

## **IC 36-1-7**

### Chapter 7. Interlocal Cooperation

#### **IC 36-1-7-1**

##### **Application of chapter**

Sec. 1. This chapter applies to the following:

- (1) The state.
- (2) All political subdivisions.
- (3) All state agencies.
- (4) Any of the following created by state law:
  - (A) Public instrumentalities.
  - (B) Public corporate bodies.
- (5) Another state to the extent authorized by the law of that state.
- (6) Political subdivisions of states other than Indiana, to the extent authorized by laws of the other states.
- (7) Agencies of the federal government, to the extent authorized by federal laws.

*As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.5-1993, SEC.336; P.L.221-2007, SEC.24.*

#### **IC 36-1-7-2**

##### **Permissible powers**

Sec. 2. (a) A power that may be exercised by an Indiana political subdivision and by one (1) or more other governmental entities may be exercised:

- (1) by one (1) or more entities on behalf of others; or
- (2) jointly by the entities.

Entities that want to do this must, by ordinance or resolution, enter into a written agreement under section 3 or 9 of this chapter.

(b) Notwithstanding subsection (a), Indiana governmental entities that want only to buy, sell, or exchange services, supplies, or equipment between or among themselves may enter into contracts to do this and follow section 12 of this chapter.

*As added by Acts 1980, P.L.211, SEC.1.*

#### **IC 36-1-7-3**

##### **Agreements; contents; powers under agreements**

Sec. 3. (a) An agreement under this section must provide for the following:

- (1) Its duration.
- (2) Its purpose.
- (3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget therefor.
- (4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination.
- (5) Administration through:
  - (A) a separate legal entity, the nature, organization,

composition, and powers of which must be provided; or  
(B) a joint board composed of representatives of the entities that are parties to the agreement, and on which all parties to the agreement must be represented.

(6) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking, whenever a joint board is created under subdivision (5)(B).

In addition, such an agreement may provide for any other appropriate matters.

(b) A separate legal entity or joint board established by an agreement under this section has only the powers delegated to it by the agreement. The agreement may not provide for members, directors, or trustees of the separate legal entity or joint board to make appointments (either individually or jointly) to fill vacancies on the separate legal entity or joint board.

(c) Subsection (a)(6) does not apply to an emergency management assistance compact under IC 10-14-5.

*As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.56-1988, SEC.11; P.L.30-1998, SEC.3; P.L.2-2003, SEC.99.*

#### **IC 36-1-7-4**

##### **Agreements; when attorney general's approval required**

Sec. 4. (a) If an agreement under section 3 of this chapter:

(1) involves as parties:

(A) only Indiana political subdivisions; or

(B) an Indiana political subdivision and:

(i) a public instrumentality; or

(ii) a public corporate body;

created by state law;

(2) is approved by the fiscal body of each party that is an Indiana political subdivision either before or after the agreement is entered into by the executive of the party; and

(3) delegates to the treasurer or disbursing officer of one (1) of the parties that is an Indiana political subdivision the duty to receive, disburse, and account for all monies of the joint undertaking;

then the approval of the attorney general is not required.

(b) If subsection (a) does not apply, an agreement under section 3 of this chapter must be submitted to the attorney general for the attorney general's approval. The attorney general shall approve the agreement unless the attorney general finds that it does not comply with the statutes, in which case the attorney general shall detail in writing for the parties the specific respects in which the agreement does not comply. If the attorney general fails to disapprove the agreement within sixty (60) days after it is submitted to the attorney general, it is considered approved.

*As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.221-2007, SEC.25.*

#### **IC 36-1-7-5**

**Agreements; approval of state officer or state agency having power to control services or facilities; reciprocal borrowing agreements**

Sec. 5. (a) Except as provided in subsection (b) and regardless of the requirements of section 4 of this chapter, if an agreement under section 3 of this chapter concerns the provision of services or facilities that a state officer or state agency has power to control, the agreement must be submitted to that officer or agency for approval before it takes effect.

(b) If a reciprocal borrowing agreement under section 3 of this chapter concerns the provision of library services or facilities between public libraries that are of the same nature as the services provided under the statewide library card program under IC 4-23-7.1-5.1, the reciprocal borrowing agreement is not required to be submitted to the Indiana library and historical board for approval before the reciprocal borrowing agreement takes effect, but a copy of the reciprocal borrowing agreement shall be submitted to the state library.

(c) Approval or disapproval is governed by the same provisions prescribed by section 4(b) of this chapter for the attorney general.  
*As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.37-1993, SEC.4.*

**IC 36-1-7-6**

**Agreements; recording; filing**

Sec. 6. Before it takes effect, an agreement under section 3 of this chapter must be recorded with the county recorder. Not later than sixty (60) days after it takes effect, such an agreement must be filed with the state board of accounts for audit purposes.

*As added by Acts 1980, P.L.211, SEC.1.*

**IC 36-1-7-7**

**Agreements; law enforcement or firefighting services**

Sec. 7. (a) Except as provided in subsection (c), if an agreement under section 3 of this chapter concerns the provision of law enforcement or firefighting services, the following provisions apply:

(1) Visiting law enforcement officers or firefighters have the same powers and duties as corresponding personnel of the entities they visit, but only for the period they are engaged in activities authorized by the entity they are visiting, and are subject to all provisions of law as if they were providing services within their own jurisdiction.

(2) An entity providing visiting personnel remains responsible for the conduct of its personnel, for their medical expenses, for worker's compensation, and if the entity is a volunteer fire department, for all benefits provided by IC 36-8-12.

(b) A law enforcement or fire service agency of a unit or of the state may request the assistance of a law enforcement or fire service agency of another unit, even if no agreement for such assistance is in effect. In such a case, subsection (a)(1) and (a)(2) apply, the agency requesting assistance shall pay all travel expenses, and all visiting

personnel shall be supervised by the agency requesting assistance.

(c) This subsection applies to a law enforcement officer that visits another state after a request for assistance from another state under the emergency management compact is made under IC 10-14-5. A law enforcement officer that visits another state does not have the power of arrest unless the law enforcement officer is specifically authorized to exercise the power by the receiving state.

*As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.28-1988, SEC.115; P.L.229-1996, SEC.1; P.L.30-1998, SEC.4; P.L.1-1999, SEC.80; P.L.2-2003, SEC.100.*

### **IC 36-1-7-8**

#### **Interstate compact**

Sec. 8. If any entities of other jurisdictions are parties to an agreement under section 3 of this chapter, the agreement constitutes an interstate compact. However, in a case or controversy involving such an agreement, all parties to the agreement shall be considered real parties in interest; and if the state suffers any damages or incurs any liability as a result of being joined as a party in such a case or controversy, it may bring an action against any entity causing the state to suffer damages or incur liability.

*As added by Acts 1980, P.L.211, SEC.1.*

### **IC 36-1-7-9**

#### **Agreements between municipality and county; contents**

Sec. 9. (a) This section may be used only for an agreement between an Indiana municipality and the executive of the county in which it is located concerning highway construction and maintenance and related matters.

(b) An agreement under this section must provide for the following:

- (1) Its duration, which may not be more than four (4) years.
- (2) The specific functions and services to be performed or furnished by the county on behalf of the municipality.

In addition, such an agreement may provide for any other appropriate matters.

(c) An agreement under this section may provide for either of the following:

- (1) A stipulation that distributions from the motor vehicle highway account under IC 8-14-1, the local road and street account under IC 8-14-2, or both, be made to the county rather than to the municipality.
- (2) A stipulation that the municipality will appropriate a specified part of those distributions for purposes listed in the agreement.

*As added by Acts 1980, P.L.211, SEC.1.*

### **IC 36-1-7-10**

#### **Agreements between municipality and county; prerequisites to taking effect**

Sec. 10. Before it takes effect, an agreement under section 9 of this chapter must be:

- (1) approved by the fiscal body of each party;
- (2) recorded with the county recorder;
- (3) filed with the executive of the municipality and the auditor of the county; and
- (4) filed with the auditor of state.

*As added by Acts 1980, P.L.211, SEC.1.*

### **IC 36-1-7-11**

#### **Power to appropriate money and provide personnel, services, and facilities**

Sec. 11. An entity entering into an agreement under this chapter may:

- (1) appropriate monies; and
- (2) provide personnel, services, and facilities;

to carry out the agreement.

*As added by Acts 1980, P.L.211, SEC.1.*

### **IC 36-1-7-11.5**

#### **"Economic development project"; agreements related to economic development projects**

Sec. 11.5. (a) As used in this section, "economic development project" has the meaning set forth in IC 6-3.5-7-13.1(c). The term also includes any project related to transportation services, transportation infrastructure, or the development or construction of a hotel or other tourism destination.

(b) An entity entering into an agreement under this chapter that is related to an economic development project may do any of the following to carry out the agreement:

(1) After appropriation by the entity's fiscal body, transfer money derived from any source to any of the following:

(A) One (1) or more entities that have entered into the agreement.

(B) An economic development entity (as defined in section 15 of this chapter) established by an entity that has entered into the agreement.

(C) A regional development authority, including the northwest Indiana regional development authority established by IC 36-7.5-2-1.

(D) A regional transportation authority including the regional bus authority established under IC 36-9-3-2(c).

(2) Transfer any property or provide personnel, services, or facilities to any entity or authority described in subdivision (1)(A) through (1)(D).

*As added by P.L.169-2006, SEC.45.*

### **IC 36-1-7-12**

#### **Purchase, sale, or exchange of services, supplies, or equipment**

Sec. 12. (a) Whenever a contract provides for the purchase, sale,

or exchange of services, supplies, or equipment between or among Indiana governmental entities only, no notice by publication or posting is required.

(b) Whenever a contract provides for one (1) Indiana governmental entity to make a purchase for another, compliance by the one with the applicable statutes governing public bids constitutes compliance by the other.

(c) A governmental entity may make a purchase from any other governmental entity or under another governmental entity's referenced written contract if there is compliance with state purchasing law by the original purchasing unit.

(d) Two (2) or more governmental entities may procure together or with a nonprofit entity if the requirements of the public purchasing statutes are met.

*As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.195-2007, SEC.6.*

### **IC 36-1-7-13**

#### **Agreements between school corporations; rights and privileges of teachers**

Sec. 13. Whenever an agreement authorized by this chapter is between school corporations, teachers employed under the agreement have the same rights and privileges as teachers employed under IC 20-26-10-5, IC 20-26-10-6, and IC 20-26-10-7.

*As added by P.L.110-1984, SEC.3. Amended by P.L.1-2005, SEC.230.*

### **IC 36-1-7-15**

#### **Agreements between economic development entities**

Sec. 15. (a) As used in this section, "economic development entity" means any of the following:

- (1) A department of redevelopment organized under IC 36-7-14.
- (2) A department of metropolitan development under IC 36-7-15.1.
- (3) A port authority organized under IC 8-10-5.
- (4) An airport authority organized under IC 8-22-3.
- (5) The Indiana finance authority.

(b) Notwithstanding section 2 of this chapter, two (2) or more economic development entities may enter into a written agreement under section 3 of this chapter if the agreement is approved by each entity's governing body.

(c) A party to an agreement under this section may do one (1) or more of the following:

- (1) Except as provided in subsection (d), grant one (1) or more of its powers to another party to the agreement.
- (2) Exercise any power granted to it by a party to the agreement.
- (3) Pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, IC 36-7-15.1, or IC 8-22-3.5, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

(d) An economic development entity may not grant to another entity the power to tax or to establish an allocation area under IC 8-22-3.5, IC 36-7-14-39, or IC 36-7-15.1.

(e) An agreement under this section does not have to comply with section 3(a)(5) or 4 of this chapter.

(f) An action to challenge the validity of an agreement under this section must be brought within thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

*As added by P.L.108-1993, SEC.12. Amended by P.L.115-1995, SEC.14; P.L.85-1996, SEC.10; P.L.170-2002, SEC.137; P.L.203-2005, SEC.7; P.L.221-2007, SEC.26.*

### **IC 36-1-7-16**

#### **Transfer, combination, or sharing of powers, duties, functions, or resources; budgets, rates, and levies**

Sec. 16. (a) This section applies to a political subdivision if:

(1) the political subdivision enters into an agreement with one (1) or more other political subdivisions under this chapter to transfer, combine, or share powers, duties, functions, or resources;

(2) the political subdivision realizes through the transfer, combination, or sharing of powers, duties, functions, or resources a:

(A) savings; or

(B) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the transfer, combination, or sharing of powers, duties, functions, or resources had not taken place; and

(3) the department of local government finance will otherwise decrease the maximum permissible property tax levies, maximum permissible property tax rates, or budgets of the political subdivision to:

(A) eliminate double taxation by different political subdivisions for services; or

(B) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

(b) The department of local government finance shall establish criteria for making an adjustment to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of a political subdivision described in subsection (a).

(c) The adjustment under subsection (b) must permit the political subdivision to continue to:

(1) include in the political subdivision's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses; and

(2) impose part of a property tax levy that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses.

(d) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b) may not exceed the result of:

(1) the savings or reduction in expenses realized in the first full year of operation after the transfer, combination, or sharing of powers, duties, functions, or resources is implemented, as determined by the department of local government finance; multiplied by

(2) a percentage determined as follows:

- (A) Fifty percent (50%) in the first year of the adjustment.
- (B) Fifty percent (50%) in the second year of the adjustment.
- (C) Thirty percent (30%) in the third year of the adjustment.
- (D) Ten percent (10%) in the fourth year of the adjustment and thereafter.

The fiscal body of the political subdivision shall determine and certify to the department of local government finance the amount of the adjustment that the political subdivision wishes to accept under this section. The amount of any adjustment accepted by a political subdivision under this section must comply with the agreement under this chapter under which the political subdivision transfers, combines, or shares powers, duties, functions, or resources.

*As added by P.L.58-2011, SEC.1.*