

IC 14-13-2

Chapter 2. Little Calumet River Basin Development Commission

IC 14-13-2-1

"Burns Waterway" defined

Sec. 1. As used in this chapter, "Burns Waterway" means the dredged channel in Porter County, Indiana, that connects the east and west arms of the Little Calumet River with Lake Michigan.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to the Little Calumet River Basin Development Commission created by this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-3

"Fund" defined

Sec. 3. As used in this chapter, "fund" refers to the Little Calumet River project development fund created by this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-4

Purposes of chapter

Sec. 4. The general purposes of this chapter are to do the following:

- (1) Promote the general health and welfare of citizens of Indiana.**
- (2) Provide for the creation, development, maintenance, administration, and operation of park, recreation, marina, flood control, and other public works projects.**
- (3) Create a commission with the authority to carry out the purposes of this chapter.**
- (4) Create a commission capable of entering into and fulfilling the requirements of a nonfederal interest (as defined by 42 U.S.C. 1962d-5b).**

As added by P.L.1-1995, SEC.6.

IC 14-13-2-5

Creation of commission

Sec. 5. The Little Calumet River basin development commission is created as a public body corporate and politic.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-6

Territorial jurisdiction of commission

Sec. 6. (a) Except as provided in subsection (b), the commission may operate in the manner provided in this chapter only in the geographic area within and extending one (1) mile from the bank of

the west arm of the Little Calumet River and Burns Waterway in Lake County and Porter County.

(b) The commission does not have the power of eminent domain for the construction of marina facilities north of U.S. Highway 12 or south of that point where the west arm of the Little Calumet River meets Burns Waterway. The commission's activities north of U.S. Highway 12 and within and adjacent to Burns Waterway are restricted to those activities that the commission determines to be necessary for the following:

(1) Channeling and maintenance.

(2) Construction of breakwaters.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-7

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Members

Sec. 7. (a) The commission has five (5) members as follows appointed by the governor.

(b) The governor shall appoint members of the commission so that the following requirements are met:

(1) One (1) member must be a representative of the department of natural resources. the member may not be an employee or elected official of a city, town, or county governmental unit.

(2) The remaining four (4) members must meet the following requirements:

(A) Four (4) members must reside in a :

(i) city;

(ii) town; or

(iii) township (if the member resides in an unincorporated area of the county); that borders the Little Calumet River.

(B) At least three (3) of the members must have a background in:

(i) construction;

(ii) project management; or

□□□□□□□□□□□□□□ (iii) flood control;

or a similar professional background.

□□□□□□□□□□ (C) A member may not be an employee or elected official of a city, town, or county governmental unit.

As added by P.L. 1-1995, SEC.6. Amended by P.L.181-2009, SEC.1.

IC 14-13-2-8

Term of members; eligibility for reappointment

Sec. 8. (a) The term of each member of the commission is four (4) years. However, if an appointee is appointed to serve an unexpired term, the appointee serves only until the end of the unexpired term.

(b) A member is eligible for reappointment.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-9

Officers

Sec. 9. (a) The commission shall elect the following officers:

(1) A chairman.

(2) A vice chairman.

(3) A secretary.

(4) A treasurer.

(b) The terms of the officers may not exceed one (1) year. Each officer is eligible for reelection.

(c) The commission may create and fill other offices that the commission determines necessary.

(d) Each of the officers shall perform the duties usually pertaining to the offices. *As added by P.L.1-1995, SEC.6.*

IC 14-13-2-10

Meetings

Sec. 10. (a) The commission shall meet on call of any of the following:

(1) The chairman.

(2) The executive director.

(3) Any three (3) members.

(b) Three (3) commission members constitute a quorum.

As added by P.L.1-1995, SEC.6. Amended by P.L.181-2009, SEC.2.

IC 14-13-2-11

Per diem compensation and traveling expenses

Sec. 11. (a) Each commission member is entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures established by the Indiana Department of Administration and approved by the Budget Agency.

(b) Each appointed commission member is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b).

As added by P.L.1-1995, SEC.6.

IC 14-13-2-12

Acquisition of property by purchase or lease

Sec. 12. (a) The commission may acquire, by purchase or by lease:

(1) any land, property, rights, rights-of-way, franchises, easements, and other interests in real property, including land under water and riparian rights; and

(2) any existing facilities, betterments, and improvements;

that the commission considers necessary or convenient for the establishment, development, construction, improvement, or operation of any projects.

(b) The commission may also acquire land and other interest in real property by:

(1) gift; or

(2) bequest.

(c) The commission shall take and hold title to land and other interests in the name of the state of Indiana.

(d) When acquiring land under this section, the commission shall follow the procedures for the acquisition of land by the Indiana Department of Transportation.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-13

Eminent domain powers

Sec. 13. The commission may acquire by appropriation under Indiana eminent domain law:

(1) any land, property, rights, rights-of-way, franchises, easements, or other interests in real property, including land under water and riparian rights; or

(2) any existing facilities, betterments, and improvements, or other property; necessary and proper for the creation, development, establishment, maintenance, or operation of a project or any part of a project.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-14

Acquisition of property from political subdivisions or public entities

Sec. 14. Each:

(1) county, city, town, township, and other political subdivision of the state; and

(2) public agency, department, and commission;

may, upon the terms and conditions that the proper authorities of the entity and the commission consider reasonable and appropriate, lease, lend, grant, or convey to the commission, at the commission's request, real or personal property, including an interest in the property, owned by the entity that is necessary or convenient to achieving the purposes of this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-15

Property improvements

Sec. 15. In establishing and developing projects, the commission may:

(1) construct, reconstruct, establish, build, repair, remodel, enlarge, extend, or add to facilities, betterments, and improvements; and

(2) clear and prepare any site for construction;

that the commission considers appropriate in furtherance of the purposes of this

chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-16

Conveyance of property to political subdivisions or public entities

Sec. 16. (a) The commission may sell, transfer, or convey to:

(1) a political subdivision of the state; or

(2) a public agency, department, or agency;

for the consideration and upon the terms that the commission considers appropriate real property, including a facility, a betterment, or an improvement, within the projects or acquired under this chapter, if the sale, transfer, or conveyance and ownership by the transferee furthers the purposes of this chapter.

(b) Transfer is subject to the restrictions that the commission considers appropriate in furtherance of the purposes of this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-17

□ Sec. 17. (a) The commission may provide for the construction, improvement, development, operation, and management of projects, including any facilities, betterments, and improvements that are part of projects, in the manner that the commission considers appropriate in furtherance of the purposes of this chapter.

(b) The commission may enter into:

(1) a lease agreement as lessor or sublessor; or

(2) an operation or a license agreement;

with respect to all or part of a site, a facility, a betterment, or an improvement that is part of projects with at least one (1) public or private person or entity, including political subdivisions of the state and public agencies, departments, and agencies, on the terms and conditions that the commission considers appropriate in furtherance of the purposes of this chapter.

(c) The commission shall provide or provide for the training and instruction of persons who are responsible for maintaining any levees or other improvements related to flood control under this article. the training and instruction must be sufficient to enable those

persons to properly maintain the levees or other improvements related to flood control.

As added by P.L.1-1995, SEC.6. Amended by P.L. 181-2009, SEC.3.

Management of projects; maintenance training

IC 14-13-2-18

(9) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's duties and the execution of the commission's powers under this chapter.

(10) Employ and fix the compensation of an executive director or manager, consulting engineers, superintendents, and other engineers, construction and accounting experts, attorneys, and other employees and agents necessary in the commission's judgment.

(11) Conduct studies of the financial feasibility of the flood control and park and recreational projects and facilities, betterments, and improvements within those projects.

(12) Avail itself of the services of professional and other personnel employed by an agency, a department, or a commission of the state for purposes of studying the feasibility of or designing, constructing, or maintaining the projects or a facility within those projects.

(13) Receive and accept:

(A) from the federal government or a federal agency or department grants for or in aid of the acquisition, construction, improvement, or development of any part of the projects of the commission; and

(B) aid or contributions from any source of money, property, labor, or other things of value;

to be held, used, and applied only for the purposes, consistent with the purposes of this chapter, for which the grants and contributions may be made.

(14) Hold, use, administer, and expend money that is appropriated or transferred to the commission.

(15) Assist or cooperate with a political subdivision or public agency, department, or commission, including the payment of money or the transfer of property to the political subdivision or public agency, department, or commission by the commission if the commission considers the assistance or cooperation appropriate in furtherance of the purposes of this chapter.

(16) Accept assistance and cooperation from a political subdivision or public agency, department, or commission, including the acceptance of money or property by the

commission from the political subdivision or public agency, department, or commission, if the commission considers the assistance or cooperation appropriate in furtherance of the purposes of this chapter.

(17) Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

(18) Enter into and carry out the terms of a nonfederal interest (as defined by 42 U.S.C. 1962d-5b).

(19) Provide police protection for the commission's property and activities by:

(A) requesting assistance from state, city, or county police authorities; or

(B) having specified employees deputized as police officers.

(20) Make contracts and leases for facilities and services.

(21) Appoint the administrative officers and employees necessary to carry out the work of the commission, fix their duties and compensation, and delegate authority to perform ministerial acts in all cases except where final action of the commission is necessary.

(22) Engage in self-supporting activities.

(23) Contract for special and temporary services and for professional assistance.

(24) Invoke any legal, equitable, or special remedy for the enforcement of this chapter.

As added by P.L.1-1995, SEC.6.

General powers of commission

Sec. 18. The commission may do the following:

(1) Adopt bylaws for the regulation of the commission's affairs and the conduct of the commission's business.

(2) Adopt an official seal, which may not be the seal of the state.

(3) Maintain a principal office and other offices that the commission designates.

(4) Sue and be sued in the name and style of "Little Calumet River Basin Development Commission", with service of process being made upon the chairman of the commission by leaving a copy at the principal office of the commission.

(5) Acquire by grant, purchase, gift, devise, lease, eminent domain, or otherwise and hold, use, sell, lease, or dispose of:

(A) real and personal property of every kind and nature; and

(B) any right and interest;

necessary for the full exercise or convenient or useful for the carrying on of any of the commission's powers under this chapter.

(6) Exercise within Indiana and in the name of the state of Indiana the power of eminent domain under Indiana law governing the exercise of the power of eminent domain for any public purposes.

(7) Fix, collect, and review admission charges, entrance fees, tolls, and other user charges for the use of a facility within the projects owned or leased by the commission or dedicated to the commission by a political subdivision of the state or a public agency, department, or commission having jurisdiction of the facility.

(8) Acquire by fee or by lease, obtain option on, hold, and dispose of real and personal

property reasonably necessary and proper to the exercise of the commission's powers and the performance of the commission's duties under this chapter. □□□□□□□□

IC 14-13-2-19

Creation of fund

Sec. 19. (a) The Little Calumet River project development fund is created. The commission shall make expenditures from the fund only to accomplish the purposes of this chapter.

(b) The commission shall do the following:

- (1)** Hold the fund in the name of the commission.
- (2)** Administer the fund.
- (3)** Make all expenditures from the fund.

(c) The money in the fund at the end of a fiscal year remains in the fund and does not revert to any other fund.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-20

Revenue bonds; issuance

Sec. 20. (a) The acquisition, construction, or improvement of real property, a facility, a betterment, or an improvement constituting part of a project of the commission, including acquisition of the site for a project, may be financed in whole or in part by the issuance of bonds payable solely out of the net income received from the operation of the real property, facility, betterment, or improvement.

(b) If the commission desires to finance an acquisition, a construction, or an improvement in whole or in part as provided in this section or sections 21 through 26 of this chapter, the commission must adopt a resolution authorizing the issuance of bonds. The resolution must set forth the following:

- (1)** The date on which the principal of the bonds matures, not exceeding forty (40) years from the date of issuance.
- (2)** The maximum interest rate to be paid on the bonds.
- (3)** Other terms and conditions upon which the bonds are issued.

(c) The commission shall take all actions necessary to issue the bonds in accordance with the resolution. The commission may enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of any bonds to be issued under this chapter may not be brought after the fifteenth day following the

receipt of bids for the bonds.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-21

Revenue bonds; not debt of state or subdivision; payable solely from money pledged

Sec. 21. (a) Revenue bonds issued under this chapter or under IC 14-6-29.5 (before its repeal) do not constitute any of the following:

- (1) A debt of the state or of a political subdivision of the state.**
- (2) A pledge of the faith and credit of the state or a political subdivision of the state.**
- (b) The bonds are payable solely from the revenues pledged for their payment as authorized in this chapter or in IC 14-6-29.5 (before its repeal).**

As added by P.L.1-1995, SEC.6.

IC 14-13-2-22

Revenue bonds; redemption; negotiability

Sec. 22. (a) Revenue bonds issued under this chapter or under IC 14-6-29.5 (before its repeal) may be made redeemable before maturity at the option of the commission at the price and under the terms and conditions that are determined by the commission in the authorizing resolution. The commission shall do the following:

- (1) Determine the form of the bonds, including any interest coupons to be attached to the bonds.**
- (2) Fix the denomination of the bonds.**
- (3) Fix the place of payment of principal and interest, which may be at any bank or trust company within or outside Indiana.**
- (b) Revenue bonds have the qualities and incidents of negotiable instruments under Indiana law. Provision may be made for the registration of any of the bonds as to principal alone and also as to both principal and interest.**

As added by P.L.1-1995, SEC.6.

IC 14-13-2-23

Revenue bonds; requirements

Sec. 23. (a) Revenue bonds issued under this chapter shall be issued in the name of the commission and must recite on the face of each bond that the principal of and interest on the bond are payable solely from revenues pledged for their payment and are not an obligation of the state or of a political subdivision of the state.

(b) The chairman of the commission shall execute the bonds, and the secretary of the commission shall affix and attest the seal of the commission.

(c) Coupons attached to the bonds must bear the facsimile signature of the chairman of the commission.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-24 Revenue bonds; authority to issue

Sec. 24. This chapter and IC 14-6-29.5 (before its repeal) constitute full and complete authority for the issuance of revenue bonds. A law, a procedure or proceeding, a publication, a notice, a consent, an approval, an order, an act, or a thing by the commission or any other officer, department, agency, or instrumentality of the state, county, or a municipality is not required to issue revenue bonds except as prescribed in this chapter or in IC 14-6-29.5 (before its repeal).

As added by P.L.1-1995, SEC.6.

IC 14-13-2-25

Revenue bonds; legal investments

Sec. 25. Revenue bonds issued under this chapter or under IC 14-6-29.5 (before its repeal) constitute legal investments for the following:

(1) Private trust money.

(2) The money of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and any other financial institutions organized under Indiana law.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-26

Revenue bonds; refunding bonds

Sec. 26. (a) The commission may issue refunding bonds in the commission's name for the following purposes:

(1) Refunding any bonds then outstanding and issued under this chapter or under IC 14-6-29.5 (before its repeal), including payment of redemption premium and interest accrued or to accrue to the date of redemption of the outstanding bonds.

(2) If considered advisable by the commission, constructing improvements, extensions, or enlargements of a facility, a betterment, or an improvement in connection with which the bonds to be refunded have been issued.

(b) The issuance of the refunding bonds, the maturity dates and other details, and all rights, duties, and obligations of the holders of the refunding bonds and of the commission with respect to the refunding bonds are subject to this chapter.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-27

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Public purpose

Sec. 27. The exercise of the powers granted by this chapter is for the benefit of the people of Indiana and for the increase of their commerce, health, enjoyment, and prosperity. The operation, creation, development, and maintenance of the projects by the commission constitutes the performance of essential governmental functions.

As added by P.L.1-1995, SEC.6.

IC 14-13-2-28

Tax exemptions

Sec. 28. (a) The commission is not required to pay any taxes or assessments upon any of the following:

- (1) A project of the commission.
- (2) A facility, a betterment, or an improvement within a project.
- (3) Property acquired or used by the commission under this chapter or under IC 14-6-29.5 (before its repeal).
- (4) The income or revenue from the property.

(b) The:

- (1) bonds issued under this chapter or under IC 14-6-29.5 (before its repeal);
- (2) interest on the bonds;
- (3) proceeds received by a holder from the sale of the bonds to the extent of the holder's cost of acquisition;
- (4) proceeds received upon redemption before maturity or proceeds received at maturity; and
- (5) receipt of interest and proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

As added by P.L.1-1995, SEC.6. Amended by P.L.254-1997(ss), SEC.20.

IC 14-13-2-29

Little Calumet River basin

Sec. 29. (a) As used in this section, "Little Calumet River basin" means the area and subareas that:

- ▯▯ (1) drain into the western arm of the Little Calumet River; and**
- ▯▯ (2) are certified by the department after consultation with the following:**
 - ▯▯▯▯▯▯▯▯ (A) The county surveyors.**
 - ▯▯▯▯▯▯▯▯ (B) The United States Army Corps of Engineers.**

(b) If a regulated drain situated within the Little Calumet River basin is included in a flood control project approved by the department:

- ▯▯ (1) the drain ceases to be subject to IC▯ 36-9-27; and**
- ▯▯ (2) the agency that constructs and maintains the project on the date the flood control project is approved has the same right-of-entry and right-of-way powers over and upon private land that is given the county surveyor or drainage board under IC▯ 36-9-27-33.**

(c) The construction, reconstruction, and maintenance of a drain described in subsection (b) are the responsibility of the agency that constructs and maintains the project.

As added by P.L.1-1995, SEC.6.

IC14-13-2-30

Deposits; audits

▯▯▯▯ Sec.30. The commission is responsible for the safekeeping and deposit of money the commission receives under this chapter. The state board of accounts shall:

(1)▯▯ prescribe the methods and forms for the keeping of; and

(2)▯▯ ▯ annually audit;

the accounts, records, and books of the commission and fund.

As added by P.L.181-2009.SEC.4.

IC14-13-2-31

Reports

§§§§ **Sec.31.(a)** Subject to subsection (c), before November 1 of each year, the commission shall make a report of the commission's activities to the following:

§§§§ (1) The governor.

§§§§ (2) The legislative council.

§ (b) A report made to the legislative council under this section must be in an electronic format under IC5-14-6.

§ (c) The governor may require the commission to issue reports more frequently than would otherwise be required under subsection (a).

As added by P.L.181-2009, SEC.5.

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