

CHAPTER 2

CONSERVANCY DISTRICTS

This chapter is designed to summarize certain laws and regulations relevant to conservancy districts. Please refer to the Indiana Code and other related documents for a complete listing of laws and regulations governing conservancy districts. See chapters 10 through 23 of this manual for additional Accounting and Uniform Compliance Guidelines.

PURPOSES OF A DISTRICT

A conservancy district may be established for any of the following purposes:

1. Flood prevention and control.
2. Improving drainage.
3. Providing for irrigation.
4. Providing water supply, including treatment and distribution, for domestic, industrial, and public use.
5. Providing for the collection, treatment, and disposal of sewage and other liquid wastes.
6. Developing forests, wildlife areas, parks, and recreational facilities if feasible in connection with beneficial water management.
7. Preventing the loss of topsoil from injurious water erosion.
8. Storage of water for augmentation of stream flow.
9. Operation, maintenance, and improvement of:
 - A. a work of improvement for water based recreational purposes; or
 - B. other work of improvement that could have been built for any other purpose authorized by IC 14-33-1-1.

ESTABLISHMENT

IC 14-33-2 lists the procedures to establish a district through petition of the circuit court.

BOUNDARIES

IC 14-33-3 and IC 14-33-4 contain the regulations over determining the district's boundaries. IC 14-33-3-1 allows for a city or town to be included within such boundaries.

BOARD OF DIRECTORS – COMPENSATION AND TRAVEL EXPENSE REIMBURSEMENT

Regarding compensation of members of the board of directors, IC 14-33-5-16 states:

“(a) Except as provided in subsection (b), upon approval of the initial district plan, the directors are entitled to compensation in an amount that the court orders, but not to exceed:

- (1) one hundred dollars (\$100) for not more than two (2) regular or specially called board meetings per month; and
- (2) fifty dollars (\$50) for not more than five (5) days per month devoted to the work of the district in addition to any day for which payment is received under subdivision (1). In addition, the directors shall be reimbursed for actual expenses, including traveling expense at a rate equal to the rate paid to state officers and employees. Claims for expense reimbursement must be accompanied by an itemized written statement approved by a recorded motion of the board.

(b) At any time after all directors have been elected to the board, the directors may receive an increase in compensation up to a reasonable amount that is:

- (1) approved by a majority vote of the board of directors; and
- (2) authorized by a court order.

(c) An increase in compensation authorized under subsection (b) may not be based upon an increase of any tax, assessment, rates, or charges by the district.

(d) In addition to any compensation the directors may receive under subsection (b), the directors shall be reimbursed for actual expenses, including traveling expenses, at a rate equal to the rate paid to state officers and employees. Claims for expense reimbursement must be accompanied by an itemized written statement approved by a recorded motion of the board of directors.”

The current mileage rate allowed to state officers and employees is forty-four cents (44¢) per mile.

BOARD OF DIRECTORS - APPOINTMENTS

The board may appoint, prescribe the duties, and fix the compensation of the following:

1. A secretary.
2. A financial clerk.
3. An engineer.
4. Employees that are necessary for the discharge of duties and responsibilities of the board.
[IC 14-33-5-18(a)]

OFFICIAL BOND - FINANCIAL CLERK

A financial clerk shall execute a surety bond in the manner prescribed by IC 5-4-1. [IC 14-33-5-18(b)]

BOARD OF DIRECTORS - CONTRACTS AND LEASES

The board may make contracts for the following:

1. Special and temporary services, including professional counsel.
2. Leases of land to a provider of commercial mobile service (as defined in 47 U.S.C. 332) that allows for the construction, use, and maintenance of a tower that is used for telecommunications purposes. [IC 14-33-5-18(c)]

DUTIES OF THE BOARD

The board shall do the following:

1. Exercise general supervision of and make regulations for the administration of the affairs of the district.
2. Prescribe uniform rules pertaining to investigations and hearings.
3. Supervise the fiscal affairs and responsibilities of the district.
4. Prescribe the qualifications of, appoint, remove, and fix the compensation of the employees of the district. The compensation must be reasonable and similar in amount to the compensation allowed employees performing similar service for the state and political subdivisions of the state. The board may delegate to employees authority to perform ministerial acts in all cases except where final action of the board is necessary.
5. Keep an accurate and complete record of all district proceedings and record and file all bonds and contracts, assuming responsibility for the custody and preservation of all papers and documents of the district.
6. Make an annual report to the court of income and expenses. The report must be submitted not later than thirty (30) days after the annual meeting and may include any of the following:
 - A. A statement of the progress in accomplishing each purpose for which the district is established.
 - B. Recommendations for amendment to the district plan.
 - C. Any matter that the board believes should be brought to the attention of the court for instructions or approval.
7. Adopt a seal and certify all official acts.
8. Sue and be sued collectively by the legal name “_____ Conservancy District,” with service of process made on the chairman of the board. However, costs may not be taxed against the directors individually in an action.
9. Invoke any legal, equitable, or special remedy for the enforcement of this article or of any proper action of the board in a court.
10. If advisable, establish an advisory committee.

11. Exercise the powers granted under IC 14-33 to accomplish each purpose for which the district is established.
12. If a purpose of the district is the construction or maintenance of a levee in cooperation with the United States Secretary of the Army, divide, by resolution, the levee into maintenance sections and make assignment of each section to a director who must be a resident freeholder near the maintenance section. The director shall, upon assignment, supervise and assist in the maintenance of the assigned maintenance section.
13. Protect against encroachment by a stream. The board may, alone or in cooperation with state or federal agencies, do whatever is necessary to provide bank stabilization for the protection of the works of improvement of the district.
14. Insure property, personnel, and operations of the district against risks and in amounts that the board determines necessary to protect the district. [IC 14-33-5-20]

PRIOR APPROVAL OF EXPENSES

Claims may be paid in advance of allowance by the board of directors under the process established in IC 14-33-5-20.5, which reads as follows:

“(a) A board may adopt a resolution allowing money to be disbursed for lawful district purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board, the financial clerk of the district may make claim payments in advance of board allowance for the following kinds of expenses if the board has adopted a resolution under subsection (a):

- (1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
- (2) License or permit fees.
- (3) Insurance premiums.
- (4) Utility payments or utility connection charges.
- (5) General grant programs for which advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
- (6) Grants of state funds authorized by statute.
- (7) Maintenance or service agreements.
- (8) Leases or rental agreements.
- (9) Bond or coupon payments.
- (10) Payroll.
- (11) State or federal taxes.
- (12) Expenses that must be paid because of emergency circumstances.
- (13) Expenses described in a resolution.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the financial clerk of the district.

(d) The board shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.”

ISSUANCE OF REVENUE BONDS

If the board issues revenue bonds for the collection, treatment, and disposal of sewage and liquid waste, the board may do the following:

1. Establish just and equitable rates and charges and use the same basis for the rates as provided in IC 36-9-23-25 through IC 36-9-23-29.
2. Collect and enforce the rates, beginning with the commencement of construction as provided in IC 36-9-23.
3. Establish rules and regulations.
4. Require connection to the board's sewer system of any property producing sewage or similar waste and require discontinuance of use of privies, cesspools, septic tanks, and similar structures. The board may enforce this requirement by civil action in circuit or superior court as provided in IC 36-9-23-30.
5. Provide for and collect a connection charge to the board's sewer system as provided in IC 36-9-23-25 through IC 36-9-23-29.
6. Contract for treatment of the board's sewage and pay a fair and reasonable connection fee or rate for treatment, or a combination of both, as provided in IC 36-9-23-16.
7. Secure the bonds by a trust indenture as provided in IC 36-9-23-22.
8. Create a sinking fund for the payment of principal and interest and accumulate reasonable reserves as provided in IC 36-9-23-21.
9. Issue temporary revenue bonds to be exchanged for definite revenue bonds as provided in IC 36-9-23-17 through IC 36-9-23-20.
10. Issue additional revenue bonds as part of the same issue if the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.
11. Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.
12. Covenant with the holders of the revenue bonds for the following:
 - A. Protection of the holders concerning the use of money derived from the sale of bonds.
 - B. The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.
 - C. Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statute as provided in IC 36-9-23. [IC 14-33-5-21(a)]

RATES OR CHARGES AS LIEN - SEWAGE DISPOSAL

In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

1. attach;
2. are recorded;
3. are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and
4. shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32. [IC 14-33-5-21(b)]

CAMPGROUNDS – RATES FOR SEWAGE SERVICE

Special provisions for sewage service billing to campgrounds are established in IC 14-33-5-21.1, which reads as follows:

“(a) This section applies to a campground that:

- (1) is connected with the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5); or
- (2) uses or is served by the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5).

(b) Beginning September 1, 2009, if a campground is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. If a campground elects to be billed by use of a meter:

- (1) the rate charged by the district's board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and
- (2) the amount charged by the board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:
 - (A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or
 - (B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, for a calendar year beginning after December 31, 2009, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

- (1) the installation of
 - (A) oversized pipe; or
 - (B) any other unique equipment;
 necessary to provide sewage service for the campground; and
- (2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards."

CAMPGROUNDS – RATE DISPUTES

IC 14-33-5-21.2 establishes the process by which the owner or operator of a campground may file a request for a review of rates charged with the Indiana Utility Regulatory Commission.

DISTRICT PLAN

IC 14-33-6 requires a conservancy district to file a district plan with the court. Any amendments to the plan must be approved by the court.

POWERS AND DUTIES OF BOARD

The board shall place the district plan in operation by constructing all works and maintaining the works in accordance with the district plan. If necessary to discharge these responsibilities, the board may do the following:

1. Levy taxes on the real property in the district.
2. Make assessments on the real property in the district, except the property that is exempt under IC 14-33-7-4, for exceptional benefits to the property and further assessments pro rata for maintenance and operation of the works of improvement.
3. Issue bonds and short and long term notes.
4. Incur other debts and liabilities.
5. Exercise the power of eminent domain, both inside and outside the boundaries of the district, in accordance with this article or another eminent domain statute. In the exercise of this power, due care shall be taken to minimize interference with other public interests involved.

6. Make payments for the fair value of all property taken under eminent domain proceedings, and in cases that are appealed, make the payments into court and proceed promptly in placing the district plan in operation.
7. Institute any type of civil legal proceedings in a court having jurisdiction over the person or property in question.
8. Purchase or rent property.
9. Sell services or property that are produced incident to the district plan at a fair and reasonable price.
10. Make contracts or otherwise enter into agreements with persons or federal, state, or local governmental agencies for construction, maintenance, operation, or security of any part of the district.
11. Receive and disburse money.
12. Lease land and other assets to municipalities, counties, and park boards of municipalities or counties, with the term and annual rental adequate to meet the district's repayment schedule for financing, if any, of the land and other assets leased. Municipalities, counties, and park boards of municipalities or counties may enter into leases without limitations of other statutes regarding the receipt of petitions, the duration of the term of the lease, or the distance of the land and other assets from the corporate boundaries. The municipalities, counties, and park boards may enter into leases:
 - A. for terms as long as fifty (50) years;
 - B. at locations that the municipalities, counties, and park boards determine would benefit the municipalities or counties; and
 - C. upon terms, conditions, and covenants that are fair and reasonable. The board may pledge the rental income from the lease as revenue for services or property produced incident to the operation of the district.
13. Perform necessary construction and maintenance work as follows:
 - A. Outside the district.
 - B. Outside Indiana if:
 - (i) there is voluntary agreement on the part of persons outside Indiana; and
 - (ii) the work will confer benefits to the real property in the district in excess of costs and damages to be paid by the district. [IC 14-33-6-13]

SPECIAL BENEFITS TAX

All the real property in the district, except the property that is exempt under IC 14-33-7-4, constitutes a taxing district for the purpose of levying special benefit taxes to pay for the following:

1. The expenses of establishing the district.
2. General preliminary and administrative expenses.

3. The expenses of preparing the district plan.
4. The expenses of putting the district plan into operation by constructing the necessary works.
5. The expenses of operating and maintaining the district.

The special tax must equal the amount of benefits received and must be based on return for the benefits. [IC 14-33-7-1] The special benefits tax rate may not exceed six and sixty-seven hundredths cents (\$0.0667) on each one hundred dollars (\$100) of assessed valuation of property in the taxing district. [IC 14-33-7-3]

The following property owned by or held in trust for the use of a church or religious society is generally exempt from a special benefits tax:

1. A building that is used for religious worship.
2. A building that is used as a parsonage.
3. The pews and furniture contained within a building that is used for religious worship.
4. The land upon which a building that is used for religious worship is situated.
5. The land, not exceeding fifteen (15) acres, upon which a building that is used as a parsonage is situated. [IC 14-33-7-4]

ADDITIONAL REVENUE

The expenses and obligations of the district may also be paid from any of the following:

1. The receipt of gifts from any source.
2. The receipt of money from the federal or state government.
3. The receipt of revenue from the sale of services or property produced incident to the accomplishment of a purpose for which the district is established.
4. The collection of assessments from land that receives exceptional benefits from the operation of the district plan.
5. The collection of assessments for maintenance and operation of the works of improvement. [IC 14-33-7-5]

COSTS OF ESTABLISHING DISTRICT

To pay the costs of establishing a district, including general, legal, and administrative costs and costs incident to preparing the district plan, money may be obtained from one (1) or a combination of the following methods:

1. Gifts, loans, or grants from a state or federal agency, or both.
2. Gifts from any source.
3. The collection of the special benefit tax.

4. Borrowing from private or public sources in anticipation of the collection of the tax.
5. Advances from the general fund of the county under section 15 of this chapter.
6. Borrowing from the economic development fund created by IC 5-28-8 for any of the purposes in IC 14-33-1-1.
7. Borrowing from the flood control revolving fund created by IC 14-28-5 for any of the purposes in IC 14-33-1-1.

All persons, agencies, and departments charged with the administration and supervision of funds such as those created by IC 5-28-8 and IC 14-28-5 may make loans and advances to a district. The procedures, terms, and conditions of the loans must be the same as provided in the statutes establishing the funds but shall be modified and supplemented to fit this article to facilitate the financing of districts.

This section does not preclude the borrowing of money for the following:

1. Establishing the district.
2. General, legal, and administrative costs.
3. Costs incident to preparing the district plan in conjunction with borrowing of money to pay construction costs. [IC 14-33-7-7]

ISSUANCE OF NOTES

In anticipation of the money to be received from any source, a board may borrow money by issuing notes. The notes must mature in not more than two (2) years and may be renewed for periods of not more than two (2) years. The borrowing may be by direct negotiation with a bank or savings association licensed to do business in Indiana or an agent of the state or federal government. [IC 14-33-7-14]

BUDGET AND TAX LEVY PROCEDURES

Except as provided in IC 6-1.1-17-20, the budget of a district:

1. must be prepared and submitted:
 - A. at the same time;
 - B. in the same manner; and
 - C. with notice;
 as is required by statute for the preparation of budgets by municipalities; and
2. is subject to the same review by:
 - A. the county board of tax adjustment; and
 - B. the department of local government finance;
 as is required by statute for the budgets of municipalities.

If a district is established in more than one (1) county:

1. except as provided in subsection (c), the budget shall be certified to the auditor of the county in which is located the court that had exclusive jurisdiction over the establishment of the district; and
2. notice must be published in each county having land in the district. Any taxpayer in the district is entitled to be heard before the county board of tax adjustment and, after December 31, 2008, the fiscal body of each county having jurisdiction.

If one (1) of the counties in a district contains either a first or second class city located in whole or in part in the district, the budget:

1. shall be certified to the auditor of that county; and
2. is subject to review at the county level only by the county board of tax adjustment and, after December 31, 2008, the fiscal body of that county.

IC 6-1.1-17-20 states:

“(a) This section applies to each governing body of a taxing unit that is not comprised of a majority of officials who are elected to serve on the governing body. For purposes of this section, an individual who qualifies to be appointed to a governing body or serves on a governing body because of the individual's status as an elected official of another taxing unit shall be treated as an official who was not elected to serve on the governing body.

(b) As used in this section, “taxing unit” has the meaning set forth in IC 6-1.1-1-21, except that the term does not include a public library or an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) If:

- (1) the assessed valuation of a taxing unit is entirely contained within a city or town; or
- (2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted to the city or town fiscal body in the manner prescribed by the department of local government finance before September 2 of a year. However, in the case of a public library that is subject to this section and is described in subdivision (2), the public library shall submit its proposed budget and property tax levy to the county fiscal body in the manner provided in subsection (d), rather than to the city or town fiscal body, if more than fifty percent (50%) of the parcels of real property within the jurisdiction of the public library are located outside the city or town.

(d) If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted to the county fiscal body in the manner prescribed by the department of local government finance before September 2 of a year.

(e) The fiscal body of the city, town, or county (whichever applies) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

(f) If a taxing unit fails to file the information required in subsection (c) or (d), whichever applies, with the appropriate fiscal body by the time prescribed by this section, the most recent annual appropriations and annual tax levy of that taxing unit are continued for the ensuing budget year.

(g) If the appropriate fiscal body fails to complete the requirements of subsection (e) before the adoption deadline in section 5 of this chapter for any taxing unit subject to this section, the most recent annual appropriations and annual tax levy of the city, town, or county, whichever applies, are continued for the ensuing budget year.”

OPERATION AND MAINTENANCE EXPENSES

The board shall budget annually the necessary money to meet the probable expenses of operation and maintenance of the district, including the following:

1. Repairs.
2. Fees.
3. Salaries.
4. Depreciation on all depreciable assets.
5. Rents.
6. Supplies.

Subject to any budget review and approval required under this chapter, the board may add not more than ten percent (10%) of the total for contingencies. [IC 14-33-9-2]

COLLECTION OF TAXES

The county auditor of each county containing land in a district shall enter the tax levy on the tax records of the county treasurer for collection. The tax shall be collected and distributed in the same manner as property taxes. [IC 14-33-9-5]

BONDS

The board may issue bonds to pay for:

1. the cost of the works that are provided in the district plan;
2. necessary engineering, legal, and administrative fees; or
3. the repayment or refinancing of a loan. [IC 14-33-11-1]

The total amount of bonds issued may not exceed the cost less:

1. money on hand from the collection of assessments; or
2. money on hand or obligated to the district by the state or federal government. [IC 14-33-11-2]

Bonds may be issued solely against the revenues expected to be produced by the operation of the district or against the real property of the district in anticipation of the collection of special benefits taxes. Bonds issued against the real property of the district may be paid in part by revenues derived from reasonable charges for services or property produced incident to the operation of the district or from the collection of assessments for exceptional benefits. [IC 14-33-11-3]

Revenue bonds issued for the payment of works of improvement for the collection, treatment, and disposal of sewage and other liquid wastes may provide that the principal and interest shall be paid solely from the net revenue of the sewage works, which is gross revenues after deduction only for the reasonable expenses of operation and maintenance, or from a combination of net revenue and other money available to a district by levy, special benefits taxes or assessment of exceptional benefits. The board may covenant with the holders of the bonds to pay:

1. a certain percentage of principal and interest from the revenue;
2. a certain percentage from the other money to maintain a reasonable reserve from the other money that may be used for payment of principal and interest if the revenue is not sufficient; or 3) both. [IC 14-33-11-4]

IC 14-33-11-5 through IC 14-33-11-9 establishes guidelines for the form of bonds, specifics regarding issuance of bonds and a process for remonstrance against the issuance of bonds.

TAX STATEMENT PROCESSING CHARGE

A district may require a statement processing charge on a special benefits tax statement. A special benefits tax liability assessed of less than ten dollars (\$10) on a parcel may be increased to not more than ten dollars (\$10). The difference between the actual liability and the amount that appears on the statement is a statement processing charge that is considered part of the tax liability. [IC 14-33-9-10]

EXCEPTIONAL BENEFITS ASSESSMENTS

If the appraisers described in IC 14-33-8 have determined that there are exceptional benefits to real property, the board of directors shall prepare an assessment roll from the appraisers' report as approved by the court. The assessment roll shall consist of a description of each parcel of real property exceptionally benefited, the name of the owner thereof, as is listed on the tax duplicate or described in the appraisers' report as approved by the court, and the amount of the assessment. One (1) copy of the assessment roll shall be recorded in the office of the recorder of each county wherein real property exceptionally benefited is located, one (1) copy shall be filed with the auditor of each county in which land of a district exceptionally benefited is located, and another copy shall be kept on file in the office of the conservancy district. Assessments for exceptional benefits shall be a lien upon each parcel of real property against which they are assessed from the date that such assessment is approved by the court. [IC 14-33-10-1]

The board of directors shall publish notice, at least two times at weekly intervals, that the assessments are due and payable within sixty (60) days after the date of the last publication. Payment shall be made at the office of the board of directors or, if the court shall so order, at the office of the treasurer of each affected county.

The owners of real property assessed for exceptional benefits are entitled to make payment in full unless exceptional benefits are assessed annually and paid with special benefits taxes to the county treasurer. If payment is made in full, the board of directors shall note such payment on the assessment roll in its office, give a receipt to the landowner paying the assessment, and also enter satisfaction of the lien

of such assessment in the appropriate record in the office of the recorder where such assessment is recorded. The payment of the assessment does not relieve the real property from being subject to any special benefits tax and from being subjected to an annual assessment for maintenance and operation based upon the original exceptional benefit assessment. [IC 14-33-10-2]

IC 14-33-10-4 lists provisions for enforcing payment of delinquent assessments through the real estate tax sale statutes.

CUMULATIVE MAINTENANCE FUND

A district having channel improvements, levees and water retarding or impoundment structures shall establish a cumulative maintenance fund in the year following commencement of construction or assumption or maintenance of the channel improvements, levees, and water retarding or impoundment structures so that the works of improvement are adequately maintained. The requirement to establish a cumulative maintenance fund does not apply to a water supply structure or the water supply part of a multiple purpose structure if provision has been made for maintenance from revenues of a water system, nor does it apply to sewage works.

The board shall budget and appropriate annually to the fund an amount equivalent to ten percent (10%) of the annual cost of maintenance for the works of improvement as the cost is stated in the district plan or adjusted under IC 14-33-14-8. Money accumulated in the fund may be used for emergency or unusually expensive maintenance of the works of improvement.

If an amount equivalent to two (2) times the annual cost of maintenance of the works of improvement, as stated in the district plan or as the cost is adjusted under IC 14-33-14-8, has accumulated in the fund, appropriations to the fund shall be suspended until the year that the amount in the fund is not more than equal to the annual cost of maintenance of the works of improvement as stated in the plan or the adjusted annual cost. The money may be invested and reinvested in whole or in part in accordance with IC 5-13-9.

The appropriation to the fund does not relieve the board of the duty to budget annually the normal maintenance work anticipated during the next fiscal year. [IC 14-33-14]

IC 14-33-14-8, which became effective July 1, 2003, states:

“(a) As used in this section, “cost index source” refers to the Engineering News Record Construction Cost Index, as published by McGraw Hill Construction or its successor.

(b) Before January 1, 2006, the board of a district may elect to adjust the annual cost of maintenance of the works of improvement as stated in the plan, as calculated in subsection (d), if the following conditions are met:

- (1) The board has at a meeting adopted a resolution that sets forth:
 - (A) the annual cost of maintenance of the works of improvement as stated in the plan, and the year when the annual cost was stated in the plan; and
 - (B) the new, adjusted annual cost of maintenance of the works of improvement.
- (2) The calculation under subsection (d) has been verified by either the state conservation engineer for the Natural Resources Conservation Service of the United States Department of Agriculture or a professional engineer licensed under IC 25-31-1.

(3) The board has provided a copy of the resolution to the department of local government finance (established by IC 6-1.1-30-1.1) within sixty (60) days of adoption.

(c) If the board of a district adopts a resolution under section (b)(1), a copy of the resolution must be included in the district's annual report, and a copy of the annual report must be provided to the local circuit court and the department of natural resources.

(d) The annual cost of maintenance of the works of improvement as stated in the plan of a district may be adjusted to an amount not to exceed the amount determined as follows:

STEP ONE: Determine the cost index from the cost index source for the most recent year.

STEP TWO: Determine the cost index from the cost index source for the year that the annual cost of maintenance of the works of improvement was stated in the plan.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Multiply the result of STEP THREE by the annual cost of maintenance of the works of improvement that is stated in the plan."

CUMULATIVE IMPROVEMENT FUND

IC 14-33-21 allows a district to establish a cumulative improvement fund to provide money for the construction, additional construction, or repair of the works of improvement the district is authorized to construct. The purpose of the fund must be stated in the district plan or amendment to the plan.

To provide money for the fund, the board may place in the fund the following:

1. Gifts or grants from a person or state or federal agency.
2. Receipts of revenue from the sale of services or property produced incident to the accomplishment of the purpose for which the district is organized.
3. Any other form of miscellaneous receipt, including tap-in fees and connection fees.
4. Levy of a special benefits tax in accordance with IC 14-33-21-5 through IC 14-33-21-10.
5. Collection of the exceptional benefits assessments or installments of the assessments, but only in accordance with IC 14-33-21-11.

The board shall state in the district plan or part of an amendment to the plan the source or combination of sources that will finance the fund.

The board may levy a special benefits tax in compliance with IC 6-1.1-41 in an amount not to exceed three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of real property in the district, except the property that is exempt under IC 14-33-7-4. The board shall file with the district plan or part of or amendment to the plan:

1. the approval of the Indiana Department of Local Government Finance; and
2. any action taken to reduce or rescind the tax levy.

The approval of the Indiana Department of Local Government Finance:

1. does not have to be filed with the district plan or part of or amendment to the plan at the time of the submission to the commission; and
2. only has to be filed with the court having jurisdiction of the district.

A tax levy may be reduced or rescinded by an approved amendment to the district plan.

WATER SUPPLY SYSTEMS

IC 14-33-20 allows a district to be established for the purpose of furnishing a water supply or to add such purpose to its district plan. For districts that elect to furnish water under IC 14-33-20, the Indiana Utility Regulatory Commission has jurisdiction over increases to original rates and charges and over the granting to a district of territorial authority to serve additional water users. Financial accounting and reporting requirements for such systems would be the same as prescribed for municipally owned water utilities.

ANNUAL REPORTS

A district shall file an annual financial report with the State Examiner, not later than 60 days after the close of each fiscal year. The report is to be filed electronically in the manner prescribed under IC 5-14-3.8-7. The Department of Local Government Finance may not approve a district's budget or a supplemental appropriation until the report is filed for the preceding calendar year. [IC 5-11-1-4]

A district shall file a personnel report, as required by IC 5-11-13, in the office of the State Examiner during the month of January of each year. The report must be filed electronically in the manner prescribed under IC 5-14-3.8-7. [IC 5-11-13]

The Department of Local Government Finance may not approve a district's budget or a supplemental appropriation until the report required by IC 5-11-13 is filed for the preceding calendar year. [IC 6-1.1-17-16.2]