



January 25, 2000

HOUSE BILL No. 1319

DIGEST OF HB 1319 (Updated January 20, 2000 5:12 PM - DI 94)

Citations Affected: IC 36-7.

Synopsis: Special service areas. Permits cities, towns, and counties to establish special service areas for the purpose of imposing assessments against real property to provide funding for infrastructure and local public improvements, such as streets, sidewalks, sewers, capital improvement board projects, park and recreation facilities, and municipal utilities. Provides that establishment of a special service area may be initiated by a preliminary ordinance of the legislative body or by a petition of landowners in the affected area. Establishes procedures for hearings on the establishment of a special service area and for computation of assessments against real property. Provides that money raised by the assessments may be used to pay debt service on bonds or lease rentals under leases.

Effective: Upon passage.

Liggett, Cherry

January 11, 2000, read first time and referred to Committee on Local Government.
January 24, 2000, reported — Do Pass.

C
O
P
Y

HB 1319—LS 7287/DI 44+



January 25, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1319

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

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

- 1 SECTION 1. IC 36-7-32 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:
4 **Chapter 32. Special Service Areas**
5 **Sec. 1. This chapter applies to all units except townships.**
6 **Sec. 2. The definitions in IC 36-1-2 apply throughout this**
7 **chapter.**
8 **Sec. 3. As used in this chapter, "infrastructure" includes:**
9 (1) **improvements (as defined in IC 36-9-1-2);**
10 (2) **parking facilities (as defined in IC 36-9-1-3);**
11 (3) **public ways (as defined in IC 36-9-1-7);**
12 (4) **sewage works (as defined in IC 36-9-1-8);**
13 (5) **thoroughfares (as defined in IC 36-9-1-8.5);**
14 (6) **watercourses (as defined in IC 36-9-1-10);**
15 (7) **capital improvements (as defined in IC 36-10-1-4);**
16 (8) **park and recreational facilities described in IC 36-10-1-2;**
17 (9) **municipally owned utilities (as defined in IC 8-1-2-1);**

HB 1319—LS 7287/DI 44+



C
O
P
Y

1 (10) municipal waterworks facilities established under
2 IC 8-1.5-4; and

3 (11) storm water collection and disposal facilities established
4 under IC 8-1.5-5.

5 Sec. 4. As used in this chapter, "local public improvement" has
6 the meaning set forth in IC 36-7-14.5-6.

7 Sec. 5. (a) The legislative body of a unit may establish a special
8 service area for the purpose of providing infrastructure and local
9 public improvements in order to:

10 (1) benefit the public health, safety, morals, and welfare;

11 (2) increase the economic well-being of the unit and the state;
12 and

13 (3) protect and increase property and income values in the
14 unit and the state.

15 (b) The establishment of a special service area under this
16 chapter may be initiated by:

17 (1) the adoption of a preliminary determination ordinance
18 under section 7 of this chapter; or

19 (2) the receipt of a petition under section 8 of this chapter.

20 (c) Providing infrastructure and local public improvements is a
21 public use and purpose for which public money may be spent and
22 private property may be acquired.

23 Sec. 6. (a) All of the taxable real property within a special
24 service area constitutes a special taxing district for the purpose of
25 the special assessments to be apportioned, levied, and collected as
26 provided in this chapter. All of the taxable property within the
27 special service area is considered to be benefited by the
28 infrastructure projects and local public improvements to be
29 carried out under this chapter to the extent of the special
30 assessments apportioned, levied, and collected under this chapter.

31 (b) The benefits accruing to a parcel of real property within a
32 special service area must bear a reasonable relationship to the
33 benefits accruing to that parcel as a result of the establishment of
34 the special service area. The benefits may be apportioned among
35 those parcels in any manner reasonably representative of the
36 benefits accruing to a parcel from the infrastructure projects and
37 local public improvements, including the following:

38 (1) Assessed value of the parcel.

39 (2) Fair market value of the parcel.

40 (3) Assessed value of any improvement on the parcel.

41 (4) Fair market value of any improvement on the parcel.

42 (5) Age of any improvement on the parcel.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(6) Square footage of each parcel.

(7) Other similar factors.

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

(d) The unit may retain or employ qualified personnel or other consultants to assist it in developing the formula for determining the percentage of the total benefit to be received by each parcel of real property within the proposed special service area and the method for apportioning the assessments to be levied on the real property in the proposed special service area.

Sec. 7. The legislative body of the unit may adopt an ordinance preliminarily determining to establish a special service area under this chapter. The ordinance preliminarily determining to establish a special service area must include the following information:

(1) The boundaries of the proposed special service area.

(2) The address of each parcel and the name and address of each owner of land within the proposed special service area.

(3) A detailed description of the infrastructure projects and local public improvements to be carried out within the proposed special service area, the estimated cost of these projects, and the estimated benefits to accrue to the property owners within the special service area.

(4) The plan for the application of assessment revenue to the cost of the infrastructure projects and local public improvements within the proposed special service area.

(5) The proposed formula for determining the percentage of the total benefit to be received by each parcel of real property within the proposed special service area and the method for apportioning the assessments to be levied on the real property in the proposed special service area.

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

Sec. 8. (a) A verified petition for the establishment of a special service area may be filed with the legislative body of the unit by:

(1) fifty-one percent (51%) of the owners of land in the proposed special service area; or

(2) the owners of fifty-one percent (51%) of the total assessed value of the land for property tax purposes in the proposed special service area.

(b) A petition requesting the establishment of a special service area must include the following information:

C
O
P
Y



- 1 (1) The boundaries of the proposed special service area.
 2 (2) The address of each parcel and the name and address of
 3 each owner of land within the proposed special service area.
 4 (3) A detailed description of the infrastructure projects and
 5 local public improvements to be carried out within the
 6 proposed special service area, the estimated cost of these
 7 projects, and the estimated benefits to accrue to the property
 8 owners within the special service area.
 9 (4) The plan for the application of assessment revenue to the
 10 cost of the infrastructure projects and local public
 11 improvements within the proposed special service area.
 12 (5) The proposed formula for determining the percentage of
 13 the total benefit to be received by each parcel of real property
 14 within the proposed special service area and the method for
 15 apportioning the assessments to be levied on the real property
 16 in the proposed special service area.
 17 (6) The estimated number of years during which assessments
 18 will be levied.
- 19 **Sec. 9. (a) After adoption of a preliminary determination**
 20 **ordinance under section 7 of this chapter or receipt of a petition**
 21 **under section 8 of this chapter, the legislative body shall:**
- 22 (1) publish notice of a hearing on the proposed special service
 23 area, one (1) time, in accordance with IC 5-3-1; and
 24 (2) mail a copy of the notice to each owner of real property
 25 within the proposed special service area;
 26 at least ten (10) days before the hearing.
- 27 (b) The notice described in subsection (a) must include:
- 28 (1) a description of the boundaries of the proposed special
 29 service area;
 30 (2) a description, including cost estimates, of the proposed
 31 infrastructure projects and local public improvements
 32 proposed to be undertaken in the special service area;
 33 (3) a summary of the plan for the application of assessment
 34 revenue to the cost of the infrastructure projects and local
 35 public improvements within the proposed special service area;
 36 (4) the proposed formula for determining the percentage of
 37 the total benefit to be received by each parcel of property;
 38 (5) the date, time, and location of the hearing; and
 39 (6) a statement that at the time fixed for the public hearing,
 40 the legislative body will receive and hear remonstrances and
 41 objections from persons interested in or affected by the
 42 proceedings pertaining to the establishment of the proposed



1 special service area and will determine the public utility and
2 benefit of the establishment of the special service area.

3 (c) All persons affected in any manner by the hearing, including
4 all taxpayers and owners of real property within the proposed
5 special service area, shall be considered notified of the pendency of
6 the hearing and of subsequent acts, hearings, adjournments, and
7 proceedings of the legislative body by the notice given under this
8 section.

9 (d) At the public hearing, which may be adjourned periodically,
10 the legislative body shall hear all persons interested in the
11 proceedings and shall consider all written remonstrances and
12 objections that have been filed on the questions of:

- 13 (1) the sufficiency of the notice;
- 14 (2) whether the proposed infrastructure projects and local
15 public improvements will be of public utility and benefit;
- 16 (3) whether the proposed assessment formula is appropriate;
17 and
- 18 (4) whether the proposed special service area contains all, or
19 more or less than all, of the property specially benefited by
20 the proposed infrastructure projects and local public
21 improvements.

22 Sec. 10. (a) After conducting the public hearing, and upon
23 consideration of the evidence, the legislative body may adopt an
24 ordinance establishing the special service area if it determines that:

- 25 (1) the infrastructure projects and local public improvements
26 to be undertaken will provide special benefits to the owners of
27 real property in the special service area and will be of public
28 utility and benefit; and
- 29 (2) the apportionment of the assessment of benefits is
30 appropriate and bears a rational relationship to the special
31 benefits to be provided.

32 (b) An ordinance adopted under this section must include:

- 33 (1) the boundaries of the special service area; and
- 34 (2) the formula for determining the percentage of the total
35 benefit to be received by each parcel of real property within
36 the proposed special service area and for apportioning the
37 assessments to be levied and collected.

38 (c) A copy of an ordinance adopted under this section, certified
39 by the unit's clerk, shall be recorded in the office of the recorder of
40 each county in which all or a part of the unit is located.

41 Sec. 11. (a) The legislative body must conduct a public hearing
42 before amending or repealing an ordinance establishing a special

C
O
P
Y



1 service area. The legislative body shall give notice of the hearing in
2 accordance with IC 5-3-1. The notice must:

- 3 (1) set forth the substance of the proposed amendment;
4 (2) state the time and place where written remonstrances
5 against the proposed amendment may be filed;
6 (3) set forth the time and place of the hearing; and
7 (4) state that the legislative body will hear any person who has
8 filed a written remonstrance during the filing period set forth
9 under subdivision (2).

10 (b) At the hearing on the amendments or repeal, the legislative
11 body shall consider written remonstrances that are filed.

12 Sec. 12. (a) Using the formula for determining the percentage of
13 the total benefit to be received by each parcel of real property
14 within the proposed special service area and for apportioning the
15 assessments to be levied and collected as set forth in the ordinance
16 establishing the special service area, the fiscal officer shall annually
17 determine the proposed assessment for each parcel of real property
18 in the special service area and prepare a schedule of the
19 assessments.

20 (b) The fiscal officer shall:

- 21 (1) certify the schedule of assessments prepared under
22 subsection (a) to the auditor of each county in which all or a
23 part of the special service area is located; and
24 (2) file a copy of the schedule of assessments prepared under
25 subsection (a) in the office of the recorder of each county in
26 which all or a part of the special service area is located.

27 (c) Promptly after certifying the schedule of assessments to the
28 county auditor, the unit's fiscal officer shall send notice, by
29 certified mail, to each owner of real property to be assessed. The
30 notice to each owner of real property must be addressed as the
31 name and address appears on the tax duplicates and the records of
32 the auditor of the county in which the real property is located. The
33 notice must:

- 34 (1) set forth the amount of the proposed assessment; and
35 (2) state that a copy of the schedule containing the proposed
36 assessment on each parcel of real property in the special
37 service area is available for inspection in the office of the
38 unit's fiscal officer.

39 Sec. 13. (a) Within thirty (30) days after the county auditor
40 receives the certification of the schedule of assessments for the
41 special service area, the auditor shall deliver a copy of the
42 certificate to the county treasurer. Each year, the treasurer shall

C
O
P
Y



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

4 (b) Assessments for special benefits under this chapter are a lien
5 upon each parcel of real property against which the special benefits
6 are assessed. The lien attaches at the time the schedule of
7 assessments is filed with the county recorder. The lien is superior
8 to all other liens except tax liens, and the real property is subject
9 to sale as is provided by statute for the sale of real property on
10 which there are delinquent taxes. Upon the sale, the proceeds shall
11 be prorated among the assessment and any delinquent taxes.

12 (c) Assessments collected under this chapter shall be paid to the
13 unit's fiscal officer at the same time and in the same manner as the
14 county treasurer distributes property taxes under IC 6-1.1-27.

15 **Sec. 14. (a)** The fiscal officer shall establish a special services
16 area fund and shall deposit in this fund all revenues received from
17 assessments levied and collected under this chapter.

18 (b) All income from investment of money in the fund shall
19 remain a part of the fund.

20 (c) Money in the fund shall be used by the unit for the financing,
21 construction, operation, or maintenance of infrastructure projects
22 and local public improvements.

23 (d) The unit may issue bonds, enter into leases, or incur other
24 obligations to:

- 25 (1) pay any costs associated with the infrastructure projects
- 26 or local public improvements described in subsection (c);
- 27 (2) reimburse the unit for any money advanced to pay those
- 28 costs; or
- 29 (3) refund bonds issued or other obligations incurred under
- 30 this chapter.

31 (e) Bonds or other obligations issued under this section:

- 32 (1) are payable solely from money provided under this
- 33 chapter or other money legally available for that purpose;
- 34 and
- 35 (2) may, in the discretion of the unit, be sold at a negotiated
- 36 sale at a price to be determined by the unit or in accordance
- 37 with IC 5-1-11.

38 (f) Leases entered into under this section:

- 39 (1) may be for a term not to exceed fifty (50) years;
- 40 (2) may provide for payments from revenues under this
- 41 chapter, any other revenues available to the unit, or any
- 42 combination of these sources;



C
O
P
Y

1 (3) may provide that payments by the unit to the lessor are
2 required only to the extent and only for the time that the
3 lessor is able to provide the leased facilities in accordance
4 with the lease;

5 (4) must be based upon the value of the facilities leased; and
6 (5) may not create a debt of the unit for purposes of the
7 Constitution of the State of Indiana.

8 (g) A lease may be entered into by the legislative body of the
9 unit only after a public hearing at which all interested parties are
10 provided the opportunity to be heard. After the public hearing, the
11 legislative body may approve the execution of the lease on behalf
12 of the unit only if the legislative body finds that the service to be
13 provided throughout the life of the lease will serve the public
14 purpose of the unit and is in the best interests of its residents.

15 (h) Upon execution of a lease under this section, the legislative
16 body shall publish notice of the execution of the lease and the
17 approval of the lease in accordance with IC 5-3-1.

18 (i) The legislative body of the unit may pledge money in the fund
19 to pay bonds issued, loans obtained, and lease payments or other
20 obligations incurred by or on behalf of the unit or a special taxing
21 district in the unit to provide the facilities described in subsection
22 (c).

23 (j) A pledge under subsection (i) is enforceable under
24 IC 5-1-14-4.

25 Sec. 15. (a) With respect to any bonds, leases, loans, or
26 obligations for which a pledge has been made under section 14(i)
27 of this chapter, the general assembly covenants with the holders of
28 the obligations that this chapter will not be repealed or amended
29 in a manner that will adversely affect the imposition or collection
30 of the assessments imposed under this chapter if the payment of
31 any of the obligations is outstanding.

32 (b) With respect to any bonds, leases, loans, or obligations for
33 which a pledge has been made under section 14(i) of this
34 chapter, the legislative body of a unit may not amend or repeal an
35 ordinance adopted under this chapter in a manner that will
36 adversely affect the imposition or collection of the assessments
37 imposed under this chapter if the payment of any of the obligations
38 is outstanding.

39 Sec. 16. (a) Any owner of real property in a special service area
40 may file an action contesting the validity of:

- 41 (1) an ordinance adopted under section 10 of this chapter; or
42 (2) the assessment schedule established under section 12 of

C
O
P
Y



1 **this chapter.**
2 **(b) An action under subsection (a) must be filed:**
3 **(1) in the circuit or superior court of the county in which a**
4 **majority of the special service area is located; and**
5 **(2) within thirty (30) days after:**
6 **(A) adoption of the ordinance, if the action is to contest the**
7 **validity of the ordinance; or**
8 **(B) establishment of the assessment schedule, if the action**
9 **is to contest the validity of the assessment schedule.**
10 **(c) An action to contest the validity of bonds issued or leases**
11 **entered into under this chapter must be brought within thirty (30)**
12 **days after the adoption of a bond ordinance or notice of the**
13 **execution and approval of the lease, as the case may be.**
14 **SECTION 2. An emergency is declared for this act.**

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1319, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEVENSON, Chair

Committee Vote: yeas 8, nays 0.

C
o
p
y

