

IC 36-7.5-2

Chapter 2. Development Authority and Board

IC 36-7.5-2-1

Establishment

Sec. 1. The northwest Indiana regional development authority is established as a separate body corporate and politic to carry out the purposes of this article by:

- (1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article in accordance with IC 36-7.5-3-1.5;
- (2) funding and developing the Gary/Chicago International Airport expansion and other airport authority projects, commuter transportation district and other rail projects and services, regional bus authority projects and services, regional transportation authority projects and services, Lake Michigan marina and shoreline development projects and activities, and economic development projects in northwestern Indiana; and
- (3) assisting with the funding of infrastructure needed to sustain development of an intermodal facility in northwestern Indiana.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.54; P.L.197-2011, SEC.150; P.L.192-2015, SEC.9.

IC 36-7.5-2-2

Power in eligible counties and eligible municipalities

Sec. 2. The development authority may carry out its powers and duties under this article in the following:

- (1) An eligible county.
- (2) An eligible municipality.

As added by P.L.214-2005, SEC.73. Amended by P.L.182-2009(ss), SEC.422.

IC 36-7.5-2-3

Development board; members

Sec. 3. (a) The development authority is governed by the development board appointed under this section.

(b) Except as provided in subsections (e), (f), and (h), the development board is composed of the following seven (7) members:

- (1) Two (2) members appointed by the governor. One (1) of the members appointed by the governor under this subdivision must be an individual nominated under subsection (d). The members appointed by the governor under this subdivision serve at the pleasure of the governor.
- (2) The following members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):
 - (A) One (1) member appointed by the mayor of the largest city in the county in which a riverboat is located.

(B) One (1) member appointed by the mayor of the second largest city in the county in which a riverboat is located.

(C) One (1) member appointed by the mayor of the third largest city in the county in which a riverboat is located.

(D) One (1) member appointed jointly by the county executive and the county fiscal body. A member appointed under this clause may not reside in a city described in clause (A), (B), or (C).

(3) One (1) member appointed jointly by the county executive and county fiscal body of a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000).

(c) A member appointed to the development board must have knowledge and at least five (5) years professional work experience in at least one (1) of the following:

(1) Rail transportation or air transportation.

(2) Regional economic development.

(3) Business or finance.

(d) The mayor of the largest city in a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000) shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's initial appointments under subsection (b)(1) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's appointments under subsection (b)(1) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) individuals from among whom the governor shall make an appointment under subsection (b)(1) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(e) A county having a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000) shall be an eligible county participating in the development authority if the fiscal body of the county adopts an ordinance before September 15, 2006, providing that the county is joining the development authority and the fiscal body of a city that is located in the county and that has a population of more than thirty-one thousand (31,000) but less than thirty-one thousand five hundred (31,500) adopts an ordinance before September 15, 2006, providing that the city is joining the development authority. Notwithstanding subsection (b), if ordinances are adopted under this subsection and the county becomes an eligible county participating in the development authority:

(1) the development board shall be composed of nine (9) members rather than seven (7) members; and

(2) the additional two (2) members shall be appointed in the

following manner:

(A) One (1) additional member shall be appointed by the governor and shall serve at the pleasure of the governor. The member appointed under this clause must be an individual nominated under subsection (f).

(B) One (1) additional member shall be appointed jointly by the county executive and county fiscal body.

(f) This subsection applies only if the county described in subsection (e) is an eligible county participating in the development authority. The mayor of the largest city in the county described in subsection (e) shall nominate three (3) residents of the county for appointment to the development board. The governor's initial appointment under subsection (e)(2)(A) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county described in subsection (e) shall nominate three (3) residents of the county for appointment to the development board. The governor's second appointment under subsection (e)(2)(A) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) individuals from among whom the governor shall make an appointment under subsection (e)(2)(A) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(g) An individual or entity required to make an appointment under subsection (b) or nominations under subsection (d) must make the initial appointment before September 1, 2005, or the initial nomination before August 15, 2005. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2005, or the initial nominations required under subsection (d) before September 1, 2005, the governor shall instead make the initial appointment.

(h) Subsection (i) applies only to municipalities located in a county that:

(1) has a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000); and

(2) was a member of the development authority on January 1, 2009, and subsequently ceases to be a member of the development authority.

(i) If the fiscal bodies of at least two (2) municipalities subject to this subsection adopt ordinances to become members of the development authority, those municipalities shall become members of the development authority. If two (2) or more municipalities become members of the development authority under this subsection, the fiscal bodies of the municipalities that become members of the development authority shall jointly appoint one (1) member of the development board who shall serve in place of the member described in subsection (b)(3). A municipality that becomes a member of the development authority under this subsection is considered an eligible

municipality for purposes of this article.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.55; P.L.1-2007, SEC.241; P.L.182-2009(ss), SEC.423; P.L.119-2012, SEC.216.

IC 36-7.5-2-4

Development board; terms of members; vacancy; oath; compensation

Sec. 4. (a) Except as provided in subsection (b) for the initial appointments to the development board, a member appointed to the development board serves a four (4) year term. However, a member serves at the pleasure of the appointing authority. A member may be reappointed to subsequent terms.

(b) The terms of the initial members appointed to the development board are as follows:

(1) The initial member appointed by the governor who is not nominated under section 3(d) or 3(f) of this chapter shall serve a term of four (4) years.

(2) The initial member appointed by the governor who is nominated under section 3(d) of this chapter shall serve a term of two (2) years. If a member is appointed under section 3(e)(2)(A) of this chapter, the initial member who is appointed under that provision shall serve a term of two (2) years.

(3) The initial member appointed under section 3(b)(2)(D) of this chapter shall serve a term of three (3) years.

(4) The initial member appointed under section 3(b)(3) of this chapter shall serve a term of three (3) years.

(5) The initial members appointed under section 3(b)(2)(A) through 3(b)(2)(C) of this chapter shall serve a term of two (2) years.

(6) If a member is appointed under section 3(e)(2)(B) of this chapter, the initial member appointed under that provision shall serve a term of three (3) years.

(c) If a vacancy occurs on the development board, the appointing authority that made the original appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) Each member appointed to the development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(e) A member appointed to the development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.56.

IC 36-7.5-2-5

Chair; officers

Sec. 5. (a) The member appointed by the governor under section 3(b)(1) of this chapter but not nominated under section 3(d) or 3(f) of this chapter shall serve as chair of the development board until January 2013. At the election under subsection (b) in 2013 and each year thereafter, the chair shall be elected from among the members of the development board.

(b) In January of each year, the development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

(1) After December 31, 2012, a chair.

(2) A vice chair.

(3) A secretary-treasurer.

(c) Not more than two (2) members from any particular county may serve as an officer described in subsection (a) or elected under subsection (b). The affirmative vote of at least five (5) members of the development board is necessary to elect an officer under subsection (b). However, if the county described in section 3(e) of this chapter is an eligible county participating in the development authority, the affirmative vote of at least six (6) members of the development board is necessary to elect an officer under subsection (b).

(d) An officer elected under subsection (b) serves from the date of the officer's election until the officer's successor is elected and qualified.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.57.

IC 36-7.5-2-6

Meetings; quorum; affirmative votes; proxies prohibited

Sec. 6. (a) The development board shall meet at least quarterly.

(b) The chair of the development board or any two (2) members of the development board may call a special meeting of the development board.

(c) Five (5) members of the development board constitute a quorum. However, if the county described in section 3(e) of this chapter is an eligible county participating in the development authority, six (6) members of the development board constitute a quorum.

(d) The affirmative votes of at least five (5) members of the development board are necessary to authorize any action of the development authority. However, if the county described in section 3(e) of this chapter is an eligible county participating in the development authority, the affirmative votes of at least six (6) members of the development board are necessary to authorize any action of the development authority.

(e) Notwithstanding any other provision of this article, the minimum number of affirmative votes required under subsection (d)

to take any of the following actions must include the affirmative vote of the member appointed by the governor who is not nominated under section 3(d) or 3(f) of this chapter:

- (1) Making loans, loan guarantees, or grants or providing any other funding or financial assistance for projects.
 - (2) Acquiring or condemning property.
 - (3) Entering into contracts.
 - (4) Employing an executive director or any consultants or technical experts.
 - (5) Issuing bonds or entering into a lease of a project.
- (f) A member of the board may not:
- (1) designate another individual to attend a board meeting on behalf of the member in the member's absence; or
 - (2) allow another member of the board to cast a proxy vote on behalf of the member in the member's temporary absence from a meeting.

As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.58; P.L.192-2015, SEC.10.

IC 36-7.5-2-7

Bylaws and rules

Sec. 7. The development board may adopt the bylaws and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property.

As added by P.L.214-2005, SEC.73.

IC 36-7.5-2-8

Public purchasing and public works project laws apply

Sec. 8. (a) The development authority must comply with IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations. An eligible political subdivision that receives a loan, a grant, or other financial assistance from the development authority or enters into a lease with the development authority must comply with applicable federal, state, and local public purchasing and bidding law and regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of an eligible political subdivision may:

- (1) assign or sell a lease for property to the development authority; or
- (2) enter into a lease for property with the development authority;

at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and

responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by the authority, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

As added by P.L.214-2005, SEC.73. Amended by P.L.252-2015, SEC.48.

IC 36-7.5-2-9

Annual financial audit

Sec. 9. The office of management and budget shall contract with a certified public accountant for an annual financial audit of the development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to the development authority. The certified public accountant shall present an audit report not later than four (4) months after the end of the development authority's fiscal year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period. The development authority shall pay the cost of the annual financial audit. In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of the development authority. The development authority shall pay the cost of any audit by the state board of accounts.

As added by P.L.214-2005, SEC.73.