

IC 36-3-5

Chapter 5. Appointed Officers, Departments, and Boards

IC 36-3-5-1

Application of chapter

Sec. 1. This chapter applies to each consolidated city and its county.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-5-2

Deputies and directors; acting deputies and directors; controller and deputy controllers; corporation counsel

Sec. 2. (a) The executive shall, subject to the approval of the city-county legislative body, appoint each of the executive's deputies and the director of each department of the consolidated city. A deputy or director is appointed for a term of one (1) year and until a successor is appointed and qualified, but serves at the pleasure of the executive.

(b) When making an appointment under subsection (a), the executive shall submit the name of an appointee to an office to the legislative body for its approval as follows:

(1) When the office has an incumbent, not more than forty-five (45) days before the expiration of the incumbent's one (1) year term.

(2) When the office has been vacated, not more than forty-five (45) days after the vacancy occurs.

(c) The executive may appoint an acting deputy or acting director whenever the incumbent is incapacitated or the office has been vacated. An acting deputy or acting director has all the powers of the office.

(d) The executive shall appoint:

(1) a controller;

(2) two (2) deputy controllers, only one (1) of whom may be from the same political party as the executive; and

(3) a corporation counsel;

each of whom serves at the pleasure of the executive.

(e) The corporation counsel and every attorney who is a city employee working for the corporation counsel must be a resident of the county and admitted to the practice of law in Indiana.

As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.334-1985, SEC.1; P.L.227-2005, SEC.21.

IC 36-3-5-2.5

Controller as fiscal officer and director of office of finance and management; county treasurer as ex officio treasurer

Sec. 2.5. (a) The controller appointed under section 2 of this chapter is:

(1) the fiscal officer of:

(A) the consolidated city; and

(B) the county; and

(2) the director of the office of finance and management under section 2.7 of this chapter.

(b) The county treasurer serves ex officio as the treasurer of the consolidated city.

As added by Acts 1981, P.L.11, SEC.158. Amended by P.L.227-2005, SEC.22.

IC 36-3-5-2.6

Immunity of controller and deputy controllers; exception for gross negligence

Sec. 2.6. The:

(1) controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the controller's duty as a fiscal officer of:

(A) the consolidated city; and

(B) the county; and

(2) deputy controller is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the deputy controller's duty;

unless the act or omission constitutes gross negligence or an intentional disregard of the controller's or the deputy controller's duty.

As added by P.L.67-2002, SEC.4. Amended by P.L.227-2005, SEC.23.

IC 36-3-5-2.7

Office of finance and management; responsibilities; controller serves as director

Sec. 2.7. (a) The office of finance and management is established and is responsible for:

(1) budgeting, except as provided in subsection (c);

(2) financial reporting and audits;

(3) purchasing; and

(4) fixed assets;

for all city and county departments, offices, and agencies.

(b) The controller:

(1) serves as the director of; and

(2) may organize into divisions;

the office of finance and management.

(c) The office of finance and management is not responsible for the issuance of warrants for payments from county and city funds.

As added by P.L.227-2005, SEC.24.

IC 36-3-5-2.8

Powers and duties of controller

Sec. 2.8. (a) Except as provided in subsections (b) and (c), the controller:

(1) has all the powers; and

(2) performs all the duties;

of the county auditor under law.

(b) The controller:

- (1) does not have the powers; and
- (2) may not perform the duties;

of the county auditor under IC 36-2-9.5 and IC 36-3-6, or as a member of the board of commissioners of the county under IC 36-3-3-10.

(c) Notwithstanding subsection (a) or any other law, the executive, with the approval of the legislative body, may allocate the duties of the county auditor, except the duties referred to in subsection (b), among:

- (1) the controller;
- (2) the county assessor;
- (3) the county auditor; or
- (4) other appropriate city or county officials.

As added by P.L.227-2005, SEC.25.

IC 36-3-5-3

Deputy mayors; number; nature of office

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 by the executive in accord with ordinances of the legislative body, except when he is designated as acting executive under IC 36-3-3-3.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-5-4

Establishment; powers and duties of executive departments; department of public utilities

Sec. 4. (a) The following executive departments of the consolidated city are established, subject to IC 36-3-4-23:

- (1) Department of administration and equal opportunity.
- (2) Department of metropolitan development.
- (3) Department of public safety.
- (4) Department of public works.
- (5) Department of transportation.
- (6) Department of parks and recreation.

These departments and their divisions 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.

(b) The department of public utilities established under IC 8-1-11.1 continues as an agency of the consolidated city, which is the successor trustee of a public charitable trust created under Acts 1929, c. 78. The department of public utilities is governed under IC 8-1-11.1 and is not subject to this article.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.18; P.L.227-2005, SEC.26.

IC 36-3-5-5

Director of department as chief administrative officer; divisions; appointment of administrator; powers of director

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 behalf.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-5-6

Establishment; powers and duties; membership of administrative boards; metropolitan development commission

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 successor is appointed and qualified, but serves at the pleasure of the appointing authority.

As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1981, P.L.17, SEC.19.

IC 36-3-5-7

Administrative boards; meetings; notice; quorum; majority vote

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:

- (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.

As added by Acts 1980, P.L.212, SEC.2.

IC 36-3-5-8

Special taxing district; power to issue bonds, notes, or warrants; approval; issuance procedure

Sec. 8. (a) This section applies whenever a special taxing district of the consolidated city has the power to issue bonds, notes, or warrants.

(b) Before any bonds, notes, or warrants of a special taxing district may be issued, the issue must be approved by resolution of the legislative body of the consolidated city.

(c) Any bonds of a special taxing district must be issued in the manner prescribed by statute for that district, and the board of the department having jurisdiction over the district shall:

- (1) hold all required hearings;
- (2) adopt all necessary resolutions; and
- (3) appropriate the proceeds of the bonds;

in that manner. However, the legislative body shall levy each year the special tax required to pay the principal of and interest on the bonds and any bank paying charges.

(d) Notwithstanding any other statute, bonds of a special taxing district may:

- (1) be dated;
- (2) be issued in any denomination;
- (3) except as otherwise provided by IC 5-1-14-10, mature at any time or times not exceeding fifty (50) years after their date; and
- (4) be payable at any bank or banks;

as determined by the board. The interest rate or rates that the bonds will bear must be determined by bidding, notwithstanding IC 5-1-11-3.

(e) Bonds of a special taxing district are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to the following:

- (1) The filing of a petition requesting the issuance of bonds and giving notice of the petition.
- (2) The giving of notice of a hearing on the appropriation of the proceeds of bonds.
- (3) The right of taxpayers to appear and be heard on the proposed appropriation.
- (4) The approval of the appropriation by the department of local government finance.
- (5) The right of:
 - (A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or
 - (B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).
- (6) The sale of bonds at public sale.
- (7) The maximum term or repayment period provided by IC 5-1-14-10.

As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.90-2002, SEC.470; P.L.219-2007, SEC.113; P.L.146-2008, SEC.703.

IC 36-3-5-9

Standard forms for use in transaction of business

- Sec. 9. The controller shall furnish standard forms for use in the:
- (1) transaction of business; and
 - (2) performance of services for which the consolidated city or county receives a specific fee.

As added by P.L.227-2005, SEC.27.

IC 36-3-5-10

Suits against principals and sureties on obligations

Sec. 10. The controller, in the name of the state and on behalf of any fund of the county or consolidated city, may sue principals or sureties on any obligation, whether the obligation is in the name of the state or another person.

As added by P.L.227-2005, SEC.28.

IC 36-3-5-11

Treasurer's report; filing

Sec. 11. The controller shall:

- (1) immediately file the original of the county treasurer's monthly report under IC 36-2-10-16 with the records of the county board of finance;
- (2) present one (1) copy of the report to the legislative body of the consolidated city at its next regular meeting; and
- (3) immediately transmit one (1) copy of the report to the state board of accounts.

As added by P.L.227-2005, SEC.29.

IC 36-3-5-12

Personal liability for penalties and interest assessed by Internal Revenue Service; reimbursement

Sec. 12. (a) Except as provided in subsection (b), if the controller is held personally liable for penalties and interest assessed by the Internal Revenue Service, the county treasurer shall reimburse the controller in an amount equal to the penalties and interest.

(b) The county treasurer may not reimburse the controller under subsection (a) if the controller willfully or intentionally fails or refuses to file a return or make a required deposit on the date the return or deposit is due.

As added by P.L.227-2005, SEC.30.