

CHAPTER 5

FIRE PROTECTION DISTRICTS

This chapter is designed to summarize certain laws, regulations and uniform compliance guidelines relevant to fire protection districts. Please refer to the Indiana Code and other related documents for a more complete listing of laws and regulations governing fire protection districts. See chapters 10 through 23 of this manual for additional Accounting and Uniform Compliance Guidelines.

PURPOSES OF A DISTRICT

A county legislative body may establish fire protection districts for any of the following purposes:

1. Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the district.
2. Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.
3. Other purposes or functions related to fire protection and fire prevention.

Any area may be established as a fire protection district, but one (1) part of a district may not be completely separate from another part. A municipality may be included in a district, but only if it consents by ordinance, unless a majority of the freeholders of the municipality have petitioned to be included in the district. The territory of a district may consist of:

1. one (1) or more townships and parts of one (1) or more townships in the same county; or
2. all of the townships in the same county.

The boundaries of a district need not coincide with those of other political subdivisions.

The territory of a district may consist of a municipality that is located in more than one (1) county.
[IC 36-8-11-4]

ESTABLISHMENT OF A DISTRICT

IC 36-8-11-5 through IC 36-8-11-10 list the procedures to follow in establishing a district.

A petition must be signed by freeholders who desire establishment with the county auditor. The county auditor then presents the petition to the county legislative body who shall set a date for public hearing on the establishment of a district.

BOARD OF FIRE TRUSTEES

Within thirty (30) days after the ordinance or resolution establishing the district becomes final, the county legislative body shall appoint a board of fire trustees. The trustees must be qualified by knowledge and experience in matters pertaining to fire protection and related activities in the district. A person who:

1. is a party to a contract with the district; or

2. is a member, an employee, a director, or a shareholder of any corporation or association that has a contract with the district;

may not be appointed or serve as a trustee.

The legislative body shall appoint one (1) trustee from each township or part of a township contained in the district and one (1) trustee from each municipality contained in the district. If the number of trustees selected by this method is an even number, the legislative body shall appoint one (1) additional trustee so that the number of trustees is always an odd number. If at least three (3) trustees are not provided, the legislative body shall make additional appointments so that there is a minimum of three (3) trustees.

The original trustees shall be appointed 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. All others for a term of four (4) years.

The terms expire on the first Monday of January of the year their appointments expire. As the terms expire, each new appointment is for a term of four (4) years.

If a vacancy occurs on the board, the county legislative body shall appoint a trustee with the qualifications specified in IC 36-8-11-12(a) for the unexpired term. [IC 36-8-11-12]

MEETINGS - OFFICERS - COMPENSATION

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.

Special meetings of the board may be called by the chairman 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.

At the first regular meeting each year, the trustees of the board shall elect a chairman and vice-chairman from their number. The vice-chairman shall act as chairman during the absence or disability of the chairman.

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.

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. The current mileage rate allowed to state officers and employees is forty-four cents (44¢) per mile. Claims for expense reimbursement must be accompanied by an itemized written statement and approved by a recorded motion of the board.

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. [IC 36-8-11-13 and IC 36-8-11-14]

POWERS AND DUTIES OF THE BOARD

IC 36-8-11-15 states that:

“(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 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 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.”

TAXING DISTRICT STATUS - BONDS

All the real property within a fire protection district constitutes a taxing district for the purpose of levying taxes to pay for the construction, operation, and maintenance of district programs and facilities. A tax levied must be levied at a uniform rate upon all taxable property within the district. A fire protection district is a municipal corporation within the meaning of the Constitution of Indiana and all general statutes. [IC 36-8-11-16]

Bonds may be issued only against the taxable property of a fire protection district and may be paid in part by revenues derived from reasonable charges for services or property produced incident to the operation of the district. Bonds shall be issued in the same manner as conservancy district bonds are issued under IC 14-33-11. [IC 36-8-11-17]

ANNUAL BUDGET

The board shall annually budget the necessary money to meet the expenses of operation and maintenance of the district, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, bond redemption, and all other expenses lawfully incurred by the district. After estimating expenses and receipts of money, the board shall establish the tax levy required to fund the estimated budget.

The budget must be approved by the fiscal body of the county, the county board of tax adjustment, and the Indiana Department of Local Government Finance.

Upon approval by the Indiana Department of Local Government Finance, the board shall certify the approved tax levy to the auditor of the county having land within the district. The auditor shall have the levy entered on the county treasurer's tax records for collection. After collection of the taxes the auditor shall issue a warrant on the treasurer to transfer the revenues collected to the board, as provided by statute. [IC 36-8-11-18]

ANNUAL REPORTS

A district shall file an annual financial report with the State Examiner, not later than 60 days after the close of each fiscal year. The report is to be filed electronically in the manner prescribed under IC 5-14-3.8-7. The Department of Local Government Finance may not approve a district's budget or a supplemental appropriation until the report is filed for the preceding calendar year. [IC 5-11-1-4]

A district shall file a personnel report, as required by IC 5-11-13, in the office of the State Examiner during the month of January of each year. The report must be filed electronically in the manner prescribed under IC 5-14-3.8-7. [5-11-13]

The Department of Local Government Finance may not approve a district's budget or a supplemental appropriation until the report required by IC 5-11-13 is filed for the preceding calendar year. [IC 6-1.1-17-16.2]