



January 26, 2023

HOUSE BILL No. 1005

DIGEST OF HB 1005 (Updated January 24, 2023 1:44 pm - DI 87)

Citations Affected: IC 5-1.2.

Synopsis: Housing. Establishes the residential housing infrastructure assistance program (program) and residential housing infrastructure assistance revolving fund (fund). Provides that the Indiana finance authority (authority) shall administer the fund and program. Provides that political subdivisions may apply to the fund for loans for certain infrastructure projects related to the development of residential housing. Provides that money in the fund may not be used for: (1) debt repayment; (2) maintenance and repair projects; (3) upgrading utility poles; or (4) consulting or engineering fees for studies, reports, designs, or analyses. Provides that loans from the fund must be allocated as follows: (1) 70% of the money in the fund must be used for housing infrastructure in municipalities with a population of less than 50,000. (2) 30% of the money in the fund must be used for housing infrastructure in all other political subdivisions. Requires the authority to establish a project prioritization system for the purpose of awarding loans from the fund, and specifies the criteria that must be included in the project prioritization system. Allows the authority to establish a leveraged loan program to or for the benefit of program participants. Requires the public finance director to prepare an annual report of the fund's activities for the legislative council and the budget committee. Makes a continuing appropriation.

Effective: July 1, 2023.

Miller D, O'Brien, Hall, DeLaney

January 12, 2023, read first time and referred to Committee on Government and Regulatory Reform.

January 26, 2023, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

HB 1005—LS 7473/DI 129



January 26, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1005

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

1 SECTION 1. IC 5-1.2-2-26, AS AMENDED BY P.L.154-2021,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 26. (a) "Financial assistance agreement", for
4 purposes of the wastewater program and drinking water program
5 established under IC 5-1.2-10, the supplemental program established
6 under IC 5-1.2-11, the Indiana brownfields program established under
7 IC 5-1.2-12, the flood control program established under IC 5-1.2-13,
8 the water infrastructure assistance program established under
9 IC 5-1.2-14, the water infrastructure grant program established by
10 IC 5-1.2-14.5, ~~and~~ the local transportation infrastructure program
11 established under IC 5-1.2-15, **and the residential housing**
12 **infrastructure assistance program established by IC 5-1.2-15.5**,
13 refers to a financial assistance agreement, financial aid agreement,
14 grant agreement, or any other obligation between the authority and a
15 participant under those chapters establishing the terms and conditions
16 of a grant, loan, or other financial assistance, including forgiveness of
17 principal if allowed under federal law, by the authority to the

HB 1005—LS 7473/DI 129



1 participant under those chapters.

2 (b) Nothing in this section restricts the authority from denominating
3 any financial assistance agreement by any other name the authority
4 determines to be administratively convenient.

5 SECTION 2. IC 5-1.2-2-54, AS AMENDED BY P.L.154-2021,
6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2023]: Sec. 54. "Participant" means the following:

8 (1) For purposes of the wastewater program established under
9 IC 5-1.2-10:

10 (A) a political subdivision; or

11 (B) any person, entity, association, trust, or other manner of
12 participant allowed by law to enter contractual arrangements
13 for a purpose eligible for assistance under the federal Clean
14 Water Act.

15 (2) For purposes of the drinking water program established under
16 IC 5-1.2-10:

17 (A) a political subdivision; or

18 (B) any person, entity, association, trust, or other manner of
19 participant allowed by law to enter contractual arrangements
20 for a purpose eligible for assistance under the federal Safe
21 Drinking Water Act.

22 (3) For purposes of the supplemental program established under
23 IC 5-1.2-11, the Indiana brownfields program established under
24 IC 5-1.2-12, the flood control program established under
25 IC 5-1.2-13, the water infrastructure assistance program
26 established under IC 5-1.2-14, and the water infrastructure grant
27 program established by IC 5-1.2-14.5:

28 (A) a political subdivision;

29 (B) the Kankakee River basin and Yellow River basin
30 development commission established by IC 14-13-9-6; or

31 (C) any person, entity, association, trust, or other manner of
32 participant allowed by law to enter contractual arrangements
33 for a purpose eligible for assistance under those chapters.

34 (4) For purposes of the local transportation infrastructure program
35 established under IC 5-1.2-15:

36 (A) a political subdivision;

37 (B) an agency, authority, department, instrumentality, or body
38 corporate and politic acting on behalf of a political
39 subdivision; or

40 (C) a regional authority, instrumentality, or body corporate and
41 politic acting on behalf of one (1) or more entities described in
42 clause (A) or (B).



1 **(5) For purposes of the residential housing infrastructure**
 2 **assistance program established by IC 5-1.2-15.5, a political**
 3 **subdivision.**

4 SECTION 3. IC 5-1.2-2-59, AS AMENDED BY P.L.154-2021,
 5 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2023]: Sec. 59. "Program" or "programs" means:

- 7 (1) the drinking water program established under IC 5-1.2-10;
 8 (2) the Indiana brownfields program established under
 9 IC 5-1.2-12;
 10 (3) the flood control program established under IC 5-1.2-13;
 11 (4) the water infrastructure assistance program established under
 12 IC 5-1.2-14;
 13 (5) the local transportation infrastructure program established
 14 under IC 5-1.2-15;
 15 (6) the storm water management program;
 16 (7) the supplemental program established under IC 5-1.2-11;
 17 (8) the wastewater program established under IC 5-1.2-10; ~~and~~
 18 (9) the water infrastructure grant program established by
 19 IC 5-1.2-14.5; **and**
 20 **(10) the residential housing infrastructure assistance program**
 21 **established by IC 5-1.2-15.5.**

22 SECTION 4. IC 5-1.2-4-24, AS ADDED BY P.L.189-2018,
 23 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2023]: Sec. 24. **(a)** The issuance of bonds and the adoption of
 25 rules under the referenced statutes need not comply with the
 26 requirements of any other state laws applicable to the issuance of the
 27 bonds or adoption of these rules. No proceedings, notice, or approval
 28 is required for the issuance of any bonds or any instrument or the
 29 security for the bonds or instrument, except as provided in the
 30 referenced statutes.

31 **(b)** All:

- 32 **(1)** economic development projects for which funds are advanced,
 33 loaned, or otherwise provided by the authority under IC 5-1.2-9;
 34 **and**
 35 **(2) eligible projects for which funds are loaned by the**
 36 **authority under IC 5-1.2-15.5;**

37 must be in compliance with any land use, zoning, subdivision, and
 38 other laws of this state applicable to the land upon which the economic
 39 development project **or eligible project** is located or is to be
 40 constructed, but a failure to comply with these laws does not invalidate
 41 any bonds issued to finance an economic development project under
 42 IC 5-1.2-9 **or an eligible project under IC 5-1.2-15.5.**



1 SECTION 5. IC 5-1.2-15.5 IS ADDED TO THE INDIANA CODE
 2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2023]:

4 **Chapter 15.5. Residential Housing Infrastructure Assistance**
 5 **Program**

6 **Sec. 1.** The authority shall carry out the program established
 7 under this chapter.

8 **Sec. 2.** As used in this chapter, "eligible project" means a
 9 project for housing infrastructure.

10 **Sec. 3.** As used in this chapter, "fund" refers to the residential
 11 housing infrastructure assistance revolving fund established by
 12 section 9 of this chapter.

13 **Sec. 4.** As used in this chapter, "housing infrastructure" means
 14 the installation, replacement, upgrade, or improvement of public
 15 infrastructure for the support of residential housing.

16 **Sec. 5.** As used in this chapter, "program" refers to the
 17 residential housing infrastructure assistance program established
 18 by section 8 of this chapter.

19 **Sec. 6. (a)** As used in this chapter, "public infrastructure"
 20 means any of the following infrastructure that is or will be owned,
 21 maintained, or provided by a political subdivision:

- 22 (1) A water distribution system.
- 23 (2) A water treatment plant.
- 24 (3) A wastewater treatment plant.
- 25 (4) A sanitary sewer system.
- 26 (5) A storm sewer system.
- 27 (6) A lift station.
- 28 (7) A street, road, or bridge.
- 29 (8) A curb, gutter, or sidewalk.
- 30 (9) A traffic signal.
- 31 (10) A street light.
- 32 (11) An electric or gas distribution line.

33 (b) The term includes the purchase of land necessary to
 34 accommodate a project listed in this section, including any
 35 excavation and compaction.

36 (c) For purposes of subsection (a)(1) through (a)(4), a political
 37 subdivision is providing the infrastructure notwithstanding that,
 38 after completion of construction, the infrastructure is contributed
 39 by the political subdivision to a public utility (as defined in
 40 IC 8-1-2-1).

41 **Sec. 7.** As used in this chapter, "residential housing" means
 42 single family or multifamily housing for rent or sale. The term



1 includes condominiums and townhouses located within an
 2 economic development target area that is designated under
 3 IC 6-1.1-12.1-7.

4 **Sec. 8.** The residential housing infrastructure assistance
 5 program is established.

6 **Sec. 9. (a)** The residential housing infrastructure assistance
 7 revolving fund is established. The fund is a revolving fund to
 8 provide money for loans under this chapter to or for the benefit of
 9 participants.

10 (b) The fund consists of:

- 11 (1) appropriations from the general assembly;
- 12 (2) grants and other gifts of money; and
- 13 (3) loan repayments, including interest, premiums, and
 14 penalties.

15 (c) The authority shall administer, hold, and manage the fund.

16 (d) The cost of administering the fund shall be paid from money
 17 in the fund.

18 (e) Money in the fund shall be used to make loans for public
 19 infrastructure for the support of residential housing.

20 (f) Money in the fund may not be used for any of the following
 21 purposes:

- 22 (1) Repayment of any debt incurred for a project other than
 23 an eligible project.
- 24 (2) Routine maintenance and repair projects.
- 25 (3) Upgrading utility poles.
- 26 (4) Fees for studies, reports, designs, or analyses prepared by
 27 consultants or engineers for an eligible project.

28 (g) Money in the fund is continuously appropriated for the
 29 purposes of this chapter.

30 (h) Money in the fund does not revert to the state general fund
 31 at the end of a state fiscal year.

32 **Sec. 10.** Loans from the fund must be allocated and made
 33 available to participants as follows:

- 34 (1) Seventy percent (70%) of the money in the fund must be
 35 used for housing infrastructure in municipalities with a
 36 population of less than fifty thousand (50,000).
- 37 (2) Thirty percent (30%) of the money in the fund must be
 38 used for housing infrastructure in all other political
 39 subdivisions not described in subdivision (1).

40 **Sec. 11. (a)** The authority shall invest the money in the fund in
 41 accordance with an investment policy adopted by the authority.
 42 Interest, premiums, gains, or other earnings from the investments



1 shall be credited to and deposited in the fund.

2 (b) As an alternative to subsection (a), the authority may invest
3 or cause to be invested all or a part of the fund in a fiduciary
4 account or accounts with a trustee that is a financial institution.
5 Notwithstanding any other law, any investment may be made by
6 the trustee in accordance with one (1) or more trust agreements or
7 indentures. A trust agreement or indenture may permit
8 disbursements by the trustee to:

9 (1) a participant;

10 (2) the authority; or

11 (3) any person to which the authority or a participant is
12 obligated, as provided in the trust agreement or indenture.

13 Sec. 12. This chapter does not require the authority to provide
14 a loan to any participant to the extent the authority determines the
15 loan is not in the best interests of the program and the authority.

16 Sec. 13. The authority shall do the following under this chapter:

17 (1) Manage the program.

18 (2) Prepare and provide program information to participants.

19 (3) Negotiate the negotiable aspects of each financial
20 assistance agreement.

21 (4) Prepare or cause to be prepared each financial assistance
22 agreement.

23 (5) Sign each financial assistance agreement.

24 (6) Conduct or cause to be conducted an evaluation as to the
25 financial ability of each participant to pay the loan and other
26 obligations evidencing the loans, if required to be paid, and
27 comply with the financial assistance agreement.

28 (7) Review each proposed eligible project and financial
29 assistance agreement to determine if the project meets the
30 credit, economic, or fiscal criteria established by guidelines of
31 the authority.

32 Sec. 14. (a) The authority shall develop and use a priority
33 ranking system in making loans from the fund.

34 (b) The ranking system must prioritize making loans for eligible
35 projects to participants that:

36 (1) have:

37 (A) invested in a housing study within the last five (5)
38 years; or

39 (B) demonstrated the need for housing inventory as
40 indicated by the Indiana state housing dashboard;

41 (2) have voluntarily revised unified development ordinances,
42 zoning regulations, or other land development rules to allow



1 for:

2 (A) higher density development;

3 (B) construction of other housing types including accessory
4 dwelling units and manufactured and modular housing;

5 (C) adaptive reuse of commercial buildings for residential
6 use; or

7 (D) waiver or elimination of regulations such as
8 requirements for:

9 (i) garage size and placement;

10 (ii) steeper roof pitch;

11 (iii) minimum lot size and square footage;

12 (iv) greater setbacks;

13 (v) off-street parking; or

14 (vi) design standards that restrict or prohibit the use of
15 code compliant products;

16 (3) do not have impact fee ordinances;

17 (4) have secured private, local, state, or federal funds to
18 contribute to the eligible project;

19 (5) have secured a letter of support from an employer
20 stipulating that the public infrastructure will support
21 residential housing that is in reasonable proximity to
22 employment; or

23 (6) assist:

24 (A) homeowners to age in place through restoration or
25 renovation of existing homes; or

26 (B) communities in preparing for shovel ready housing.

27 Sec. 15. The authority shall establish the terms and conditions
28 that the authority considers necessary or convenient to make loans
29 under this chapter.

30 Sec. 16. (a) An application for a loan from the fund must be
31 accompanied by all papers and opinions required by the authority.

32 (b) The authority may require that an application for a loan
33 from the fund be accompanied by the following:

34 (1) A certification and guarantee of signatures.

35 (2) A certification that, as of the date of the loan, no litigation
36 is pending challenging the validity of or entry into:

37 (A) the loan; or

38 (B) any security for the loan.

39 (3) Any other certifications, agreements, security, or
40 requirements that the authority requests.

41 (4) An approving opinion of nationally recognized bond
42 counsel.



1 **Sec. 17.** A participant receiving a loan from the fund shall enter
2 into a financial assistance agreement. A financial assistance
3 agreement related to the program is a valid, binding, and
4 enforceable agreement of the participant.

5 **Sec. 18. (a)** The authority may pledge loans and other
6 obligations of participants evidencing the loans from the fund to
7 secure other loans from the fund to or for the benefit of
8 participants.

9 **(b)** The authority must approve the terms of a pledge under this
10 section.

11 **(c)** Notwithstanding any other law, a pledge of property made
12 by the authority under this section is binding from the time the
13 pledge is made. Revenues, other money, or other property pledged
14 and that is received after the pledge is immediately subject to the
15 lien of the pledge without any other act. The lien of a pledge is
16 binding against all parties having claims of any kind in tort,
17 contract, or otherwise against:

18 **(1)** the fund; or

19 **(2)** the authority;

20 regardless of whether the parties have notice of any lien.

21 **(d)** A resolution, an indenture, or another instrument by which
22 a pledge is created does not have to be filed or recorded, except in
23 the records of the authority.

24 **(e)** Action taken to:

25 **(1)** enforce a pledge under this section; and

26 **(2)** realize the benefits of the pledge;

27 is limited to the property pledged.

28 **(f)** A pledge under this section does not create a liability or
29 indebtedness of the state.

30 **Sec. 19. (a)** The authority shall establish the interest rate or
31 parameters for establishing the interest rate on each loan made
32 under this chapter, including parameters for establishing the
33 amount of interest subsidies.

34 **(b)** The authority, in setting the interest rate or parameters for
35 establishing the interest rate on each loan, may take into account
36 the following:

37 **(1)** Credit risk.

38 **(2)** Affordability.

39 **(3)** Other fiscal factors the authority considers relevant,
40 including the program's cost of funds and whether the
41 financial assistance provided to a particular participant is
42 taxable or tax exempt under federal law.



1 Based on the factors set forth in subdivisions (1) through (3), more
 2 than one (1) interest rate may be established and used for loans to
 3 different participants or for different loans to the same
 4 participants.

5 Sec. 20. (a) As an alternative to making loans to participants, the
 6 authority may use the money in the fund to provide a leveraged
 7 loan program to or for the benefit of participants, including using
 8 money in the fund to enhance the obligations of participants issued
 9 for the purposes of this chapter by:

10 (1) granting money to:

11 (A) be deposited in:

12 (i) a capital fund or reserve fund established under
 13 IC 5-1.2-4 or another statute or a trust agreement or
 14 indenture as contemplated by this chapter; or

15 (ii) an account established within a fund described in
 16 item (i); or

17 (B) provide interest subsidies;

18 (2) paying bond insurance premiums, reserve insurance
 19 premiums, or credit enhancement, liquidity support,
 20 remarketing, or conversion fees, or other similar fees or costs
 21 for obligations of a participant or for bonds issued by the
 22 authority, if credit market access is improved or interest rates
 23 are reduced; or

24 (3) guaranteeing all or a part of obligations issued by
 25 participants or bonds issued by the authority.

26 (b) A guarantee of obligations or bonds under subsection (a)(3)
 27 must be limited to money in the fund. A guarantee under
 28 subsection (a)(3) does not create a liability or indebtedness of the
 29 state.

30 Sec. 21. Notwithstanding any other law, money in the fund,
 31 together with loan repayments to be deposited in the fund, may be
 32 used to establish a leveraged loan program in connection with the
 33 fund.

34 Sec. 22. The authority may adopt guidelines, without complying
 35 with IC 4-22-2, to govern the administration of this chapter.

36 Sec. 23. Not later than August 1 of each year, the public finance
 37 director shall prepare for the budget committee established by
 38 IC 4-12-1-3 and the legislative council a report that includes the
 39 following:

40 (1) Information concerning the loans made available to
 41 participants from the fund during each fiscal year.

42 (2) Any other information requested by the budget committee



- 1 **and the legislative council.**
- 2 **The report to the legislative council must be submitted in an**
- 3 **electronic format under IC 5-14-6.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1005, 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 4, between lines 35 and 36, begin a new paragraph and insert:

"(c) For purposes of subsection (a)(1) through (a)(4), a political subdivision is providing the infrastructure notwithstanding that, after completion of construction, the infrastructure is contributed by the political subdivision to a public utility (as defined in IC 8-1-2-1)."

and when so amended that said bill do pass.

(Reference is to HB 1005 as introduced.)

MILLER D

Committee Vote: yeas 12, nays 0.

