



March 17, 2017

ENGROSSED HOUSE BILL No. 1286

DIGEST OF HB 1286 (Updated March 15, 2017 4:03 pm - DI 84)

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. Provides that the ordinances may be amended to designate an alternative option concerning the exercise of eminent domain powers by the authority.

Effective: July 1, 2017.

Stemler, Clere, Davisson, Engleman
(SENATE SPONSOR — GROOMS)

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

January 31, 2017, amended, reported — Do Pass.

February 2, 2017, read second time, ordered engrossed. Engrossed.

February 6, 2017, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 20, 2017, read first time and referred to Committee on Local Government.

March 16, 2017, reported favorably — Do Pass.

EH 1286—LS 7278/DI 73



March 17, 2017

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.

ENGROSSED 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.**

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- 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 **In the ordinances adopted under section 3 of this chapter, the fiscal**
 16 **bodies of each county and qualified city must include substantially**
 17 **similar provisions that designate the same option that was agreed**
 18 **upon by each county and qualified city concerning the development**
 19 **authority's eminent domain powers.**

20 SECTION 2. IC 36-7.6-2-4.5 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2017]: **Sec. 4.5. (a) This section applies to a**
 23 **fiscal body of a county, qualified city, third class city, or town that**
 24 **adopts an ordinance under section 3 of this chapter authorizing the**
 25 **county, qualified city, third class city, or town to join a**
 26 **development authority.**

27 **(b) The fiscal body must adopt a provision in the authorizing**
 28 **ordinance described in section 3.5(1) of this chapter, that:**

- 29 **(1) is substantially similar to; and**
 30 **(2) designates;**

31 **the same option concerning the eminent domain powers of the**
 32 **development authority that was included in the ordinances of the**
 33 **other development authority members.**

34 SECTION 3. IC 36-7.6-3-2, AS ADDED BY P.L.232-2007,
 35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2017]: **Sec. 2. (a) A development authority may do any of the**
 37 **following:**

- 38 **(1) Finance, improve, construct, reconstruct, renovate, purchase,**
 39 **lease, acquire, and equip land and projects that are of regional**
 40 **importance.**
 41 **(2) Lease land or a project to an eligible political subdivision.**
 42 **(3) Finance and construct additional improvements to projects or**



- 1 other capital improvements owned by the development authority
2 and lease them to or for the benefit of an eligible political
3 subdivision.
- 4 (4) Construct or reconstruct highways, roads, and bridges.
- 5 (5) Acquire land or all or a part of one (1) or more projects from
6 an eligible political subdivision by purchase or lease and lease the
7 land or projects back to the eligible political subdivision, with any
8 additional improvements that may be made to the land or projects.
- 9 (6) Acquire all or a part of one (1) or more projects from an
10 eligible political subdivision by purchase or lease to fund or
11 refund indebtedness incurred on account of the projects to enable
12 the eligible political subdivision to make a savings in debt service
13 obligations or lease rental obligations or to obtain relief from
14 covenants that the eligible political subdivision considers to be
15 unduly burdensome.
- 16 (7) Make loans, loan guarantees, and grants or provide other
17 financial assistance to or on behalf of the following:
- 18 (A) A commuter transportation district.
- 19 (B) An airport authority.
- 20 (C) A regional transportation authority. A loan, a loan
21 guarantee, a grant, or other financial assistance under this
22 clause may be used by a regional transportation authority for
23 acquiring, improving, operating, maintaining, financing, and
24 supporting the following:
- 25 (i) Bus services (including fixed route services and flexible
26 or demand-responsive services) that are a component of a
27 public transportation system.
- 28 (ii) Bus terminals, stations, or facilities or other regional bus
29 authority projects.
- 30 (D) A county.
- 31 (E) A municipality.
- 32 (8) Provide funding to assist a railroad that is providing commuter
33 transportation services in a county containing territory included
34 in the development authority.
- 35 (9) Provide funding to assist an airport authority located in a
36 county containing territory included in the development authority
37 in the construction, reconstruction, renovation, purchase, lease,
38 acquisition, and equipping of an airport facility or airport project.
- 39 (10) Provide funding for intermodal transportation projects and
40 facilities.
- 41 (11) Provide funding for regional trails and greenways.
- 42 (12) Provide funding for economic development projects.



- 1 (13) Hold, use, lease, rent, purchase, acquire, and dispose of by
 2 purchase, exchange, gift, bequest, grant, condemnation (**subject**
 3 **to IC 36-7.6-2-3.5 and subsection (d)**), lease, or sublease, on the
 4 terms and conditions determined by the development authority,
 5 any real or personal property.
- 6 (14) After giving notice, enter upon any lots or lands for the
 7 purpose of surveying or examining them to determine the location
 8 of a project.
- 9 (15) Make or enter into all contracts and agreements necessary or
 10 incidental to the performance of the development authority's
 11 duties and the execution of the development authority's powers
 12 under this article.
- 13 (16) Sue, be sued, plead, and be impleaded.
- 14 (17) Design, order, contract for, construct, reconstruct, and
 15 renovate a project or improvements to a project.
- 16 (18) Appoint an executive director and employ appraisers, real
 17 estate experts, engineers, architects, surveyors, attorneys,
 18 accountants, auditors, clerks, construction managers, and any
 19 consultants or employees that are necessary or desired by the
 20 development authority in exercising its powers or carrying out its
 21 duties under this article.
- 22 (19) Accept loans, grants, and other forms of financial assistance
 23 from the federal government, the state government, a political
 24 subdivision, or any other public or private source.
- 25 (20) Use the development authority's funds to match federal
 26 grants or make loans, loan guarantees, or grants to carry out the
 27 development authority's powers and duties under this article.
- 28 (21) Except as prohibited by law, take any action necessary to
 29 carry out this article.
- 30 (b) Projects funded by a development authority must be of regional
 31 importance.
- 32 (c) If a development authority is unable to agree with the owners,
 33 lessees, or occupants of any real property selected for the purposes of
 34 this article, the development authority may (**subject to IC 36-7.6-2-3.5**
 35 **and subsection (d)**) proceed under IC 32-24-1 to procure the
 36 condemnation of the property. The development authority may not
 37 institute a proceeding until it has adopted a resolution that:
 38 (1) describes the real property sought to be acquired and the
 39 purpose for which the real property is to be used;
 40 (2) declares that the public interest and necessity require the
 41 acquisition by the development authority of the property involved;
 42 and



1 (3) sets out any other facts that the development authority
 2 considers necessary or pertinent.
 3 The resolution is conclusive evidence of the public necessity of the
 4 proposed acquisition.
 5 **(d) This subsection applies to a development authority for which
 6 the ordinances authorizing the establishment of the development
 7 authority include the option set forth in IC 36-7.6-2-3.5(1)(C). A
 8 development authority subject to this subsection may exercise the
 9 power of eminent domain as provided in subsections (a)(13) and (c)
 10 concerning a particular property only if that exercise of the power
 11 of eminent domain is approved by:**
 12 **(1) the legislative body of the municipality in which the
 13 property is located; or**
 14 **(2) the legislative body of the county in which the property is
 15 located, if the property is not located within a municipality.**
 16 **(e) The fiscal bodies of each county, qualified city, third class
 17 city, or town that is a member of the development authority may
 18 agree to amend the ordinances adopted under IC 36-7.6-2-3 to
 19 designate a different option under IC 36-7.6-2-3.5(1) concerning
 20 the eminent domain powers of the development authority. The
 21 amended ordinance adopted by the fiscal bodies must be:**
 22 **(1) substantially similar to; and**
 23 **(2) designate;**
 24 **the same option concerning the eminent domain powers of the
 25 development authority that is included in the ordinances of the
 26 other members of the development authority.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1286, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 15 through 18, begin a new line blocked left and insert:

"In the ordinances adopted under section 3 of this chapter, the fiscal bodies of each county and qualified city must include substantially similar provisions that designate the same option that was agreed upon by each county and qualified city concerning the development authority's eminent domain powers."

Page 2, delete lines 15 through 18, begin a new paragraph and insert:

"SECTION 2. IC 36-7.6-2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4.5. (a) This section applies to a fiscal body of a county, qualified city, third class city, or town that adopts an ordinance under section 3 of this chapter authorizing the county, qualified city, third class city, or town to join a development authority.

(b) The fiscal body must adopt a provision in the authorizing ordinance described in section 3.5(1) of this chapter, that:

- (1) is substantially similar to; and**
- (2) designates;**

the same option concerning the eminent domain powers of the development authority that was included in the ordinances of the other development authority members."

Page 4, after line 42, begin a new paragraph and insert:

"(e) The fiscal bodies of each county, qualified city, third class city, or town that is a member of the development authority may agree to amend the ordinances adopted under IC 36-7.6-2-3 to designate a different option under IC 36-7.6-2-3.5(1) concerning the eminent domain powers of the development authority. The amended ordinance adopted by the fiscal bodies must be:

- (1) substantially similar to; and**



**(2) designate;
the same option concerning the eminent domain powers of the
development authority that is included in the ordinances of the
other members of the development authority."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1286 as introduced.)

MAHAN

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1286, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB1286 as printed January 31, 2017.)

BUCK, Chairperson

Committee Vote: Yeas 10, Nays 0

