person who has filed a written remonstrance with the board as provided in subsection (e), in case the board takes final action confirming the resolution in its original or any modified form, is entitled to appeal to the superior court of the county. Within ten (10) days after the final action of the board, the remonstrator must file in the office of the clerk of the court a copy of the resolution of the board and ~~his~~ **the remonstrator's** remonstrance, together with a surety bond conditioned to pay the costs of the appeal should the appeal be determined against ~~him~~ **the remonstrator**. The only ground of remonstrance of which the court has jurisdiction on appeal is the question of whether it will be of public utility and benefit to construct, modify, or acquire the proposed facility, and the burden of proof is upon the remonstrator. The cause shall be summarily tried by the court without a jury. All remonstrances upon which an appeal are taken shall be consolidated and heard as one (1) cause of action by the court, and the cause shall be heard and determined by the court within thirty (30) days after the time of filing the appeal. Upon the date fixed for hearing, the court shall hear evidence upon the remonstrances and shall confirm the final action of the board on the resolution or sustain the remonstrance.

(g) Upon final action of the board, or court, confirming the resolution in its original or any modified form, all real or personal property located within the waste disposal district is subject to a special tax for the purpose of providing money to pay all or a part of the total cost of the acquisition, modification, or construction of the facility, which special tax is declared to constitute the amount of benefits resulting to all of the property in the district.

(h) For the purpose of raising money to pay the cost of the facility, and in anticipation of the special tax to be levied, the board shall, upon the approval of the legislative body, cause to be issued waste disposal district bonds in the name of the consolidated city in accordance with IC 36-3-5-8.

(i) On adopting a resolution ordering the issuance of waste disposal district bonds, the board, with legislative body approval, shall then certify a copy of the resolution and a copy of the approval to the fiscal officer of the consolidated city, who shall then prepare the bonds.

(j) The waste disposal district bonds are not, in any respect, a



corporate obligation or indebtedness of the consolidated city, but constitute an indebtedness of the waste disposal district. The waste disposal district bonds, and interest on them, issued under this section are payable out of a special tax levied upon all of the property of the waste disposal district and any other revenues made available for that purpose under this chapter. The waste disposal district bonds must so recite these terms upon their face, together with the purpose for which they are issued.

(k) All proceeds from the sale of waste disposal district bonds shall be kept as a separate and specific fund, to pay the cost of the facility, and no part of the proceeds may be used for any other purpose. Any surplus remaining out of the proceeds of the waste disposal district bonds, after all of the cost is fully paid, shall be paid into and becomes a part of the waste disposal district bond fund; however, money derived from sources other than the waste disposal district bond proceeds, such as state or federal grants or other contributions, are not so restricted as to application regardless of whether the contribution arises for a project financed from waste disposal district bond proceeds.

(l) For the purpose of raising money to pay the waste disposal district bonds issued under this section, the city-county legislative body shall levy each year a special tax upon all the property of the waste disposal district in such amount and manner as to meet and pay the principal of the waste disposal district bonds as they severally mature, together with all accruing interest on them. The tax so levied each year shall be certified to the fiscal officers of the consolidated city and the county. The tax so levied and certified shall be estimated and entered upon the tax duplicate by the county auditor and shall be collected and enforced by the county treasurer in the same manner as county taxes are estimated, entered, collected and enforced. As the tax is collected by the county treasurer, it shall be accumulated and kept in a separate fund to be known as the waste disposal district bond fund, and shall be applied to the payment of the principal of and interest on the waste disposal district bonds as they become due and to no other purpose. In fixing the amount of the necessary levy the legislative body shall consider the amount of net revenues, if any, to be derived from the collection of fees under section 8 of this chapter or any other net revenues collected under this chapter above the amount of revenues necessary to be applied upon or reserved by or for the city for the operation, maintenance, and administrative expenses of the facilities. The board shall annually, in lieu of making the levy or to reduce the amount of the levy, set aside by resolution the amount of the net revenues to be collected before maturity of the principal and interest of



the waste disposal district bonds payable in the following calendar year. If the board adopts this resolution, then it is unlawful for the board to use any part of the amount so set aside out of the net revenues for any purpose other than the payment of waste disposal district bonds and the interest on them. A proportionate payment of this amount shall be made to the waste disposal district bond fund monthly.

(m) The board may not issue waste disposal district bonds under this section, payable by special taxation for that purpose in a total amount, including outstanding bonds already issued, in an amount exceeding six percent (6%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15. All waste disposal district bonds issued in violation of this subsection are void.

SECTION 375. IC 36-9-35-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. Notwithstanding IC 36-1-8-10, whenever the city's ordinance establishing a water department requires that an appointment to the board of trustees of the water department be conditioned upon the political affiliation of the appointee, or that the membership of the board not exceed a stated number of members from the same political party, at the time of an appointment the appointee must:

- (1) have voted in the two (2) most recent primary elections held by the party with which the appointee claims affiliation; or
- (2) if the appointee did not vote in the two (2) most recent primary elections or only voted in one (1) of those elections, be certified as a member of the party with which the appointee claims affiliation by that party's county ~~chairman~~ **chair** for the county in which the appointee resides.

SECTION 376. IC 36-10-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) Initial appointments to a municipal board are as follows:

- (1) One (1) member for a term of one (1) year.
- (2) One (1) member for a term of two (2) years.
- (3) One (1) member for a term of three (3) years.
- (4) One (1) member for a term of four (4) years.

As a term expires, each new appointment is for a four (4) year term. All terms expire on the first Monday in January, but a member continues in office until ~~his~~ **the member's** successor is appointed.

(b) Initial appointments to a county board are as follows:

- (1) The circuit court judge's appointments are for one (1) and three (3) year terms, respectively.
- (2) The county executive's appointment is for a two (2) year term.
- (3) The county fiscal body's appointments are for two (2) and four



(4) year terms, respectively.

As a term expires, each new appointment is for a four (4) year term. All terms expire on the first Monday in January, but a member continues in office until ~~his~~ **the member's** successor is appointed.

(c) An appointing authority shall make initial appointments within ninety (90) days after the creation of the department.

(d) If an appointment for any new term is not made by the first Monday in April, the incumbent shall serve another term.

(e) In making initial appointments under subsections (a) or (b), an appointing authority, in order to provide continuity of experience and programs, shall give special consideration to the appointment of members from previous park or recreation boards.

(f) If a vacancy on the board occurs, the appointing authority shall appoint a person to serve for the remainder of the unexpired term.

SECTION 377. IC 36-10-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. A member may be removed only for cause, upon specific written charges filed against ~~him~~ **the member**. The charges shall be filed with and heard by the appointing authority, unless the appointing authority is bringing the charges. If the appointing authority is bringing the charges, the unit's fiscal body shall appoint a hearing officer. The person to hear the charges shall fix a date for a public hearing and give public notice at least ten (10) days in advance of the hearing. At the hearing the member is entitled to present evidence and argument and to be represented by counsel.

SECTION 378. IC 36-10-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) This subsection applies to counties and towns. The board may appoint a superintendent of parks and recreation. The board may not consider political affiliation in the selection of the superintendent.

(b) This subsection applies to cities. If a superintendent of parks and recreation is appointed, the superintendent shall be appointed under IC 36-4-9-2 without considering political affiliation.

(c) If there is more than one (1) superintendent of any park or recreation department involved at the time the creating ordinance is adopted, the board may appoint only one (1) superintendent for the new department.

(d) The superintendent must:

- (1) be qualified by training or experience in the field of parks and recreation; or
- (2) have a certification or an advanced degree in the field of parks and recreation.

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(e) An incumbent performing park and recreation functions in a supervisory capacity at the time a unit adopts a creating ordinance under this chapter is eligible for appointment as superintendent or as an assistant, but ~~he~~ **the incumbent** must have the required training, experience, or certification.

SECTION 379. IC 36-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) A department of public parks is established as an executive department of the city.

(b) The department is under the control of a board of park commissioners. The board consists of four (4) commissioners appointed by the city executive. Each commissioner must be a freeholder residing in the city, and no more than two (2) commissioners may have the same political affiliation.

(c) A second class city may pay each commissioner an annual salary in an amount fixed by the fiscal body. The commissioners shall be paid their actual expenses upon approval by the city executive.

(d) Before beginning ~~his~~ **the commissioner's** duties, each commissioner shall take and subscribe the usual oath of office. The oath shall be indorsed upon the certificate of appointment and filed with the city clerk. If a commissioner has not filed ~~his~~ **the commissioner's** oath:

(1) within thirty (30) days after the beginning of ~~his~~ **the commissioner's** term; or

(2) by the date of ~~his~~ **the commissioner's** appointment if ~~he~~ **the commissioner** was appointed after the beginning of the term;

~~he~~ **the commissioner** is considered to have refused to serve and the office becomes vacant.

SECTION 380. IC 36-10-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) The board has, subject to statute and to the right given by section 5 of this chapter to other municipalities within the district to operate separate parks and recreational facilities, exclusive control of all property within the district used for park purposes.

(b) In addition, the part of all public ways that pass through park property is considered to be a part of this property and is also under the control of the board.

(c) The board may do the following:

(1) Acquire, lay out, and improve land for park purposes in the district and may equip, operate, maintain, and regulate the public use of that property.

(2) Appoint a secretary, and, in ~~his~~ **the secretary's** absence a secretary pro tempore, landscape architects, engineers, surveyors,



attorneys, clerks, guards, laborers, playground directors, and other employees, prescribe their duties and authority, and fix their compensation. If a superintendent of the department is appointed, ~~he~~ **the secretary** shall be appointed under IC 36-4-9-2.

(3) Make rules not in conflict with statutes or the ordinances of the city for the management of the property under its control.

(4) Require the department of public safety of the city to detail police officers to execute the orders and enforce the rules made by the board and to be subject to the board, with the city executive deciding any disagreement between the two (2) departments as to the number and duration of the details of police officers.

(5) Locate, erect, and maintain fountains in parks, as well as in the public ways that form the boundaries of parks, or intersect with them.

(6) Erect and maintain suitable fences around parks.

(7) Seize and impound animals found running at large in any of the parks, including establishing suitable places for the impounding.

(8) Lease or sell any buildings, grounds, materials, equipment, or any parts of them owned by the city that are under the control of the department and that the board determines are not required for park purposes, permitting any other department of the city or the school city to occupy or use the property upon terms that are approved by the executive. All sums realized from the lease, sale, or other disposition of property shall be deposited in the city treasury to the credit of the department and expended for park purposes. All buildings and structures erected upon land under the control of the board are under the control of the board, and the board may not permit the erection of any building or structure upon land unless it becomes the property of the city. A lease or sale of minerals, mineral rights, or royalties for minerals for more than one (1) year from land owned by a second class city or a lease for more than one (1) year in a city that adopted this chapter by ordinance under IC 19-7-9 (before its repeal on September 1, 1981) may be made only to the highest and best bidder after notice of the sale or lease has been given by publication in accordance with IC 5-3-1.

(d) The board may also do the following:

(1) Vacate public ways, or parts of them, on land under the control of the board in the same manner as the city works board may vacate them.

(2) Take over and control public ways, or parts of them, within



the city and convert them into boulevards or pleasure driveways if they connect with or run into or through a park, parkway, or boulevard or are necessary for the establishment of a park or boulevard system in the city, including grading, improving, and beautifying them and relinquishing to other departments of the city the control of a public way or parkway in streets taken over that are not necessary or desirable for maintenance as part of the park system of the city.

(3) Petition the proper board of the city to construct any necessary drainage or sanitary sewers and connections in a public way or parkway bordering park property and require a public service corporation to lay, install, and connect water and gas mains and electric light conduits in and along a boulevard or park drive when reasonably necessary.

SECTION 381. IC 36-10-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 19. (a) The board may, by resolution, establish a building line determining the distance at which all structures erected upon any premises fronting a park, parkway, or boulevard may be erected. Upon the adoption of the resolution, the board shall acquire, in the name of the city, by donation, condemnation, or purchase, the land between the building line and the park, parkway, or boulevard, or an interest in the land that will secure to the board the right to prevent the erection of or to require the removal of all structures outside of the line, or both. After the adoption of the resolution, a permit may not be issued by a department or officer of the city authorizing the erection of a structure outside of the established line unless approved by the board.

(b) The establishment of a building line outside of a park, parkway, or boulevard in connection with the donation, condemnation, or purchase of land or an interest in it is a perpetual annihilation of all rights of the owners of property over and across which the building line runs to erect a structure or a part of one between the building line and the park, parkway, or boulevard. However, the perpetual and irrevocable free license to use and occupy the land between a building line and the park property is reserved to the property owner for purposes other than the erection of structures.

(c) If the board decides to establish a building line, the board has the same powers and shall proceed in the same manner in the condemnation, assessment, and collection of benefits, awards of damages, remonstrances, hearings, appeals, rehearings, and other matters as it does in the acquisition of real property. Benefits may not be assessed against property other than that abutting on the park,

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parkway, or boulevard along which the building line is established and within the limits of the building line. However, the total amount of benefits assessed against lots and parcels of land fronting on the park, parkway, or boulevard and located within the limits of the building line must equal the total cost of the establishment of the building line.

(d) A subdivision of lots or parcels of land lying within five hundred (500) feet of park, parkway, or boulevard may not be accepted for record and is not valid without the approval of the board. If the board considers it necessary, in order to promote public health, safety, morals, or general welfare, the board may, by general order or resolution, regulate:

- (1) horse racing; and
- (2) the location of trades, industries, commercial enterprises, buildings, or devices designed for uses that, in the order or resolution, are specified as injurious to the public health, safety, morals, or general welfare;

within five hundred (500) feet of a park, parkway, or boulevard. The right to regulate the use of this property for these purposes is considered to be included in a gift, donation, acquisition, or condemnation under this chapter. However, a lawful business being conducted upon adjacent property when jurisdiction is acquired over the property may not be prohibited or abated without a fair valuation and due compensation.

(e) Commissioners, ~~and~~ clerks, assistants, appointees, or employees of the board may not hold an interest, either directly or indirectly, in any kind of enterprise conducted for profit within one thousand (1,000) feet of a park, parkway, or boulevard under the jurisdiction of the board. The possession or ownership of an interest operates to vacate the ~~officer office~~ or position held by the person and makes ~~him the person~~ ineligible to hold an office or position under the board while the interest is, either directly or indirectly, possessed or retained by ~~him~~. **the person.**

SECTION 382. IC 36-10-4-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 26. (a) If the board orders acquisition and construction and has advertised for bids for the construction after final adoption of the resolution, it shall require each bidder to deposit with ~~his the bidder's~~ bid a certified check for an amount not less than two and one-half percent (2 1/2%) of the engineer's estimate of the cost of the improvement to insure the execution of the contract for which the bid is made.

(b) The contract must state that payments for all work under the contract shall be made only from the special fund derived from the

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proceeds of bonds and special assessments. A contract may not be let for a higher amount than the estimated cost of the work, and the board may let parts of the proposed work under different contracts. The board may, at any time before the execution of a contract for the work, rescind any acts or orders in relation to the proposed work or take the supplementary proceedings that the board considers necessary.

(c) The validity of a contract may not be subsequently questioned by any person except in an action to enjoin the performance of the contract instituted within fifteen (15) days after the execution of the contract. After that fifteen (15) day period, all proceedings and orders of the board preliminary to the contract are valid, conclusive, and binding upon all persons and are not subject to attack. The amount of the benefits resulting to all property in the city and the special tax shall be levied only for the balance.

SECTION 383. IC 36-10-4-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 30. (a) After completion of the list, the board shall proceed to determine and award:

- (1) the amount of damages sustained by the owners of the parcels of land required to be appropriated, if any, as provided in the resolution or that will be injuriously affected; and
- (2) the amount of particular benefits that will accrue to the lots or parcels of land, exclusive of improvements, lying within two thousand (2,000) feet on either side of the property to be acquired, of the improvement, or of both because of proximity to the land to be acquired and the establishment or construction of a project for park purposes as provided in the resolution and in addition to the benefits received by the lots or parcels of land in common with all property located in the city.

However, the total amount of benefits assessed against the lots and parcels of land, exclusive of improvements, located within two thousand (2,000) feet may not exceed twenty-five percent (25%) of the total cost of land acquisition or of the improvement.

(b) When the list has been completed, the board shall have published in accordance with IC 5-3-1 a notice describing the location of the land appropriated or acquired by the purchase or the land on which the improvement is to be made. The notice must also state:

- (1) the general character of the improvement;
- (2) what assessments have been made against land within two thousand (2,000) feet of park property; and
- (3) that the assessment list, with the names of the owners to whom damages have been awarded and against whom assessments have been made, a description of property affected, and the amounts of



preliminary awards or assessments for each parcel of property affected is on file and can be seen in the board's office.

(c) In addition, the board shall have a written notice served upon the owner of each parcel of land taken or injuriously affected, by leaving a copy at ~~his~~ **the owner's** last and usual place of residence in the city or by delivering a copy to the owner personally. The notice must show separately each item of the determination regarding property owned by ~~him~~ **the owner**.

(d) The board shall also have mailed a notice to the residence, if known, of persons owning land or parts of land against which special assessments have been made, showing each item of the determination as it affects those persons. If a person is a nonresident or ~~his~~ **the person's** residence is not known, then ~~he~~ **the person** is considered to have been notified by the publication. The notice must name a day, not earlier than ten (10) days after service of the notice, the last day of publication, or the date of mailing, on which the board will receive and hear remonstrances from persons regarding the amount of their respective awards or assessments. Persons not included in the lists, assessments, or awards who claim to be entitled to an assessment or award are considered to have been notified of the pendency of the proceedings by the original notice of the resolution of the board and by the publication as provided in this section.

SECTION 384. IC 36-10-4-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 33. (a) Upon completion of the assessment roll by the board, the board shall immediately prepare a duplicate of the assessment roll of benefits, to be known as "The Local Assessment Duplicate", and deliver it, duly certified, to the county treasurer. The amounts of benefits assessed are then liens superior to all other liens, except taxes, against the respective lots or parcels of land upon which they are assessed. The duties of the treasurer are the same as are prescribed by law for the collection of assessments for street improvements.

(b) The assessments of benefits are due and payable to the treasurer from the time of the delivery of the assessment duplicate to the treasurer. If the assessments are not paid within sixty (60) days after delivery, the board, through its attorney, shall proceed to foreclose the liens in a court of competent jurisdiction as mortgages are foreclosed, with similar rights of redemption and the right to sell the property to pay the assessments. The board may recover costs, reasonable attorney's fees, and interest from the expiration of the sixty (60) day period at the rate of six percent (6%) per year. If the person against whom the assessment is made is a resident of the city, demand shall be

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made by delivery to ~~him~~ **the person** personally or mailing to ~~his~~ **the person's** last and usual place of residence a notice of the assessment and demand for payment.

(c) A person assessed for special and local benefits may, within thirty (30) days after confirmation of the assessments, decide to pay the assessment in installments in the same manner as provided for the payment of assessments for the improvement or paving of streets in the city.

(d) Statutes concerning the payment of street improvement assessments by installments, the issuance of bonds and coupons to anticipate assessments, and the rights of bondholders and landholders apply to assessments made under this chapter when consistent with this chapter. If assessment bonds are issued, they shall promptly be sold by the board in the same manner as park district bonds are authorized to be sold under section 35 of this chapter. Assessment bonds are exempt from taxation for all purposes. The expense of all notices with respect to assessments and delinquencies shall be paid by the board and all interest on delinquencies shall be deposited into the general fund of the board.

SECTION 385. IC 36-10-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) This section applies to all counties.

(b) As used in this section, "board" refers to an area park board established under this chapter.

(c) As used in this section, "district" refers to an area park district established under this chapter.

(d) Two (2) or more counties may establish an area park district for the purposes of establishing, owning, maintaining, and controlling one (1) or more public parks for the use and benefit of the residents of those counties. To establish a district, the legislative body of each county desiring to join shall adopt substantially identical ordinances indicating this intention. Before the ordinances take effect, they must be published in their respective counties in accordance with IC 5-3-1. Within ten (10) days after the publication of the ordinance, the auditor of each county shall file a certified copy of the ordinance with the auditor of each of the other counties involved. When the ordinances have been adopted and filed by all the counties joining, the district is considered established. All of the territory of the counties joining comprises the district.

(e) Within ten (10) days after the publication of the ordinance, any registered voter may notify the legislative body of ~~his~~ **the voter's** intent to file a remonstrance petition. Within sixty (60) days after this notice,

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petitions for and against the county's joining in the proposed district may be filed with the legislative body. The petitions must be signed and acknowledged by registered voters of the county. The petition that contains the greater number of signatures prevails.

(f) Within thirty (30) days after the establishment of the district, the legislative body of each county joining shall appoint members to the area park board. Each county may appoint one (1) member to the board. In addition, each county may appoint an additional member for each fifty thousand (50,000) residents or fraction thereof of that county's population. Each member must be a resident of the county from which ~~he~~ **the member** is appointed, and at least one (1) member from each county must be an elected official of that county. Members serve for terms of four (4) years and may be reappointed. Vacancies shall be filled by the appointing authority for the unexpired term of the vacating member.

(g) The board shall meet within thirty (30) days after the appointment of all members. Notice of the meeting shall be given by the auditor of the county that passed the first ordinance to establish the district. At the meeting the board shall elect one (1) of its members **chairman chair** and one (1) secretary and shall adopt rules of order that it considers necessary. The board shall then meet at times and places that it determines. Members serve on the board without compensation. However, all members except the elected official members are entitled to receive a per diem and mileage for time spent in the performance of their duties.

(h) Except as provided in subsection (i), the board has all of the powers of a board under IC 36-10-3 except the power of eminent domain.

(i) The board may levy a tax for the establishment, purchase, maintenance, and control of the parks established and controlled by the board, but the tax may not exceed one and sixty-seven hundredths cents (\$0.0167) for each one hundred dollars (\$100) of assessed valuation of property in the district. When the board determines the rate of the levy, the board shall certify it to each county auditor. The levy shall then be placed upon the tax duplicate of each county in the district, and the tax shall be collected in the same manner as other taxes are collected. All money received for the district shall be paid into the treasury of the county with the greatest population. The money shall be deposited and kept as other public funds are deposited and kept, and interest earned on the money shall be credited to the area park fund. Money may be paid out by the treasurer only upon the written order of the board.

(j) A county may withdraw from a district only upon a two-thirds





(2/3) vote of its legislative body. If a county decides to withdraw from a district, the date of withdrawal must be effective on January 1 of a year at least one (1) year after the date upon which the county voted to withdraw.

SECTION 386. IC 36-10-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) This section applies to a township having a population of more than one hundred fifty thousand (150,000) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) The township executive may purchase, accept by grant, devise, bequest, or other conveyance, or otherwise acquire land for park purposes within the township, either inside or outside the corporate boundaries of a municipality, and may make necessary improvements.

(c) If the executive does not purchase, accept, or acquire land within the township for park purposes or make necessary improvements, two hundred (200) resident taxpayers and voters of the township may petition the executive and the legislative body in writing to:

- (1) purchase, accept, or otherwise acquire the land described in the petition so that a township park may be established under this section; or
- (2) make the improvements designated in the petition.

The petition must be addressed to the executive and legislative body and bear the signatures and addresses of the petitioners in ink, acknowledged before a notary public. After the petition is filed in the office of the executive, the executive shall have notice of the filing published in accordance with IC 5-3-1. The notice must name a date at least sixty (60) days after the date of the last publication on which the executive and legislative body will hear and consider the petition. The notice constitutes notice of the proceedings to all taxpayers within the township, whether resident or nonresident.

(d) At the hearing the executive and legislative body shall hear and consider all remonstrances, whether written and signed in ink or from a resident of the township upon the question of whether the land should be purchased, accepted, or acquired by the township and a township park established, maintained, and improved. After the hearing, the executive and legislative body shall approve the petition unless twenty percent (20%) of the resident taxpayers of the township remonstrate in writing by filing their remonstrance on or before the day fixed for the hearing. In that case the executive and legislative body shall dismiss the petition.

(e) If land has been acquired for park purposes, the executive shall

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establish a park. After it is established, the executive shall provide for necessary improvements and construct facilities for the comfort and convenience of the public in the township park. Except as otherwise provided, all expenses incurred shall be paid out of the park and recreation fund of the township.

(f) If a park or parkland is acquired by a township under this section and the expense of the acquisition or of the development and improvement of the park is too great to be borne by the park and recreation fund of the township, the legislative body may authorize its ~~chairman~~ **chair** to issue the bonds of the township to procure money for these purposes. However, the total bonded indebtedness of the township for park purposes may not exceed one million dollars (\$1,000,000). Upon special notice of the ~~chairman~~ **chair** in writing to each member of the legislative body stating the time, place, and purpose of the meeting, the legislative body may determine whether to issue the bonds of the township to pay the cost of acquiring, developing, or improving the park or parkland. If the legislative body determines that it is of public benefit to issue the bonds of the township, the legislative body, by a special order entered and signed upon the record, may authorize its ~~chairman~~ **chair** to issue the bonds of the township. The bonds may run for a period not to exceed ten (10) years, may bear interest at any rate, and may be sold for not less than their par value. Before issuing the bonds, the ~~chairman~~ **chair** shall publish notice of their sale in accordance with IC 5-3-1. The notice must state the amount of bonds offered, the denomination, the period to run, the rate of interest, and the date, place, and hour of sale. The legislative body shall attend the sale and must concur before bonds are sold.

(g) The legislative body shall annually levy a sufficient tax to pay at least one-tenth (1/10) of the amount of the bonds, together with the accrued interest, each year, and the legislative body shall apply the annual tax to the payment of the bonds and interest each year. The tax levy is in addition to all other tax levies authorized by statute. A tax levy authorized by this section shall be levied and collected on all property within the boundaries of the township, including municipalities.

(h) There is established a special nonreverting operating fund for park purposes to be known as the park and recreation fund. Appropriations may be made from the fund by the township's legislative body for park purposes only. The cost of the maintenance and improvement of the park shall be paid out of the park and recreation fund of the township, and the legislative body shall increase



the levy of the fund each year by an amount sufficient to provide the money to maintain the park.

(i) Money in the form of fees procured from golf courses, swimming pools, skating rinks, clubhouses, social centers, or other similar facilities requiring major expenditures for maintenance and improvement shall be deposited in the park and recreation fund and shall be appropriated by the township legislative body either in the annual budget or by additional appropriation in the manner as set out in IC 6-1.1-18-5.

(j) The executive shall appoint a superintendent of parks. Said appointment shall be made within thirty (30) days of a vacancy in the position of superintendent of parks. If the executive fails to make said appointment within the prescribed period, the legislative body shall have the power to make said appointment. Political affiliation may not be considered in the selection of the superintendent. The superintendent must:

- (1) be qualified by training or experience in the field of parks and recreation; and
- (2) have a certificate or an advanced degree in the field of parks and recreation.

(k) The superintendent must do the following:

- (1) Propose annually to the executive a plan for the operation of the park.
- (2) Administer the plan as approved by the executive.
- (3) Supervise the general maintenance of the park.
- (4) Keep the records of the park and preserve all papers and documents of the park.
- (5) Keep accurate records of park income and expenditures in the manner prescribed by the state board of accounts.
- (6) Appoint and discharge employees of the park without regard to political affiliation.
- (7) Prepare and present to the executive an annual report.
- (8) Perform other duties that the executive directs.

(l) The executive shall execute an employment contract with the superintendent that must contain the terms and conditions of the superintendent's employment.

SECTION 387. IC 36-10-7.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 21. (a) This section applies only to:

- (1) the acquisition of real property; or
- (2) a work of improvement;

that will be financed by the issuance of bonds.

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(b) If the executive or the fiscal body decides to:

- (1) acquire land for any of the purposes prescribed in this chapter, either by purchase or by appropriation, and in conjunction with the acquisition to proceed with a work of improvement authorized by this chapter;
- (2) acquire real property without proceeding at the time with a work of improvement; or
- (3) proceed with a work of improvement where the real property has been already secured;

the legislative body may adopt a resolution stating the purpose, describing the land to be acquired, the manner of acquisition, and, in the case of an appropriation, the other land that may be injuriously affected, or describing the lands already acquired and intended to be used in connection with the proposed work of improvement.

(c) If a work of improvement is provided for in the resolution, the executive shall have preliminary plans and specifications and an estimate of the cost of the proposed work prepared by the engineer selected to do the work. Before adopting a resolution, the legislative body shall receive or hear remonstrances from persons interested in or affected by the proceedings and on which it will determine the public utility and benefit.

(d) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the township, are considered notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the executive or the legislative body by the original notice of publication.

(e) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by a platted description or by metes and bounds, whether the land is composed of one (1) or more lots or parcels and whether the land is owned by one (1) or more persons. If the land or a part of the land is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(f) The executive may, at any time before the adoption of the resolution:

- (1) obtain from the owner of the land an option for the purchase of the land; or
- (2) enter into a contract for the purchase of the land upon the

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terms and conditions that the executive considers best.

The option or contract is subject to the final approval of the legislative body confirming, modifying, or rescinding the option or contract and to the condition that the land may be paid for only out of the special fund resulting from the sale of bonds as provided by this chapter.

(g) If the executive decides to acquire any lots or parcels of land by purchase, the executive shall appoint three (3) qualified appraisers to appraise the value of the land. The appraisers may not be interested directly or indirectly in any land that is to be acquired under the resolution or that may be injured or that may incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. The appraisers shall then view the land, determine the true market value of the land at that time, and report the appraisal in writing. The report shall be filed with and becomes a part of the record of the proceeding.

(h) The executive may not take an option on the land or enter into a contract to purchase the land at a higher price than the value named in the report. The title to land to be acquired under the resolution, whether by purchase or appropriation, does not vest until the land is paid for out of the special fund established by the sale of bonds as provided in this chapter. Any indebtedness or obligation of any kind incurred by the executive due to the acquisition of land or to construction work shall be paid out of the funds under the control of the executive and is not an indebtedness or obligation of the township.

(i) At the time fixed for the hearing or at any time before the hearing, an owner of land to be appropriated under the resolution or injuriously affected or a person owning real or personal property located in the district may file a written remonstrance with the **chairman chair** of the legislative body.

(j) At the hearing, which may be adjourned from time to time, the legislative body shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering the evidence, the legislative body shall take final action determining the public utility and benefit of the proposed project by confirming, modifying, or rescinding the resolution. The final action shall be recorded and is final and conclusive upon all persons.

SECTION 388. IC 36-10-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. ~~He~~ **The treasurer** shall give bond for the faithful performance and discharge of all duties required of ~~him~~ **the treasurer** by law in the amount and

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with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by ~~the treasurer~~ of the county ~~treasurer~~ for the use of the board shall be promptly remitted and paid over by ~~him~~ **the county treasurer** to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all money coming into ~~his~~ **the treasurer of the board's** hands as required by this chapter and IC 6-7-1-30.1, and in accordance with general statutes relating to the deposit of public funds. Money so deposited may be invested and reinvested by the treasurer in accordance with IC 5-13 and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested. All funds invested and fully safeguarded and secured as provided in IC 5-13-9 are exempt from assessments under IC 5-13-12.

(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. ~~He~~ **The controller** shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller, and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of ~~him~~ **the controller, employee, or member** in the amount and with surety and other conditions that may be prescribed and approved by the board. ~~He~~ **The controller** shall keep an accurate account of all money due the board and of all money received, invested, and disbursed in accordance with generally recognized governmental accounting principles and procedure. All accounting forms and records shall be prescribed or approved by the state board of accounts.

(d) The controller shall issue all warrants for the payment of money from the funds of the board in accordance with procedures prescribed by the board, but a warrant may not be issued for the payment of a claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the treasurer of the board or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(e) If there are bonds outstanding issued under this chapter, the controller shall deposit with the paying agent or officer within a



reasonable period before the date that any principal or interest becomes due sufficient money for the payment of the principal and interest on the due dates.

(f) At least annually the controller shall submit to the board a report of ~~his~~ **the controller's** accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which they were disbursed. The board may require that the report be prepared by an independent certified public accountant designated by the board. The handling and expenditure of funds is subject to audit and supervision by the state board of accounts.

SECTION 389. IC 36-10-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) Within thirty (30) days after the filing of the certified copy of the resolution, the executive of the city shall appoint five (5) directors of the authority. All of the directors must be residents of the county and at least three (3) of them must be residents of the city. The directors shall operate under the title "Civic Center Building Authority Board of Directors". Each appointment shall be evidenced by a written certificate of appointment signed by the executive. A copy of the certificate shall be sent to each appointee.

(b) Initial terms of the directors are as follows:

- (1) One (1) for a term of one (1) year.
- (2) One (1) for a term of two (2) years.
- (3) One (1) for a term of three (3) years.
- (4) Two (2) directors for terms of four (4) years each.

At the expiration of a term, the executive shall appoint a successor for a four (4) year term. Each director serves until ~~his~~ **the director's** successor is appointed and qualified.

(c) If a director dies, resigns, ceases to be a resident of the city, or is removed for cause, the executive shall appoint another person as director for the remainder of that term. If a person appointed director fails to qualify within ten (10) days after the mailing to ~~him~~ **the person** of notice of ~~his~~ **the person's** appointment, the executive shall appoint another person. Each director, before entering upon ~~his~~ **the director's** duties, shall take and subscribe an oath of office to be endorsed upon ~~his~~ **the director's** certificate of appointment. The certificate shall be filed with the clerk of the circuit court.

SECTION 390. IC 36-10-10-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 25. (a) Unless provided otherwise, all funds coming into possession of the authority shall be deposited, held, and secured or invested in accordance with the general



statutes relating to the handling of public funds. The handling and expenditure of funds coming into possession of the authority is subject to audit and supervision by the state board of accounts. All contracts for construction and equipment of any building shall be let in accordance with the general statutes relating to public contracts.

(b) The board may employ a construction manager in connection with the project in the same manner as other professional advisers are employed.

(c) Any officer or employee of the authority authorized to receive, disburse, or in any way handle funds or negotiable securities of the authority shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount determined by the board. The bond shall be conditioned upon the faithful performance of **his the officer's or employee's** duties and the accounting for all money and property that may come into **his the officer's or employee's** hands or under **his the officer's or employee's** control. The cost of the bonds shall be paid out of funds of the authority.

(d) The records of the authority are public records.

SECTION 391. IC 36-10-10-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 32. (a) The city controller shall serve as controller of the board of managers and is the official custodian of all funds and assets of the board of managers for proper safeguarding and accounting. The controller shall, with the approval of the board of managers, appoint an assistant controller to act as auditor for the board of managers.

(b) The assistant controller is the official custodian of all books of account and other financial records of the board of managers and has the other powers and duties that are delegated by the city controller and the lesser powers and duties that the board of managers prescribes. The assistant controller, and any other employee or member of the board of managers authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of **him the assistant controller, employee, or board member** in an amount and with surety and other conditions that are prescribed and approved by the board of managers.

(c) The assistant controller shall keep an accurate account of:

- (1) all money due the convention center and the board of managers; and
- (2) all money received, invested, and disbursed;

in accordance with generally recognized governmental accounting principals and procedures. All accounting forms and records shall be

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prescribed or approved by the state board of accounts. The assistant controller shall issue all warrants for the payment of money from the funds of the board of managers in accordance with procedures prescribed by the board of managers, but a warrant may not be issued for the payment of any claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the city controller or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(d) If the board of managers or the city has entered into any agreement to lease convention center facilities from the civic center building authority, the controller or assistant controller shall pay the lease rental to the authority within a reasonable period before the date on which principal or interest on any bonds outstanding issued under this chapter becomes due. The assistant controller shall submit to the board of managers at least annually a report of ~~his~~ **the assistant controller's** accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which the disbursements were made. The board of managers may require that the report be prepared by a designated, independent certified public accountant. Handling and expenditure of funds is subject to audit and supervision by the state board of accounts.

SECTION 392. IC 36-10-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) Within fifty (50) days after the adoption of the ordinance, the city executive shall appoint three (3) trustees and the city legislative body shall appoint two (2) trustees of the authority. All of the trustees must be at least twenty-one (21) years of age and residents of the city for at least five (5) years before appointment.

(b) Initial terms of the trustees are as follows:

- (1) The legislative body's appointees for terms of two (2) years.
- (2) One (1) of the executive's appointees for a term of three (3) years.
- (3) Two (2) of the executive's appointees for terms of four (4) years.

At the expiration of a term, the appointing authority shall appoint a successor for a four (4) year term. Each trustee serves until ~~his~~ **the trustee's** successor is appointed and qualified.

(c) If a trustee dies, resigns, ceases to be a resident of the city, fails to qualify for office within ten (10) days after ~~he~~ **the trustee** receives notice of ~~his~~ **the trustee's** appointment, or is removed for cause, the

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appointing authority shall appoint another person as trustee for the remainder of that term.

(d) Each trustee, before entering upon **his the trustee's** duties, shall take and subscribe an oath of office to be endorsed upon **his the trustee's** certificate of appointment. The certificate shall be filed with the city clerk.

SECTION 393. IC 36-10-11-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 31. (a) Authority funds shall be handled in the same manner as other public funds and shall be audited by the state board of accounts. Contracts let by the authority shall be let in accordance with the general statutes relating to public contracts.

(b) Any employee of the authority authorized to receive or disburse funds or negotiable securities of the authority shall execute a bond payable to the state conditioned upon the faithful performance of **his the employee's** duties and the accounting for all money and property that may come under **his the employee's** control. The cost of the bonds shall be paid out of funds of the authority.

SECTION 394. IC 36-10-11-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 36. (a) The fiscal officer of the lessee governmental entity shall act as controller of the board of managers and is responsible for proper safeguarding and accounting. The controller shall, with the approval of the board of managers, appoint an assistant to act as auditor for the board of managers.

(b) The assistant is the official custodian of all books of account and other financial records of the board of managers and has the other powers and duties that are delegated by the controller and the lesser powers and duties that the board of managers prescribes. The assistant, and any other employee or member of the board of managers authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of **him the assistant, employee, or board member** in an amount and with surety and other conditions that are prescribed and approved by the board of managers.

(c) The assistant shall keep an accurate account of:

- (1) all money due a building and the board of managers; and
- (2) all money received, invested, and disbursed;

in accordance with generally recognized governmental accounting principles and procedures. All accounting forms and records shall be prescribed or approved by the state board of accounts. The assistant shall issue all warrants for the payment of money from the funds of the



board of managers in accordance with procedures prescribed by the board of managers, but a warrant may not be issued for the payment of any claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the controller or financial officer or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(d) If the board of managers or the lessee governmental entity has entered into any agreement to lease building facilities from the authority, the controller shall pay the lease rental to the authority within a reasonable period before the date on which principal or interest on any bonds outstanding issued under this chapter becomes due. The assistant shall submit to the board of managers at least annually a report of ~~his~~ **the assistant's** accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which the disbursements were made. The board of managers may require that the report be prepared by a designated, independent certified public accountant. Handling and expenditure of funds is subject to audit and supervision by the state board of accounts.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

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

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