

IC 36-7-15.5

Chapter 15.5. Improvement and Maintenance District for Indiana Central Canal in Indianapolis

IC 36-7-15.5-1

Application of chapter

Sec. 1. This chapter applies to the city of Indianapolis.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to the metropolitan development commission acting as the redevelopment commission of the city, subject to IC 36-3-4-23.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-3

"Department" defined

Sec. 3. As used in this chapter, "department" refers to the department of metropolitan development of the city, subject to IC 36-3-4-23.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-4

"Improvement and maintenance project" defined

Sec. 4. As used in this chapter, "improvement and maintenance project" refers to activities that are authorized by section 5 of this chapter to be carried out within or in support of an improvement and maintenance district.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.43.

IC 36-7-15.5-5

Common theme or purpose of project; activities

Sec. 5. (a) An improvement and maintenance project must have a common theme or purpose that is generally described in the resolution that establishes the improvement and maintenance district.

(b) The project may include, within the improvement and maintenance district, one (1) or more of the following activities:

(1) Construction, remodeling, extension, repair, equipping, operation, and maintenance of the following:

(A) Canal facilities.

(B) Structures and facilities described in IC 36-9-1-2.

(C) Park and recreational facilities described in IC 36-10-1-2.

(D) Storm sewers, bridges, and drains.

(E) Pedestrian skyways.

(2) Acquisition of real property necessary to accomplish the activities described in subdivision (1).

(3) Provision of services necessary to operate the structures and facilities described in subdivision (1).

(4) Purchase or lease of equipment used for police protection, fire protection, or public transportation, and provision of those same services.

(5) Administration or management of the activities listed in subdivisions (1) through (4).

(c) The project may include, outside the improvement and maintenance district, the construction, remodeling, repair, equipping, operation, and maintenance of a below ground drainage pipe that will allow water from the Indiana Central Canal to enter White River. The pipe must be located within an area that is bounded by West Street on the east, Washington Street, Blackford Street, and Maryland Street on the south, White River and Blake Street on the west, and the southern boundary of Military Park (projected west from West Street to Blake Street) on the north.

(d) An improvement and maintenance project may include capital improvement activities, maintenance activities, or both.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.44.

IC 36-7-15.5-6

Requests for resolutions establishing districts

Sec. 6. (a) The commission shall consider adopting a resolution establishing an improvement and maintenance district if a request for the resolution is made by:

- (1) a petition signed by twenty (20) owners of real property located within the proposed district;
- (2) a petition signed by a majority of the owners of real property located within the proposed district; or
- (3) the legislative body of the city.

(b) The commission may consider adopting the resolution on its own initiative.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-7

Resolution establishing district; contents

Sec. 7. A resolution establishing an improvement and maintenance district must contain the following information:

- (1) A description of the geographic area to be considered for inclusion in the district. The geographic area consists of the part of the Indiana Central Canal and nearby property that is located between Washington Street on the south, Interstate Highway 65 on the north, Senate Avenue on the east, and West Street and Dr. Martin Luther King Jr. Memorial Drive West Drive on the west.
- (2) The general nature of the improvement and maintenance project that would occur within or in support of the district and the estimated annual cost of the project for the first five (5) years.
- (3) Any limitation on the amount of the assessment that would be levied in order to defray part or all of the costs of the improvement and maintenance project. This limitation is not

required to be a fixed amount, but may vary according to a schedule or in relation to a specified index that reflects the increase or decrease in costs of materials, goods, and services.

(4) The estimated annual assessment levy needed to defray the cost of part or all of the improvement and maintenance project for the first five (5) years.

(5) The formula that would be used to accomplish the assessment of special benefits and damages. This formula:

(A) must provide that a parcel within the improvement and maintenance district that is not yet benefited by the improvement and maintenance district because of the stage of the development of the project will not be assigned a percentage of the total benefit;

(B) must provide that real property used for public ways, public sidewalks, religious purposes (before March 1, 1988), and public parks, and the canal itself shall be excluded from assessment;

(C) must provide that real property which is being used exclusively for single-family or two-family residence, and has been continuously used exclusively for that residential purpose from March 1, 1988, shall be excluded from assessment; and

(D) may include the following components:

(i) Square footage of the parcel.

(ii) Square footage of any improvement on the parcel.

(iii) Length of the parcel adjoining the improvement and maintenance project.

(iv) Land use of the parcel.

(v) Until 1991, the fact that the current use of the parcel is not significantly benefited by the improvement and maintenance project.

(vi) Proximity of the parcel to the improvement and maintenance project.

(vii) Accessibility of the parcel to the improvement and maintenance project.

(viii) True cash value of the parcel.

(ix) True cash value of any improvement on the parcel.

(x) Age of the improvement on the parcel.

(xi) Other similar factors.

(6) The fact that if the district is established, owners of real property in the district will be subject to an assessment of special benefits and damages to defray part or all of the costs of the improvement and maintenance project.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.45.

IC 36-7-15.5-8

Public hearings; published and mailed notice

Sec. 8. (a) Before deciding whether to adopt a resolution establishing an improvement and maintenance district, the commission shall hold a public hearing. Notice of the public hearing

shall be given by publication in accordance with IC 5-3-1 and by certified mail at least twenty (20) days before the public hearing to all property owners in the proposed district.

(b) Notices that are mailed to the owners must be addressed as the names and addresses appear on the tax duplicates in the records of the county auditor.

(c) The published and mailed notice must contain the following information:

(1) A description of the geographic area to be considered for inclusion in the district.

(2) The general nature of the improvement and maintenance project that would occur within or in support of the district and the estimated annual cost of the project for the first five (5) years.

(3) Any limitation on the amount of the assessment that would be levied in order to defray part or all of the costs of the improvement and maintenance project.

(4) The estimated annual assessment levy needed to defray the costs of part or all of the improvement and maintenance project for the first five (5) years.

(5) The formula proposed to be used for the assessment of special benefits and damages.

(6) The time and place of the hearing during which establishment of the district will be considered and at which owners of real property, or their representatives, may be heard upon the question of the establishment of the district.

(7) The fact that if the district is established, owners of real property in the district will be subject to an assessment of special benefits and damages to defray part or all of the costs of the improvement and maintenance project.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.46.

IC 36-7-15.5-9

Public hearing; determination of questions; adoption, amendment, or rejection of resolution; district boundaries; additional hearing; notice

Sec. 9. (a) At the public hearing under section 8 of this chapter, the commission shall hear all owners in the proposed district (who appear and request to be heard) upon the questions of:

(1) the sufficiency of the notice;

(2) whether the proposed improvement and maintenance project is of public utility and benefit;

(3) whether all of the probable benefits of the proposed improvement and maintenance project will be equal to or exceed the estimated cost of the project or any limitation on the amount of the levy, whichever is less;

(4) whether the formula to be used for the assessment of special benefits and damages is appropriate; and

(5) whether the district contains all, or more or less than all, of the property specially benefited or damaged by the proposed

project.

(b) After the public hearing (which may be adjourned from time to time without further notice), the commission shall make a determination on the following questions:

- (1) Whether the required notice was given.
- (2) Whether the proposed improvement and maintenance project is of public utility and benefit.
- (3) Whether all of the probable benefits of the proposed project will equal or exceed the estimated cost of the project or any limitation on the amount of the assessment levy, whichever is less.
- (4) Whether the formula to be used for the assessment of special benefits and damages is appropriate.
- (5) Whether the proposed improvement and maintenance district contains all, or more, or less than all, of the real property specially benefited or damaged by the proposed project.

(c) If the commission resolves affirmatively on questions (1) through (4) in subsection (b) and determines that the proposed district contains all of the real property specially benefited or damaged, and does not contain real property not specially benefited or damaged, then it shall adopt the resolution establishing the district with the boundaries described in the resolution.

(d) If the commission resolves negatively on question (1), (2), (3), or (4) in subsection (b), it may amend the resolution, issue additional notice, and hold further proceedings as it considers proper, or the commission may reject the resolution.

(e) If the commission resolves affirmatively on questions (1) through (4) in subsection (b) and determines that real property not specially benefited or damaged has been included within the proposed boundaries, then it shall redefine the boundaries of the proposed district and include only the real property that is specially benefited or damaged, and shall establish the district with the boundaries as redefined.

(f) If the commission resolves affirmatively on questions (1) through (4) in subsection (b) and determines that either:

- (1) all of the real property specially benefited or damaged has not been included within the proposed boundaries; or
- (2) all of the real property specially benefited or damaged has not been included within the proposed boundaries, and some real property has been included which is not specially benefited or damaged;

then it shall fix a date for an additional hearing. Notice of the additional hearing shall be given by publication in accordance with IC 5-3-1 and by certified mail at least twenty (20) days before the hearing to the owners in an area proposed to be added to the district that was not included in the initial petition. The notice must describe the proposed revised boundaries. At the additional hearing, all owners of real property or their representatives within the proposed district boundaries, as revised, may be heard, after which the

commission shall adopt its resolution on establishment of the improvement and maintenance district.

(g) Adoption of a resolution under this section constitutes notice to all owners who have appeared, or who have been notified of the proceedings, as provided in this section, that their property will be subject to an assessment of special benefits and damages as provided in this chapter.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-10

Approval of resolution by legislative body of city; finality of resolution

Sec. 10. (a) A resolution of the commission that establishes an improvement and maintenance district must be approved by the legislative body of the city.

(b) After this approval, the resolution is final and conclusive, and no attack may be made challenging the resolution or the establishment of the improvement and maintenance district, the sufficiency of notice, the existence of the improvement and maintenance district, the public utility and benefit of the proposed improvement and maintenance project, that the benefits equal or exceed the estimated cost or limitation on the assessment levy, the appropriateness of the formula to be used for assessing special benefits and damages, the boundaries of the district, or any other matters before the commission, unless an appeal is taken as provided in section 12 of this chapter.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-11

Recording copy of resolution

Sec. 11. A copy of the resolution establishing an improvement and maintenance district, certified by the clerk of the legislative body, shall be recorded in the miscellaneous records in the office of the recorder of the county in which the city is located.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-12

Appeals

Sec. 12. Any party aggrieved by a resolution adopted under this chapter may appeal. This appeal must be taken as provided in IC 34-13-6.

As added by P.L.194-1988, SEC.1. Amended by P.L.1-1998, SEC.209.

IC 36-7-15.5-13

Amendment of resolution

Sec. 13. Changes in a resolution governing an improvement and maintenance district may be made by the commission, with the approval of the legislative body. The commission shall follow the procedure for establishment of a district prescribed by this chapter

when amending the resolution. However, the content of notices must be appropriate to the nature of the amendment. In considering the amendment, the commission shall use the standards set forth in section 9(b) of this chapter. However, if the improvement and maintenance project is not significantly changed, and if the area of the improvement and maintenance project is not proposed to be changed, it is not necessary to make the determination set forth in section 9(b)(5) of this chapter.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-14

Annual assessment of benefits and damages; schedule; limitation on assessments

Sec. 14. (a) The commission may make an annual assessment of benefits and damages within an improvement and maintenance district for the purpose of defraying part or all of the cost of an improvement and maintenance project. The assessment of benefits and damages must comply with the formula contained in the resolution establishing the district.

(b) The commission shall annually prepare a schedule that describes each parcel of real property in an improvement and maintenance district that it determines to be benefited by the improvement and maintenance project, and states the percentage of the total benefit that is received by each parcel of real property.

(c) The commission may retain or employ qualified personnel for necessary technical or consulting assistance.

(d) After determining under subsection (b) the percentage of benefit that is received by each parcel of real property, the commission shall consider the fiscal needs of the improvement and maintenance district that need to be defrayed by the assessment of special benefits, and shall apply the percentage for each parcel as determined under subsection (b) to the total amount that is to be defrayed by special assessment, and determine the assessment for each parcel.

(e) The total of the assessments established under subsection (d) may not exceed either:

- (1) the sum of the amount set out in or proposed for the budget of the improvement and maintenance district; or
- (2) the amount of any limitation on the assessment that would be levied as set forth in the resolution that established the improvement and maintenance district.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-15

Districts on which development initiated between November 1, 1985, and June 30, 1988; payment of assessments

Sec. 15. (a) This section applies to a parcel in an improvement and maintenance district on which development is initiated between November 1, 1985, and June 30, 1988, in accordance with a project agreement executed before June 30, 1988, under IC 36-7-15.1 that

provides a maximum limitation on the amount of the special benefit assessment that the owner will be obligated to pay.

(b) For those parcels, the department may pay each year to the fund the amount by which the assessment amount on the parcel exceeds the maximum assessment amount specified in the project agreement.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-16

Property owned by state or municipal corporation; payment of assessments; charges; services as payment

Sec. 16. (a) If property located within an improvement and maintenance district is owned and used by the state or any municipal corporation, the commission shall determine the amount that would be levied as an assessment for the property under section 14 of this chapter and provide this information to the governor or the executive of the municipal corporation. The state or the municipal corporation may choose to pay an amount equal to the assessment. The state or the municipal corporation shall indicate no later than forty-five (45) days after receiving this information in writing from the commission whether or not it will pay this amount. If it indicates in writing that it will pay this amount, it shall pay the amount. If it does not obligate itself to pay the amount, the department is responsible for payment of this amount. However, the department may charge the state or the municipal corporation:

(1) for expenses incurred in carrying out the improvement and maintenance project on or relative to land owned and used by the state or the municipal corporation; and

(2) a reasonable sum for allowing the introduction into the canal of any geothermal discharge water from properties owned and used by the state or the municipal corporation.

(b) If the department and the state or the municipal corporation do not agree on the amount that should be charged under subsection (a)(1) and (a)(2), the amount shall be determined by a three (3) person committee consisting of a representative of the governor or the executive of the municipal corporation (whichever is involved in the disagreement), a representative of the department, and a third person mutually agreed upon by those two (2) representatives.

(c) If the commission and the state or the municipal corporation agree, the state or the municipal corporation may provide specified services in part or all of the improvement and maintenance district as a substitute for paying part or all of the amount identified under subsection (a).

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-17

Notice of proposed assessment; mailing to parcel owner; hearing on remonstrance; finality of decision; appeal

Sec. 17. (a) Promptly after determining the proposed assessment for each parcel, the commission shall mail notice (first class postage

prepaid) to each owner of property to be assessed. This notice must:

- (1) set forth the amount of the proposed assessment;
- (2) state that the proposed assessment on each parcel of real property in the improvement and maintenance district is on file and can be seen in the commission's office;
- (3) state the time and place where written remonstrances against the assessment may be filed;
- (4) set forth the time and place where the commission will hear any owner of assessed real property who has filed a remonstrance before the hearing date; and
- (5) state that the commission, after hearing evidence, may increase or decrease, or leave unchanged, the assessment on any parcel.

(b) The notices must be deposited in the mail twenty (20) days before the hearing date. The notices to the owners must be addressed as the names and addresses appear on the tax duplicates and the records of the county auditor.

(c) At the time fixed in the notice, the commission shall hear any owner of assessed real property who has filed a written remonstrance before the date of the hearing. The hearing may be continued from time to time as long as is necessary to hear the owners. The commission may utilize a hearing officer (who may be an employee of the city) to hear evidence regarding any parcel of real property about which a written remonstrance has been filed and to make a written recommendation of decision to the commission.

(d) The commission shall render its decision by increasing, or decreasing, or by confirming each assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the commission. However, if the total of the assessments exceeds the amount needed, the commission shall make a prorated reduction in each assessment.

(e) The signing of the assessment schedule by a majority of the members of the commission, and the delivery of the schedule to the fiscal officer of the city, constitutes a final and conclusive determination of the benefits or damages, if any, that are assessed. However, any owner who had previously filed a written remonstrance (as provided in this chapter) with the commission, or any owner whose assessment was increased above the amount determined by the formula (whether the owner filed a written remonstrance or not) may appeal. This appeal must be taken as provided in IC 34-13-6, and proceed to trial, hearing, and final judgment as provided in IC 34-13-6 for all parties.

As added by P.L.194-1988, SEC.1. Amended by P.L.1-1998, SEC.210.

IC 36-7-15.5-18

Assessment as lien; priority

Sec. 18. Each assessment is a lien on the real property that is assessed, second only to taxes levied on that property.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-19**Transmission of schedule of assessments; entry on tax duplicates; collection**

Sec. 19. The commission shall annually transmit to the county auditor the schedule of assessments of benefits. The county auditor shall enter the assessments of benefits on the tax duplicates. The county treasurer shall collect and enforce the amount of the assessed benefit in the same manner that property taxes are entered, collected, and enforced.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-20**Notice of collected assessments; credit of amounts**

Sec. 20. The county treasurer shall, between the first and tenth days of each month, notify the commission regarding the amount of the assessment collected during the preceding month. On the date of this notification, the county treasurer shall credit the amounts collected to the improvement and maintenance district fund, as established by this chapter.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-21**Improvement and maintenance district fund; establishment; deposits and expenditures**

Sec. 21. (a) After an improvement and maintenance district is established under this chapter, the legislative body may establish an improvement and maintenance district fund (referred to in this chapter as the "fund").

(b) The following shall be deposited in the fund:

- (1) Money resulting from the assessment levy imposed in accordance with this chapter.
- (2) Any appropriation made by the legislative body.
- (3) Financial contributions from the state or any municipal corporation received under section 16 of this chapter.
- (4) Financial contributions from any source.

(c) Expenditures from the fund may be made only by appropriation of the legislative body.

(d) Money in the fund may not be expended for any activity other than those set forth in the resolution establishing the improvement and maintenance district.

(e) Money in the fund shall be deposited with the depository for other public funds of the city in accordance with the statutes concerning the deposit of public funds, unless they are invested under IC 5-13. All interest collected belongs to the fund.

As added by P.L.194-1988, SEC.1.

IC 36-7-15.5-22**Powers and duties of commission**

Sec. 22. (a) The commission is responsible for taking certain official actions that are necessary to carry out an improvement and

maintenance project as set forth in the resolution establishing the district or as provided in this chapter.

(b) The commission may, with respect to the improvement and maintenance project or the improvement and maintenance district, do the following:

- (1) Sue and be sued.
- (2) Adopt administrative procedures and bylaws.
- (3) Approve the acquisition of property (real, personal, or mixed) by deed, purchase, lease, condemnation, or otherwise and dispose of it for improvement and maintenance project purposes.
- (4) Approve receipt of gifts, donations, bequests, and public trusts, agree to conditions and terms accompanying them, and bind the district to carry them out.
- (5) Negotiate and execute contracts required to accomplish the purposes of this chapter.
- (6) Approve disbursements from the fund.

(c) The commission may, by resolution, delegate to a city official the authority to approve, where the amount involved is less than five thousand dollars (\$5,000), acquisition or disposition of property, disbursements, and contracts.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.47.

IC 36-7-15.5-23

Duties of department; power of director

Sec. 23. (a) The department shall take all actions necessary to carry out the improvement and maintenance project set forth in the resolution establishing the district.

(b) The director of the department may, with respect to the improvement and maintenance project or the improvement and maintenance district, do the following:

- (1) Prepare and submit a budget as required by IC 36-3-6-4(b).
- (2) Establish operational procedures.
- (3) Approve the hiring and dismissal of personnel, subject to limitations prescribed by law and rules adopted by the mayor.
- (4) Delegate to personnel of the department authority to act on the director's behalf.
- (5) Assign tasks to employees of the department and supervise the carrying out of those responsibilities.
- (6) Approve and execute legal instruments, subject to limitations prescribed by law.
- (7) Approve or disapprove disbursement of funds, subject to limitations prescribed by law.
- (8) Accept assistance from state or federal agencies for the purposes of this chapter.
- (9) Negotiate agreements with an agency of the state, or any of its political subdivisions, or any private company for the rendition of any services, the rental or use of any equipment or facilities, or the joint purchase and use of any equipment or facilities considered proper by the contracting parties for use in

the operation, maintenance, or construction of the improvement and maintenance project.

(10) Purchase supplies, materials, and equipment in accordance with law and procedures of the city.

(11) Sell any surplus or unneeded property in accordance with law and procedures of the city.

(12) Exercise other powers necessary to carry out the purposes of the district.

As added by P.L.194-1988, SEC.1. Amended by P.L.2-1989, SEC.48.

IC 36-7-15.5-24

Advisory board

Sec. 24. (a) The commission may establish and select the members of an advisory board to assist the commission in governing the improvement and maintenance district. The commission shall determine:

(1) the size and composition of the board; and

(2) the powers and duties of the board.

(b) More than one-half (1/2) of the members of the board must be property owners in the improvement and maintenance district.

As added by P.L.194-1988, SEC.1.