

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Municipalities, Townships, and Counties
FROM: Brian E. Bailey, Commissioner 
RE: The Establishment of Fire Protection Territories
DATE: May 24, 2012

Introduction

On March 14, 2012, Governor Mitch Daniels signed into law Senate Enrolled Act 307 ("SEA 307"). Section 1 of SEA 307 introduces changes to IC 36-8-19-6 affecting the establishment of a fire protection territory ("territory").

This memorandum provides guidance on these changes, which took effect upon the signing of SEA 307.

Ordinance/Resolution to Establish Territory

To establish a fire protection territory, the legislative bodies of each unit that desires to become a part of the proposed territory must adopt an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that meets the following requirements:

- (1) the ordinance or resolution is identical to the ordinances and resolutions adopted by the other units desiring to become a part of the proposed territory;
- (2) the ordinance or resolution is adopted after January 1 but before April 1;
- (3) the ordinance or resolution authorizes the unit to become a party to an agreement for the establishment of a fire protection territory; and
- (4) the ordinance or resolution is adopted after the legislative body holds a public hearing to receive public comment on the proposed ordinance or resolution. (The legislative body must give notice of the hearing under IC 5-3-1.)

The ordinances or resolutions adopted by the units must include at least the following:

- (1) the boundaries of the proposed territory;
- (2) the identity of the provider unit and all other participating units desiring to be included within the territory;
- (3) an agreement to impose:
 - (A) a uniform tax rate upon all of the taxable property within the territory for fire protection services; or

- (B) different tax rates for fire protection services for the units desiring to be included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory; and
- (4) the contents of the agreement to establish the territory.

An ordinance or resolution takes effect July 1 of the year in which it is adopted.

Notices and Hearings

Units seeking to establish a territory must conduct a total of **at least three hearings** before adopting ordinances or resolutions establishing the territory. The first hearing must be held at least 30 days before the final hearing that is held before adopting the ordinances or resolutions. Between these hearings, a second hearing must be held. A notice advertising each hearing must be published in accordance with IC 5-3-1, meaning the notice must be published once at least ten days before the hearing in the appropriate number of newspapers.

For purposes of the hearing that is held at least 30 days before the final hearing held before adopting the ordinances or resolutions establishing the territory, the legislative bodies of the units must make available to the public the following information:

- (1) the property tax levy, property tax rate, and budget to be imposed or adopted during the first year of the proposed territory for each of the units that would participate in the proposed territory;
- (2) the estimated effect of the proposed reorganization in the following years on taxpayers in each of the units that would participate in the proposed territory, including the expected property tax rates, property tax levies, expenditure levels, service levels, and annual debt service payments;
- (3) the estimated effect of the proposed reorganization on other units in the county in the following years and on local option income taxes, excise taxes, and property tax circuit breaker credits;
- (4) a description of the planned services and staffing levels to be provided in the proposed territory; and
- (5) a description of any capital improvements to be provided in the proposed territory.

The notice published to advertise the **second** hearing must include all of the following:

- (1) a list of the provider unit and all participating units in the proposed territory.
- (2) the date, time, and location of the hearing;
- (3) the location where the public can inspect the proposed ordinance or resolution;
- (4) a statement as to whether the proposed ordinance or resolution requires uniform tax rates or different tax rates within the territory;
- (5) the name and telephone number of a representative of the unit who may be contacted for further information; and
- (6) the proposed levies and tax rates for each participating unit.

Please note that while IC 36-8-19-6 does not dictate the content of the notices for the first and third hearings, the Department of Local Government Finance strongly recommends that these notices include the same information provided by the notice for the second hearing.

In sum, units seeking to establish a territory could, for example, advertise a first hearing on February 1, conduct the first hearing on February 11, advertise a second hearing on February 12, conduct the second hearing on February 22, advertise a third hearing on February 23, conduct the third hearing on March 5, and then adopt the ordinances or resolutions at the close of the third hearing. Here each notice has been published ten days before its corresponding hearing and the first and third hearings are at least 30 days apart. Alternatively, the notice published for the first hearing could also advertise the required information, dates, times, and locations for the second and third hearings.

Noncode Section 163

Noncode Section 163 of House Enrolled Act 1004-2011, which had imposed similar notice and hearing requirements, is repealed by Section 2 of SEA 307.

Contact Information

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