

HOUSE BILL No. 1286

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7.6.

Synopsis: Regional development authorities. Provides that in the case of a regional development authority established after June 30, 2017, the ordinances establishing the regional development authority must include one of the following provisions concerning the regional development authority's exercise of the power of eminent domain: (1) That the regional development authority has the authority to exercise the power of eminent domain. (2) That the regional development authority does not have the authority to exercise the power of eminent domain. (3) That the regional development authority has the authority to exercise the power of eminent domain, but the exercise of that power is subject to the approval of the legislative body of the municipality in which the property is located or (if the property is not located within a municipality) the legislative body of the county in which the property is located.

Effective: July 1, 2017.

Stemler, Clere, Davisson, Engleman

January 10, 2017, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1286

A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7.6-2-3.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2017]: **Sec. 3.5. The following apply to a**
4 **development authority established after June 30, 2017:**

5 (1) **The ordinances adopted under section 3 of this chapter by**
6 **the fiscal bodies of each county and qualified city authorizing**
7 **the establishment of the development authority must include**
8 **substantially similar provisions concerning the eminent**
9 **domain powers of the development authority. The fiscal**
10 **bodies must unanimously provide for one (1) of the following**
11 **options concerning the eminent domain powers of the**
12 **development authority in the ordinances:**

13 (A) **The development authority has the authority to**
14 **exercise the power of eminent domain as provided in**
15 **IC 36-7.6-3-2(a)(13) and IC 36-7.6-3-2(c).**

16 (B) **The development authority does not have the authority**
17 **to exercise the power of eminent domain.**



- 1 **(C) The development authority has the authority to**
 2 **exercise the power of eminent domain as provided in**
 3 **IC 36-7.6-3-2(a)(13) and IC 36-7.6-3-2(c), but the exercise**
 4 **of that power is subject to the approval required in**
 5 **IC 36-7.6-3-2(d).**
- 6 **(2) If the ordinances provide for the option set forth in**
 7 **subdivision (1)(B), then notwithstanding IC 36-7.6-3-2(a)(13)**
 8 **and IC 36-7.6-3-2(c) the development authority may not**
 9 **exercise the power of eminent domain.**
- 10 **(3) If the ordinances provide for the option set forth in**
 11 **subdivision (1)(C), then the development authority's exercise**
 12 **of the power of eminent domain under IC 36-7.6-3-2(a)(13)**
 13 **and IC 36-7.6-3-2(c) is subject to the approval required in**
 14 **IC 36-7.6-3-2(d).**
- 15 **(4) After the development authority is established, the option**
 16 **chosen under subdivision (1) concerning the development**
 17 **authority's exercise of the power of eminent may not be**
 18 **changed.**
- 19 SECTION 2. IC 36-7.6-3-2, AS ADDED BY P.L.232-2007,
 20 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2017]: Sec. 2. (a) A development authority may do any of the
 22 following:
- 23 (1) Finance, improve, construct, reconstruct, renovate, purchase,
 24 lease, acquire, and equip land and projects that are of regional
 25 importance.
- 26 (2) Lease land or a project to an eligible political subdivision.
- 27 (3) Finance and construct additional improvements to projects or
 28 other capital improvements owned by the development authority
 29 and lease them to or for the benefit of an eligible political
 30 subdivision.
- 31 (4) Construct or reconstruct highways, roads, and bridges.
- 32 (5) Acquire land or all or a part of one (1) or more projects from
 33 an eligible political subdivision by purchase or lease and lease the
 34 land or projects back to the eligible political subdivision, with any
 35 additional improvements that may be made to the land or projects.
- 36 (6) Acquire all or a part of one (1) or more projects from an
 37 eligible political subdivision by purchase or lease to fund or
 38 refund indebtedness incurred on account of the projects to enable
 39 the eligible political subdivision to make a savings in debt service
 40 obligations or lease rental obligations or to obtain relief from
 41 covenants that the eligible political subdivision considers to be
 42 unduly burdensome.



- 1 (7) Make loans, loan guarantees, and grants or provide other
 2 financial assistance to or on behalf of the following:
 3 (A) A commuter transportation district.
 4 (B) An airport authority.
 5 (C) A regional transportation authority. A loan, a loan
 6 guarantee, a grant, or other financial assistance under this
 7 clause may be used by a regional transportation authority for
 8 acquiring, improving, operating, maintaining, financing, and
 9 supporting the following:
 10 (i) Bus services (including fixed route services and flexible
 11 or demand-responsive services) that are a component of a
 12 public transportation system.
 13 (ii) Bus terminals, stations, or facilities or other regional bus
 14 authority projects.
 15 (D) A county.
 16 (E) A municipality.
 17 (8) Provide funding to assist a railroad that is providing commuter
 18 transportation services in a county containing territory included
 19 in the development authority.
 20 (9) Provide funding to assist an airport authority located in a
 21 county containing territory included in the development authority
 22 in the construction, reconstruction, renovation, purchase, lease,
 23 acquisition, and equipping of an airport facility or airport project.
 24 (10) Provide funding for intermodal transportation projects and
 25 facilities.
 26 (11) Provide funding for regional trails and greenways.
 27 (12) Provide funding for economic development projects.
 28 (13) Hold, use, lease, rent, purchase, acquire, and dispose of by
 29 purchase, exchange, gift, bequest, grant, condemnation (**subject**
 30 **to IC 36-7.6-2-3.5 and subsection (d)**), lease, or sublease, on the
 31 terms and conditions determined by the development authority,
 32 any real or personal property.
 33 (14) After giving notice, enter upon any lots or lands for the
 34 purpose of surveying or examining them to determine the location
 35 of a project.
 36 (15) Make or enter into all contracts and agreements necessary or
 37 incidental to the performance of the development authority's
 38 duties and the execution of the development authority's powers
 39 under this article.
 40 (16) Sue, be sued, plead, and be impleaded.
 41 (17) Design, order, contract for, construct, reconstruct, and
 42 renovate a project or improvements to a project.



1 (18) Appoint an executive director and employ appraisers, real
 2 estate experts, engineers, architects, surveyors, attorneys,
 3 accountants, auditors, clerks, construction managers, and any
 4 consultants or employees that are necessary or desired by the
 5 development authority in exercising its powers or carrying out its
 6 duties under this article.

7 (19) Accept loans, grants, and other forms of financial assistance
 8 from the federal government, the state government, a political
 9 subdivision, or any other public or private source.

10 (20) Use the development authority's funds to match federal
 11 grants or make loans, loan guarantees, or grants to carry out the
 12 development authority's powers and duties under this article.

13 (21) Except as prohibited by law, take any action necessary to
 14 carry out this article.

15 (b) Projects funded by a development authority must be of regional
 16 importance.

17 (c) If a development authority is unable to agree with the owners,
 18 lessees, or occupants of any real property selected for the purposes of
 19 this article, the development authority may **(subject to IC 36-7.6-2-3.5**
 20 **and subsection (d))** proceed under IC 32-24-1 to procure the
 21 condemnation of the property. The development authority may not
 22 institute a proceeding until it has adopted a resolution that:

23 (1) describes the real property sought to be acquired and the
 24 purpose for which the real property is to be used;

25 (2) declares that the public interest and necessity require the
 26 acquisition by the development authority of the property involved;
 27 and

28 (3) sets out any other facts that the development authority
 29 considers necessary or pertinent.

30 The resolution is conclusive evidence of the public necessity of the
 31 proposed acquisition.

32 **(d) This subsection applies to a development authority for which**
 33 **the ordinances authorizing the establishment of the development**
 34 **authority include the option set forth in IC 36-7.6-2-3.5(1)(C). A**
 35 **development authority subject to this subsection may exercise the**
 36 **power of eminent domain as provided in subsections (a)(13) and (c)**
 37 **concerning a particular property only if that exercise of the power**
 38 **of eminent domain is approved by:**

39 **(1) the legislative body of the municipality in which the**
 40 **property is located; or**

41 **(2) the legislative body of the county in which the property is**
 42 **located, if the property is not located within a municipality.**

