

IC 36-6-4

Chapter 4. Township Executive

IC 36-6-4-1

Application of chapter

Sec. 1. This chapter applies to all townships.
As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-2

Township trustee; residence; term of office

Sec. 2. (a) A township trustee shall be elected under IC 3-10-2-13 by the voters of each township. The trustee is the township executive.

(b) The township trustee must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The trustee forfeits office if the trustee ceases to be a resident of the township.

(c) The term of office of a township trustee is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.5-1986, SEC.57; P.L.3-1987, SEC.563; P.L.1-2004, SEC.62 and P.L.23-2004, SEC.64; P.L.88-2005, SEC.16.

IC 36-6-4-3

Duties

Sec. 3. The executive shall do the following:

- (1) Keep a written record of official proceedings.
- (2) Manage all township property interests.
- (3) Keep township records open for public inspection.
- (4) Attend all meetings of the township legislative body.
- (5) Receive and pay out township funds.
- (6) Examine and settle all accounts and demands chargeable against the township.
- (7) Administer township assistance under IC 12-20 and IC 12-30-4.
- (8) Perform the duties of fence viewer under IC 32-26.
- (9) Provide and maintain cemeteries under IC 23-14.
- (10) Provide fire protection under IC 36-8, except in a township that:
 - (A) is located in a county having a consolidated city; and
 - (B) consolidated the township's fire department under IC 36-3-1-6.1.
- (11) File an annual personnel report under IC 5-11-13.
- (12) Provide and maintain township parks and community centers under IC 36-10.
- (13) Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-16-8.
- (14) Provide insulin to the poor under IC 12-20-16.
- (15) Perform other duties prescribed by statute.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.191-1987, SEC.14; P.L.2-1992, SEC.889; P.L.2-1993, SEC.203; P.L.51-1996, SEC.76; P.L.2-2002, SEC.108; P.L.227-2005, SEC.36; P.L.73-2005, SEC.173; P.L.1-2006, SEC.562; P.L.2-2008, SEC.82; P.L.146-2008, SEC.709; P.L.1-2009, SEC.163.

IC 36-6-4-4

Powers

Sec. 4. The executive may do the following:

- (1) Administer oaths when necessary in the discharge of official duties.
- (2) Appoint an attorney to represent the township in any proceeding in which the township is interested.
- (3) Enter into certain oil and gas leases of township property under IC 36-9.
- (4) Personally use a township vehicle for the performance of official duties, but only if the use is authorized by the township legislative body.
- (5) Exercise other powers granted by statute.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.191-1987, SEC.15; P.L.302-1989, SEC.1.

IC 36-6-4-5

Records; maintenance

Sec. 5. The executive shall maintain:

- (1) a general account showing the total of all township receipts and expenditures; and
- (2) the financial and appropriation record of the township, which must include an itemized and accurate account of the township's financial affairs.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-6

Financial and appropriation record; requisites

Sec. 6. (a) For each sum of money received by the executive, the financial and appropriation record must show:

- (1) the date it was received;
- (2) from whom it was received; and
- (3) to what account it was credited.

(b) For each sum of money paid by the executive, the financial and appropriation record must show:

- (1) the date it was paid;
- (2) to whom it was paid;
- (3) from what account it was paid; and
- (4) why it was paid.

(c) The state board of accounts shall prescribe the form of the financial and appropriation record.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-7

Purchases; written order; warrant; violation; liability

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 official bond for the value of the purchase.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-8

Use of funds appropriated for community services; contracts for ambulance services; fees

Sec. 8. (a) The executive may use the township's share of state, county, and township tax revenues and federal revenue sharing funds for all categories of community services, if these funds are appropriated for these services by the township legislative body. The executive may use these funds for both operating and capital expenditures.

(b) With the consent of the township legislative body, the executive may contract with corporations for health and community services not specifically provided by another governmental entity.

(c) The executive may contract with a private person to provide regular or emergency ambulance service within the township. The contract may provide for the imposition and collection of fees for this service.

(d) The township legislative body may adopt a resolution to provide for the imposition and collection of fees for ambulance services provided by the township police or fire department.

As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1980, P.L.125, SEC.26; Acts 1981, P.L.11, SEC.166.

IC 36-6-4-9

Repealed

(Repealed by Acts 1981, P.L.57, SEC.45.)

IC 36-6-4-10

Verified statement of indebtedness; posting

Sec. 10. On the first Monday of each August the executive shall post, in a conspicuous place near his 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.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-11

Annual meeting; statement of estimated expenditures; forms; amounts

Sec. 11. (a) At the township legislative body's annual meeting under IC 36-6-6-11, the executive shall:

(1) present an itemized written statement of the estimated expenditures for which appropriations are requested, specifying:

- (A) the number of teachers employed;
- (B) the salary of each teacher employed;
- (C) the property of the township (and supplies on hand);
- (D) the estimated value of the property of the township (and supplies on hand);
- (E) the supplies necessary for each school; and
- (F) the need for township assistance in the township; and

(2) submit to questions from the legislative body or taxpayers concerning expenditures of the township.

(b) The written statement required under subsection (a)(1) must comply with forms prescribed by the state board of accounts and show the amount of each item to be charged against township funds. *As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.73-2005, SEC.174.*

IC 36-6-4-12

Annual meeting; report of receipts and expenditures of preceding calendar year; failure to file; penalty

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;
- (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.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-13

Abstract of receipts and expenditures; publication; failure to comply; offense

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 January, 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 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.

As added by Acts 1980, P.L.212, SEC.5. Amended by Acts 1981, P.L.45, SEC.16; P.L.155-1987, SEC.3.

IC 36-6-4-14

Expiration of term; delivery of funds, property, and annual report; submission to inquiries at annual meeting

Sec. 14. When his term of office expires, the 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 annual report;
- (2) deliver to the new executive, not later than the second Monday in the next January, his annual report and any records

he 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.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.173-2003, SEC.27.

IC 36-6-4-15

Resignation or death; issuance of call for special meeting by new executive; annual report

Sec. 15. (a) If the executive resigns or dies, he or his 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 annual report to the legislative body, the new executive shall distinguish between his 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.

As added by Acts 1980, P.L.212, SEC.5.

IC 36-6-4-16

Incapacity; petition; hearing; acting executive; salaries; restoration of capacity; resumption of duties

Sec. 16. (a) When twenty-five (25) or more resident freeholders of a township file a petition with the circuit court of the county, alleging that the township executive is incapable of performing his duties due to mental or physical incapacity, the clerk of the court shall issue a summons to be served on the executive. The summons is returnable not less than ten (10) days from its date of issue.

(b) Immediately following the return date set out on the summons, the circuit court shall hold a hearing on the matter alleged in the petition. After hearing the evidence and being fully advised, the court shall enter its findings and judgment.

(c) If the court finds the executive incapable of performing the duties of office, the clerk of the court shall certify a copy of the judgment to the county executive, which shall, within five (5) days, appoint a resident of the township as acting executive of the township during the incapacity of the executive.

(d) The acting executive shall execute and file a bond in an amount fixed by the county auditor. After taking the oath of office, the acting executive has all the powers and duties of the executive.

(e) The acting executive is entitled to the salary and benefits provided by this article for the executive.

(f) When an incapacitated executive files a petition with the circuit court of the county alleging that the executive is restored to mental or physical ability to perform the duties of office, the court shall immediately hold a hearing on the matters alleged. After hearing the evidence and being fully advised, the court shall enter its findings and judgment.

(g) If the court finds the executive capable of resuming duties, the clerk of the court shall certify a copy of the judgment to the county executive, which shall, within five (5) days, revoke the appointment of the acting executive.

(h) For purposes of this section, the board of county commissioners is considered the executive of a county having a consolidated city.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.1-2010, SEC.148.

IC 36-6-4-17

Failure to perform duty; liability; compensation; personal use of township funds

Sec. 17. (a) An executive who fails to perform a duty imposed by section 3(1), 3(2), 3(3), 3(4), 3(5), 3(7), 3(8), 5, or 14(1) of this chapter is liable to the township in a sum of not more than one hundred dollars (\$100), to be recovered in a civil action brought in the name of the township.

(b) An executive is entitled to receive the following:

(1) The executive's salary.

(2) Reimbursement for expenses that are reasonably incurred by the executive for the following:

(A) The operation of the executive's office.

(B) Travel and meals while attending seminars or conferences on township matters.

(C) A sum for mileage as permitted under IC 36-6-8-3(b).

The executive may not make any other personal use of township funds without prior approval by the legislative body of the township.

As added by Acts 1980, P.L.212, SEC.5. Amended by P.L.34-1992, SEC.3.

IC 36-6-4-18

Designation of alternate to perform executive's duties and functions

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 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.

As added by P.L.105-1986, SEC.3. Amended by P.L.21-2002, SEC.1.

IC 36-6-4-19

Use of funds for drug awareness programs

Sec. 19. The township executive may pay township funds for the purpose of supporting a drug awareness program that is implemented in schools.

As added by P.L.2-1997, SEC.83.