

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.

SENATE ENROLLED ACT No. 128

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 4-4-10.9-1.2, AS AMENDED BY P.L.155-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, IC 4-4-11.4, IC 4-4-11.6, IC 4-4-21, **IC 4-10-19**, IC 4-13.5, IC 5-1-16, IC 5-1-16.5, IC 5-1-17.5, IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-15.5, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, IC 14-14, and IC 14-28-5.

SECTION 2. IC 4-4-11-0.4, AS AMENDED BY P.L.111-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.4. (a) On May 15, 2005, all powers, duties, agreements, and liabilities of the treasurer of state, the auditor of state, the department of environmental management, and the budget agency with respect to:

- (1) the wastewater revolving loan program established by IC 13-18-13-1;
- (2) the drinking water revolving loan program established by IC 13-18-21-1; and
- (3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the authority, as the successor agency, for the limited purposes described in subdivisions (1) through (3).

(b) On May 15, 2005, all records, money, and other property of the



treasurer of state, the auditor of state, the department of environmental management, and the budget agency with respect to:

- (1) the wastewater revolving loan program established by IC 13-18-13-1;
- (2) the drinking water revolving loan program established by IC 13-18-21-1; and
- (3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the authority as the successor agency for the limited purposes described in subdivisions (1) through (3).

(c) On May 15, 2005, all powers, duties, agreements, and liabilities of the Indiana bond bank, the Indiana department of environmental management, and the budget agency with respect to:

- (1) outstanding bonds issued for:
 - (A) the wastewater revolving loan program established by IC 13-18-13-1; or
 - (B) the drinking water revolving loan program established by IC 13-18-21-1; and
- (2) any trust agreement or indenture, security agreement, purchase agreement, or other undertaking entered into in connection with the bonds described in subdivision (1);

are transferred to the authority, as the successor agency, for the limited purposes described in subdivisions (1) and (2). The rights of the trustee and the bondholders with respect to any bonds or any trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in this subsection remain the same, although the powers, duties, agreements, and liabilities of the Indiana bond bank have been transferred to the authority and the authority shall be considered to have assumed all those powers, duties, agreements, and liabilities as if the authority were the Indiana bond bank for those limited purposes.

(d) On July 1, 2016, all powers, duties, agreements, and liabilities of the treasurer of state, the auditor of state, the department of natural resources, the natural resources commission, and the budget agency with respect to:

- (1) the flood control program established by IC 14-28-5-1; and
- (2) the flood control revolving fund created by IC 14-28-5-5;

are transferred to the authority, as the successor agency, for the limited purposes described in subdivisions (1) and (2).

(e) On July 1, 2016, all records, money, and other property of the treasurer of state, the auditor of state, the department of natural resources, the natural resources commission, and the budget agency



with respect to:

(1) the flood control program established by IC 14-28-5-1; and
 (2) the flood control revolving fund created by IC 14-28-5-5;
 are transferred to the authority as the successor agency for the limited purposes described in subdivisions (1) and (2).

(f) On July 1, 2017, all powers, duties, agreements, and liabilities of the treasurer of state, the auditor of state, the budget agency, and any other state agency involved with respect to the local infrastructure revolving fund established by IC 4-10-19 are transferred to the authority, as successor agency, for the limited purposes described in IC 4-10-19. In addition, all related records, money, and other property, with respect to the local infrastructure revolving fund established by IC 4-10-19, shall be transferred to the authority on or before July 1, 2017.

SECTION 3. IC 4-4-11-2, AS AMENDED BY P.L.233-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The legislature makes the following findings of fact:

(1) That there currently exists in certain areas of the state critical conditions of unemployment, inadequate drinking water, inadequate wastewater and storm water management, or environmental pollution, including water pollution, air pollution, sewage and solid waste, radioactive waste, thermal pollution, radiation contamination, and noise pollution, and that these conditions may well exist, from time to time, in other areas of the state.

(2) That in some areas of the state such conditions are chronic and of long standing and that without remedial measures they may become so in other areas of the state.

(3) That economic insecurity due to unemployment, inadequate drinking water, inadequate wastewater and storm water management, or environmental pollution is a menace to the health, safety, morals, and general welfare of not only the people of the affected areas but of the people of the entire state.

(4) That involuntary unemployment and its resulting burden of indigency falls with crushing force upon the unemployed worker and ultimately upon the state in the form of public assistance and unemployment compensation.

(5) That security against unemployment and the resulting spread of indigency and economic stagnation in the areas affected can best be provided by:

(A) the promotion, attraction, stimulation, rehabilitation, and



revitalization of industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products; (B) the promotion and stimulation of international exports; and (C) the education, both formal and informal, of people of all ages throughout the state by the promotion, attraction, construction, renovation, rehabilitation, and revitalization of and assistance to educational facility projects.

(6) That the present and prospective health, safety, morals, right to gainful employment, and general welfare of the people of the state require as a public purpose the provision of safe drinking water, the provision of wastewater and storm water management, the abatement or control of pollution, the promotion of increased educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) for people of all ages through new, expanded, or revitalized educational facility projects or through assisting educational facility projects, and the promotion of employment creation or retention through development of new and expanded industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products.

(7) That there is a need to stimulate a larger flow of private investment funds from commercial banks, investment bankers, insurance companies, other financial institutions, and individuals into such industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products in the state.

(8) That the authority can encourage the making of loans or leases for creation or expansion of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, thus putting a larger portion of the private capital available in Indiana for investment to use in the general economic development of the state.

(9) That the issuance of bonds of the authority to create a financing pool for industrial development projects and carrying out the purposes of IC 13-18-13 and IC 13-18-21 promoting a substantial likelihood of opportunities for:

- (A) gainful employment;
- (B) business opportunities;
- (C) educational enrichment (including cultural, intellectual,



scientific, or artistic opportunities);

(D) the abatement, reduction, or prevention of pollution;

(E) the provision of safe drinking water;

(F) the provision of wastewater and storm water management;

(G) the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used; or

(H) increased options for and availability of child care;

will improve the health, safety, morals, and general welfare of the people of the state and constitutes a public purpose for which the authority shall exist and operate.

(10) That the issuance of bonds of the authority to create a funding source for the making of guaranteed participating loans will promote and encourage an expanding international exports market and international exports sales and will promote the general welfare of all of the people of Indiana by assisting Indiana businesses through stimulation of the expansion of international exports sales for Indiana products and services, especially those of small and medium-sized businesses, by providing financial assistance through the authority.

(b) The Indiana finance authority shall exist and operate for the public purposes of:

(1) promoting opportunities for gainful employment and business opportunities by the promotion and development of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, in any areas of the state;

(2) promoting the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of all the people of the state by the promotion, development, and assistance of educational facility projects;

(3) promoting affordable farm credit and agricultural loan financing at interest rates that are consistent with the needs of borrowers for farming and agricultural enterprises;

(4) preventing and remediating environmental pollution, including water pollution, air pollution, sewage and solid waste disposal, radioactive waste, thermal pollution, radiation contamination, and noise pollution affecting the health and well-being of the people of the state by:

(A) the promotion and development of industrial development projects; and



- (B) carrying out the purposes of IC 13-18-13 and IC 13-18-21;
- (5) promoting the provision of safe and adequate drinking water and wastewater and storm water management to positively affect the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21;
- (6) otherwise positively affecting the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21;
- (7) promoting affordable and accessible child care for the people of the state by the promotion and development of child care facilities; ~~and~~
- (8) carrying out the purposes of IC 5-1-17.5 concerning a motorsports investment district;
- (9) administering a local infrastructure revolving fund established under IC 4-10-19; and**
- (10) administering a regional development authority infrastructure fund established under IC 36-9-43-9.**

SECTION 4. IC 4-4-11-15.4, AS ADDED BY P.L.235-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.4. (a) The authority may issue bonds or notes and invest or loan the proceeds of those bonds or notes to a participant (as defined in IC 13-11-2-151.1 **or IC 4-10-19-1.8, as applicable**) for the purposes of:

- (1) the wastewater revolving loan program established by IC 13-18-13-1; ~~and~~
- (2) the drinking water revolving loan program established by IC 13-18-21-1; ~~and~~
- (3) the local infrastructure revolving loan funds established under IC 4-10-19-3.**

(b) If the authority loans money to or purchases debt securities of a political subdivision (as defined in IC 13-11-2-164(a) and IC 13-11-2-164(b)), the authority may, by the resolution approving the bonds or notes, provide that subsection (c) is applicable to the political subdivision.

(c) Notwithstanding any other law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the political subdivision (other than for goods or services provided by the political subdivision), at any time after written notice to the department or agency head from the authority that the political subdivision is in default on the payment of principal or interest on the obligations then held or owned by or arising from an agreement with the authority, the department or agency shall withhold the payment of that money from that political subdivision and pay over the



money to the authority for the purpose of paying principal of and interest on bonds or notes of the authority. However, the withholding of payment from the political subdivision and payment to the authority under this section must not adversely affect the validity of the obligation in default.

(d) This subsection applies to securities of a political subdivision acquired by the authority, or arising from an agreement entered into with the authority, after June 30, 2017. Upon receiving notice from the authority that the political subdivision has failed to pay when due the principal or interest on the obligations of the political subdivision then held or owned by or arising from an agreement with the authority, the fiscal officer (as defined in IC 36-1-2-7) of the county, for any county in which the political subdivision is wholly or partially located, shall do the following:

(1) Reduce the amount of any revenues or other money or property that:

(A) is held, possessed, maintained, controlled, or otherwise in the custody of the county or a department, an agency, or an instrumentality of the county; and

(B) would otherwise be available for distribution to the political subdivision under any other law;

by an amount equal to the amount of the political subdivision's unpaid obligations.

(2) Pay the amount by which the revenues or other money or property is reduced under subdivision (1) to the authority to pay the principal of and interest on bonds or other obligations of the authority.

(3) Notify the political subdivision that the revenues or other money or property, which would otherwise be available for distribution to the political subdivision, has been reduced by an amount necessary to satisfy all or part of the political subdivision's unpaid obligations to the authority.

(e) This subsection applies to securities of a political subdivision acquired by the authority, or arising from an agreement with the authority, that is covered by subsection (d). A reduction under subsection (d) must be made as follows:

(1) First, from local income tax distributions under IC 6-3.6-9 that would otherwise be distributed to the political subdivision under the schedules in IC 6-3.6-9-12 and IC 6-3.6-9-16.

(2) Second, from any other revenues or other money or property that:



- (A) is held, possessed, maintained, or controlled by, or otherwise in the custody of, the county or a department, an agency, or an instrumentality of the county; and
- (B) would otherwise be available for distribution to the political subdivision under any other law.

SECTION 5. IC 4-10-19-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.2. As used in this chapter, "authority" has the meaning specified in IC 4-4-10.9-1.5.**

SECTION 6. IC 4-10-19-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "bonds" of the authority means any bonds, certificates, notes, debentures, interim certificates, revenue anticipation notes, warrants, or any other evidences of indebtedness of the authority. As used in this chapter with respect to a participant, "bonds" means, to the extent otherwise authorized, bonds, certificates, notes, debentures, interim certificates, revenue anticipation notes, warrants, or any other evidences of indebtedness of a participant.**

SECTION 7. IC 4-10-19-0.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.7. As used in this chapter, "financing agreement" means an agreement that is between the authority and a participant concerning the financing of a local infrastructure project and that provides for payments to the authority in an amount sufficient to pay the principal of, premium on, if any, and interest on any bonds issued by the authority for the financing of a local infrastructure project or to repay loans from a fund for such a purpose.**

SECTION 8. IC 4-10-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. As used in this chapter, "fund" refers to ~~the~~ any local infrastructure revolving fund established by this chapter.**

SECTION 9. IC 4-10-19-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.3. As used in this chapter, "local infrastructure program" means a program to provide financial assistance for local infrastructure projects under this chapter.**

SECTION 10. IC 4-10-19-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. As used in this chapter, "local infrastructure project" means a facility described in section**



7(a) of this chapter.

SECTION 11. IC 4-10-19-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.7. As used in this chapter, "local infrastructure revolving fund" means a fund established under section 3 of this chapter.**

SECTION 12. IC 4-10-19-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.8. As used in this chapter, "participant" means:**

- (1) a political subdivision;**
- (2) an agency, authority, department, or instrumentality, or body corporate and politic acting on behalf of a political subdivision; or**
- (3) a regional authority, instrumentality, or body corporate and politic acting on behalf of one (1) or more entities described in subdivision (1) or (2).**

SECTION 13. IC 4-10-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. ~~The~~ Local infrastructure revolving fund is funds may be established for the purpose of providing funds to local governments participants for local infrastructure projects. ~~The~~ A separate fund may be established for any purpose listed in section 7(a) of this chapter. Each fund shall be administered by the budget agency: authority.**

SECTION 14. IC 4-10-19-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. (a) In administering ~~the~~ a fund, the budget agency authority shall do the following:**

- (1) Monitor applicable infrastructure finance needs and the availability and cost of capital.**
- (2) Provide financial management of investment pools and financial services associated with loans.**
- (3) Explore and evaluate capital financing techniques.**
- (4) Explore methods for the state to enhance the credit quality of municipal bond issues of participants at a minimum cost to the state.**

(b) The Indiana department of transportation, the Indiana department of environmental management, and any other appropriate state agency, department, or instrumentality, in consultation with the budget agency: authority, shall advise political subdivisions participants on methods for financing infrastructure.

(c) The budget agency authority shall annually present a report to



the budget committee **and the budget agency** that describes the projects funded under this chapter **during the year.**

SECTION 15. IC 4-10-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Subject to the written procedures developed under section 6 of this chapter, the ~~budget agency~~ **authority** may do the following:

(1) Accept money from any agency, department, or instrumentality of the United States, the state, or another state for deposit in a fund.

(2) Issue bonds and deposit proceeds in a fund.

~~(3)~~ **(3) Loan money from the fund to a political subdivision participant.**

~~(4)~~ **(4) Use the money in the a fund:**

(A) for debt financing;

(B) for grants;

(C) for loan guarantees;

(D) to manage leverage loan programs for new construction of **local infrastructure projects** through recapitalization of funds;

(E) to refinance and purchase ~~political subdivision~~ **participant** debt;

(F) to guarantee ~~political subdivision~~ **participant** loans;

(G) to make bond and debt service reserve insurance payments; ~~and~~

(H) to guarantee debt service reserve funds; ~~and~~

(I) to provide other financial assistance;

~~to or for a political subdivision participant.~~

(5) Deposit loan repayments by a participant in a fund.

SECTION 16. IC 4-10-19-5.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.3. The authority may borrow money and issue its bonds from time to time in such principal amounts as the authority determines is necessary to provide sufficient funds to:**

(1) carry out the powers stated in this chapter;

(2) pay the principal of and premium on, if any, and interest on bonds of the authority;

(3) establish reserves to secure the bonds; and

(4) make all other expenditures of the authority incident to, necessary to, and convenient to carry out its purposes and powers under this chapter.

SECTION 17. IC 4-10-19-5.5 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a) The authority may issue bonds and invest in, or loan the proceeds of those bonds to, a participant for the purposes of a local infrastructure program established under subsection (f).**

(b) If the authority uses bond proceeds to loan money to or purchase bonds of a participant, the authority may, by the resolution approving the bonds, provide that subsection (c) is applicable to the participant.

(c) Notwithstanding any other law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the participant (other than for goods or services provided by the participant), at any time after written notice to the department or agency head from the authority that the participant is in default on the payment of principal or interest on the bonds then held or owned by or arising from an agreement with the authority, the department or agency shall withhold the payment of that money from that participant and pay over the money to the authority for the purpose of paying the principal of and interest on the related bonds. However, the withholding of payment from the participant and payment to the authority under this section must not adversely affect the validity of the bonds in default.

(d) If the authority finds that the local infrastructure project:

(1) will be of benefit to the health, safety, morals, and general welfare of the area where the local infrastructure project is to be located; and

(2) complies with the purposes and provisions of this chapter; the authority may by resolution approve the proposed financing agreement. This resolution may also authorize the issuance of bonds payable solely from revenues and receipts derived from the financing agreement or from payments made under an agreement to guarantee obligations of the participant that is a party to the financing agreement.

(e) A financing agreement approved under this section in connection with bonds must provide for payments in an amount sufficient to pay the principal of, premium on, if any, and interest on the bonds issued for the financing of the local infrastructure project. Interest payments for the anticipated construction period, plus a period of not more than one (1) year, may be funded in the bond issue. The term of a financing agreement may not exceed twenty (20) years from the date of any bonds issued under the



financing agreement. However, a financing agreement does not terminate after twenty (20) years if a default under that financing agreement remains uncured, unless the termination is authorized by the terms of the financing agreement.

(f) In addition to all other powers granted to the authority under this chapter, including the power to borrow money and to issue bonds to finance directly or indirectly the development of local infrastructure projects, the authority may initiate local infrastructure programs for participants through the issuance of bonds under this chapter. In furtherance of this objective, the authority may do any of the following:

- (1) Establish eligibility standards for a participant and local infrastructure projects, without complying with IC 4-22-2. However, these standards have the force of law if the standards are adopted after a public hearing for which notice has been given by publication under IC 5-3-1.
- (2) Contract with any entity securing, in whole or in part, the payment of bonds issued under this chapter and authorizing the entity to approve the participant that can finance or refinance local infrastructure projects with proceeds from the bond issue secured by that entity.
- (3) Lend money, upon the terms and conditions as the authority considers proper, to a participant under an installment purchase contract or loan agreement to:
 - (A) finance, reimburse, or refinance the cost of a local infrastructure project; and
 - (B) take back secured or unsecured bonds evidencing such a loan or a security interest in the local infrastructure project financed or refinanced with the loan.
- (4) Require any type of security that the authority considers reasonable and necessary.
- (5) Enter into any agreement, contract, or other instrument with respect to any insurance, guarantee, letter of credit, or other form of credit enhancement, accepting payment in the manner and form as provided in the instrument if a participant defaults, and assign any such insurance, guarantee, letter of credit, or other form of credit enhancement as security for bonds issued by the authority.
- (6) Finance for participants in connection with their local infrastructure projects:
 - (A) the cost of their local infrastructure projects, including costs of planning, designing, feasibility studies,



- construction, expansion, renovation, or improvement;
- (B) capitalized interest for the anticipated construction period plus one (1) year; and
- (C) in the case of a program funded from the proceeds of taxable bonds or sources other than tax exempt bonds, working capital associated with the operation of such local infrastructure projects;

in amounts determined to be appropriate by the authority.

(7) Provide for payments and enter into obligations under bonds and financing agreements owed to the authority from revenues and receipts derived from:

- (A) bonds of participants;
- (B) financing agreements with the participants or users or developers of the facilities financed by the bonds, or persons; or
- (C) payments made under guaranty agreements by developers, users, or persons.

(8) Conduct all other activities that the authority considers necessary.

(g) Bonds issued to fund a program under this section are not in any respect a general obligation of the state, nor are they payable in any manner from revenues raised by taxation, other than any local tax revenue securing or used to repay bonds of a participant.

(h) The authority may make loans to participants for local infrastructure projects from proceeds of its bonds or from a fund.

(i) Any resolution adopted to authorize the issuance of bonds to fund a program under this section may provide that the bonds are payable solely from:

- (1) revenues and receipts derived from the various financing agreements; or
- (2) the payments made under any other agreements to secure the obligations of the participant, related persons, or the authority.

(j) The authority may provide financial assistance to participants in the form of forgiveness of principal of a loan.

SECTION 18. IC 4-10-19-5.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.7. (a) The authority may issue, from time to time, bonds to refund or to pay bonds, including the interest on the bonds, if such refunded bonds have been issued to finance local infrastructure projects, and whenever the authority considers refunding expedient, to refund any bonds by



the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund outstanding bonds and partly for any other of the authority's corporate purposes as long as the bonds to be refunded were issued to finance local infrastructure projects. With respect to any bonds issued for a local infrastructure project under this chapter, the cumulative terms of bonds and refunding bonds may not exceed fifty (50) years for any local infrastructure project or group of local infrastructure projects financed at the same time.

(b) A savings to the authority or to the participant issuing the bonds to be refunded is not required for the issuance of the refunding bonds or the issuance of bonds to refund refunding bonds. Refunding bonds issued under this section are payable solely from revenues and receipts derived from:

- (1) bonds of a participant;
- (2) financing agreements with the participant or users or developers of the facilities originally financed by the outstanding bonds, or related persons; or
- (3) payments made under guaranty agreements by developers, users, or related persons.

The financing agreements or guaranties may be new financing agreements or guaranties or amendments of the original financing agreements or guaranties.

(c) Refunding bonds issued under this section are not in any respect a general obligation of the authority, nor are the bonds payable in any manner from revenues raised by taxation, other than any local tax revenue securing or used to repay bonds of a participant.

SECTION 19. IC 4-10-19-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The ~~budget agency~~ **authority** shall establish a written procedure, **in coordination with a state agency, department, or instrumentality providing funds under section 5(1) of this chapter**, for allocating money to projects described in section 7 of this chapter.

(b) The procedure established under this section must include at least the following:

- (1) An application procedure to identify projects that qualify for funding.
- (2) Criteria for establishing priority of projects.
- (3) Procedures for selecting projects.
- (4) Procedures for reporting the results of the selection process and the status of projects to the budget committee.



(c) To apply for a loan or ~~grant~~ **other financial assistance** from ~~the~~ **a fund**, a ~~political subdivision~~ **participant** must submit an application that contains at least the following information:

- (1) A description of the infrastructure for which the loan or ~~grant~~ **other financial assistance** is sought.
- (2) An estimate of the cost of constructing or improving the infrastructure, including the cost of designing the infrastructure.
- (3) Any other information required by the ~~budget agency~~ **authority** in accordance with the procedure established under this section.

(d) The authority may enter into agreements or memoranda of understanding or agreement with an entity described in subsection (a) without the requirement of approval of the form or execution and delivery of the instrument by either the authority or the entity other than provided for in this chapter.

SECTION 20. IC 4-10-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) **A loan of proceeds of the authority's bonds or a loan or grant other financial assistance** from ~~the~~ **a fund** must be used by a ~~political subdivision~~ **participant** to establish or improve only the following infrastructure needs:

- (1) Wastewater treatment projects, sewer systems, and drinking water systems, and extending water lines and installing hydrants for fire protection.
- (2) Cargo, reliever, and general aviation airports, as classified by the Federal Aviation Administration on January 1, 1996.
- (3) Juvenile detention centers.
- (4) Infrastructure or local public improvements needed for the rehabilitation, redevelopment, economic development, and reuse of military base property acquired from the federal government by a reuse authority established under IC 36-7-30 or a redevelopment authority operating under IC 36-7-14.5-12.5.
- (5) Highways, roads, streets, **bridges or any other public way**, and public mass transportation systems. ~~for communities.~~

- (b) **A grant Financial assistance** from the fund must
- (1) ~~not exceed ten percent (10%) of the total project cost or five million dollars (\$5,000,000); whichever is less; and~~
 - (2) be made in conjunction with the adoption of a resolution by a ~~political subdivision~~ **participant** that sets forth the ~~political subdivision's~~ **participant's** commitment of revenues **or other money or property** to the infrastructure project for which the ~~grant~~ **financial assistance** is made.



SECTION 21. IC 4-10-19-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A loan from ~~the a~~ fund must:

- (1) have an interest rate of not more than a rate that the state board of finance determines does not exceed current market rates for that type of loan;
- (2) (1) have a term of not more than twenty (20) years;
- (3) ~~except as provided in subsection (c); not exceed ten percent (10%) of the total project cost or five million dollars (\$5,000,000); whichever is less;~~
- (4) (2) be made in conjunction with the adoption of a resolution by a ~~political subdivision~~ **participant** that sets forth the ~~political subdivision's~~ **participant's** commitment of revenues ~~or other money or property~~ to the infrastructure project for which the loan is made;
- (5) (3) provide for amortization to begin not later than one (1) year after construction of the project ends;
- (6) (4) be accompanied by:
 - (A) all papers and opinions required by the ~~budget agency;~~ **authority;**
 - (B) an opinion of a bond counsel;
 - (C) a certification and guarantee of signatures; and
 - (D) a certification that, as of the date of the loan, no litigation is pending challenging the validity of, or entry into, the loan or any security for the loan; ~~and~~
- (7) (5) be repaid; ~~and~~
- (6) **have an interest rate established by the authority in accordance with subsection (c).**

(b) Unless otherwise provided by the procedure established under section 6 of this chapter, a ~~political subdivision~~ **participant** that receives ~~a loan~~ **financial assistance** from the fund shall enter into a **loan financing** agreement. A **loan financing** agreement is a valid, binding, and enforceable agreement of the ~~political subdivision;~~ **participant.**

(c) A loan from the fund that is associated with a project under Section 350 of the National Highway System Act of 1995, Public Law 104-59; or subsequent laws authorizing the state infrastructure bank program may exceed the loan amount limitations described in subsection (a)(3): **The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:**

- (1) Credit risk.



(2) Affordability.

(3) Other fiscal factors the authority considers relevant, including the program's cost of funds.

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

SECTION 22. IC 4-10-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The expenses of administering ~~the a~~ fund shall be paid from money in ~~the that~~ fund.

SECTION 23. IC 4-10-19-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The ~~treasurer~~ of state shall invest ~~the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds~~ may be invested. Interest that accrues from these investments shall be deposited in the fund. **authority may invest money in funds as provided in IC 4-4-11-15(a)(17) and IC 4-4-11-15(a)(50).**

SECTION 24. IC 4-10-19-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. Money in ~~the any~~ fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 25. IC 4-10-19-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. The following apply to bonds issued under this chapter for local infrastructure projects:**

- (1) IC 4-4-11-2.7.**
- (2) IC 4-4-11-21 through IC 4-4-11-30.**
- (3) IC 4-4-11-33 through IC 4-4-11-34.**
- (4) IC 4-4-11-36.5.**
- (5) IC 4-4-11-37.**
- (6) IC 4-4-11-39 through IC 4-4-11-41.**

SECTION 26. IC 4-10-19-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. The authority may do the following:**

- (1) Employ:**
 - (A) fiscal consultants;**
 - (B) engineers;**
 - (C) bond counsel;**
 - (D) special counsel;**
 - (E) accountants; and**
 - (F) any other consultants, employees, and agents;**



that the authority considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed in subdivision (1) from money:

(A) available in a fund; or

(B) otherwise made available for the program.

(3) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

SECTION 27. IC 4-10-19-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. (a) The authority may:**

(1) charge a fee for services provided; and

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a participant, regardless of whether the application is approved or rejected.

(b) A participant may pay fees charged under this section.

SECTION 28. IC 4-10-19-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. (a) The authority may sell loans or bonds of participants evidencing the loans periodically at any price and on terms acceptable to the authority. Proceeds of sales under this section shall be deposited in the applicable fund.**

(b) The authority may pledge loans or bonds of participants to secure other loans from a fund to or for the benefit of participants.

(c) The authority must approve the terms of a pledge under this section.

(d) Notwithstanding any other law, a pledge of property made by a participant, or a pledge of property made by the authority under this section, is binding from the time the pledge is made. Any pledge of property made by an entity described in section 6(a) of this chapter under this section is binding on the entity and the authority. Revenues, other money, or other property pledged and received is immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) a participant;

(2) the authority; or

(3) a fund;

regardless of whether the parties have notice of any lien.



(e) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the authority.

(f) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(g) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 29. IC 4-10-19-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers. The omission of a power does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this chapter but is consistent with the powers listed in this chapter to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.**

SECTION 30. IC 6-3-2-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 26. (a) This section applies only to taxable years beginning after December 31, 2017.**

(b) As used in this section, "fund" refers to the regional development authority infrastructure fund established by IC 36-9-43-9.

(c) Each taxable year, a taxpayer that has made a contribution or gift to the fund is entitled to a deduction from the taxpayer's adjusted gross income for the taxable year in an amount equal to the amount of the federal income tax deduction allowable to the entity under Section 170 of the Internal Revenue Code for the taxable year for the taxpayer's contribution or gift to the fund.

(d) The deduction provided by subsection (c) for a taxable year may apply to a contribution or a gift to the fund that was made in a different taxable year.

(e) If a pass through entity that makes a contribution or gift to the fund is entitled to the deduction provided by subsection (c) for a taxable year, a shareholder, partner, fiduciary, or member of the pass through entity is entitled to an adjusted gross income tax deduction equal to:

- (1) the adjusted gross income tax deduction computed for the



**pass through entity for the taxable year; multiplied by
(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, fiduciary, or member is entitled.**

SECTION 31. IC 6-3.6-6-21 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 21. A civil taxing unit may contribute any part of its certified shares to the regional development infrastructure fund established by IC 36-9-43-9. The contribution must be approved in an ordinance adopted by the fiscal body of the political subdivision.**

SECTION 32. IC 8-16-3.1-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 0.7. As used in this chapter, "double tracking" means a railway running two (2) bidirectional tracks. The term includes a railway:**

- (1) with a double track that can be signaled to run in a single direction; and**
- (2) with a double track that can be signaled into one (1) track to provide clearance as needed.**

SECTION 33. IC 8-23-2-6, AS AMENDED BY P.L.135-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) The department, through the commissioner or the commissioner's designee, may do the following:**

- (1) Acquire by purchase, gift, or condemnation, sell, abandon, own in fee or a lesser interest, hold, or lease property in the name of the state, or otherwise dispose of or encumber property to carry out its responsibilities.**
- (2) Contract with persons outside the department to do those things that in the commissioner's opinion cannot be adequately or efficiently performed by the department.**
- (3) Enter into:**
 - (A) a contract with the Indiana finance authority under IC 8-9.5-8-7; or**
 - (B) a lease with the Indiana finance authority under IC 8-9.5-8-8;**

for the construction, reconstruction, improvement, maintenance, repair, or operation of toll road projects under IC 8-15-2 and toll bridges under IC 8-16-1.

- (4) Sue and be sued, including, with the approval of the attorney general, the compromise of any claims of the department.**
- (5) Hire attorneys.**
- (6) Perform all functions pertaining to the acquisition of property**



for transportation purposes, including the compromise of any claims for compensation.

(7) Hold investigations and hearings concerning matters covered by orders and rules of the department.

(8) Execute all documents and instruments necessary to carry out its responsibilities.

(9) Make contracts and expenditures, perform acts, enter into agreements, and make rules, orders, and findings that are necessary to comply with all laws, rules, orders, findings, interpretations, and regulations promulgated by the federal government in order to:

(A) qualify the department for; and

(B) receive;

federal government funding on a full or participating basis.

(10) Adopt rules under IC 4-22-2 to carry out its responsibilities, including emergency rules in the manner provided under IC 4-22-2-37.1.

(11) Establish regional offices.

(12) Adopt a seal.

(13) Perform all actions necessary to carry out the department's responsibilities.

(14) Order a utility to relocate the utility's facilities and coordinate the relocation of customer service facilities if:

(A) the facilities are located in a highway, street, or road; and

(B) the department determines that the facilities will interfere with a planned highway or bridge construction or improvement project funded by the department.

(15) Reimburse a utility:

(A) in whole or in part for extraordinary costs of relocation of facilities;

(B) in whole for unnecessary relocations;

(C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;

(D) in whole for relocations covered by IC 8-1-9; and

(E) to the extent that a relocation is a taking of property without just compensation.

(16) Provide state matching funds and undertake any surface transportation project eligible for funding under federal law. However, money from the state highway fund and the state highway road construction and improvement fund may not be used to provide operating subsidies to support a public transportation system or a commuter transportation system.

(17) Upon request, evaluate, negotiate, and enter into:



(A) a supplemental funding agreement with a regional development authority under IC 36-9-43; or

(B) an interlocal agreement with a regional development authority for purposes of IC 36-9-43.

(b) In the performance of contracts and leases with the Indiana finance authority, the department has authority under IC 8-15-2, in the case of toll road projects and IC 8-16-1, in the case of toll bridges necessary to carry out the terms and conditions of those contracts and leases.

(c) The department shall:

(1) classify as confidential any estimate of cost prepared in conjunction with analyzing competitive bids for projects until a bid below the estimate of cost is read at the bid opening;

(2) classify as confidential that part of the parcel files that contain appraisal and relocation documents prepared by the department's land acquisition division; and

(3) classify as confidential records that are the product of systems designed to detect collusion in state procurement and contracting that, if made public, could impede detection of collusive behavior in securing state contracts.

This subsection does not apply to parcel files of public agencies or affect IC 8-23-7-10.

(d) In the case of a regional development authority that undertakes a regional transportation infrastructure project under IC 36-9-43, the department shall cooperate with the regional development authority.

SECTION 34. IC 8-23-12-4, AS AMENDED BY P.L.4-2005, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** The department shall annually adopt from its long range program and publish a biennial work program of construction to be accomplished within the following two (2) fiscal years. This biennial work program must consist of a list of projects listed in order of urgency.

(b) In case of emergencies and disasters resulting in the necessity for completely unforeseen demands for construction, or if unforeseen difficulties arise in the acquisition of rights-of-way, materials, labor, or equipment necessary for proposed construction or the availability of funds, a deviation from the adopted biennial work program **under subsection (a)** is permitted.

(c) For purposes of this section, the relative urgency of proposed construction shall be determined by a consideration of:

(1) the physical condition;



(2) the safety and service characteristics of the highways under consideration; and

(3) the economic needs of the area served by the highways.

The department may also consider the factors set forth in the project prioritization system in determining the relative urgency of a proposed construction project that is given special priority in the department's long range program.

(d) In arriving at and making a determination **under this section**, the department shall utilize all studies, data, and information made available to it from any appropriate source, including economic data, relative to affected areas, from the Indiana economic development corporation.

SECTION 35. IC 36-1-8-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 7.5. (a) The fiscal body of a county or municipality participating in a regional development authority may, by ordinance, transfer a prescribed amount, for a prescribed period, to a regional development authority to carry out the purposes of IC 36-9-43, including providing local funds to be used as part of a supplemental funding agreement under IC 36-9-43.**

(b) The amounts transferred by a county or municipality under subsection (a) may be from:

(1) the general fund or rainy day fund of the county or municipality; or

(2) any other fund of the county or municipality that is not otherwise restricted by law for specified uses.

SECTION 36. IC 36-7.5-1-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:** **Sec. 13.5. "Rail project" refers to the following:**

(1) **The mainline double tracking project.**

(2) **The West Lake corridor project.**

SECTION 37. IC 36-7.5-2-1, AS AMENDED BY P.L.204-2016, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. The northwest Indiana regional development authority is established as a separate body corporate and politic to carry out the purposes of this article by:**

(1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article in accordance with IC 36-7.5-3-1.5;

(2) funding and developing the Gary/Chicago International



Airport expansion and other airport authority projects, commuter transportation district and other rail projects and services, regional bus authority projects and services, regional transportation authority projects and services, Lake Michigan marina and shoreline development projects and activities, and economic development projects in northwestern Indiana;

(3) assisting with the funding of infrastructure needed to sustain development of an intermodal facility in northwestern Indiana;

(4) funding and developing regional transportation infrastructure projects under IC 36-9-43; and

~~(4)~~ **(5) studying and evaluating destination based economic development projects that have:**

(A) an identified market;

(B) identified funding sources and these funding sources include at least fifty percent (50%) from nongovernmental sources; and

(C) a demonstrable short and long term local and regional economic impact, as verified by an independent economic analysis.

An economic analysis conducted under clause (C) must be submitted to the budget committee at least thirty (30) days before review is sought for the project under IC 36-7.5-3-1.5.

SECTION 38. IC 36-7.5-3-2, AS AMENDED BY P.L.204-2016, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The development authority may do any of the following:

(1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county or eligible municipality.

(2) Lease land or a project to an eligible political subdivision.

(3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.

(4) Acquire land or all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.

(5) Acquire all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable



the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(6) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:

- (A) A commuter transportation district.
- (B) An airport authority or airport development authority.
- (C) The Lake Michigan marina and shoreline development commission.
- (D) A regional bus authority. A loan, loan guarantee, grant, or other financial assistance under this clause may be used by a regional bus authority for acquiring, improving, operating, maintaining, financing, and supporting the following:
 - (i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.
 - (ii) Bus terminals, stations, or facilities or other regional bus authority projects.
- (E) A regional transportation authority.
- (F) A member municipality that is eligible to make an appointment to the development board under IC 36-7.5-2-3(b)(2) and that has pledged admissions tax revenue for a bond anticipation note after March 31, 2014, and before June 30, 2015. However, a loan made to such a member municipality before June 30, 2016, under this clause must have a term of not more than ten (10) years, must require annual level debt service payments, and must have a market based interest rate. If a member municipality defaults on the repayment of a loan made under this clause, the development authority shall notify the treasurer of state of the default and the treasurer of state shall:
 - (i) withhold from any funds held for distribution to the municipality under IC 4-33-12, or IC 4-33-13 an amount sufficient to cure the default; and
 - (ii) pay that amount to the development authority.

(7) Provide funding to assist a railroad that is providing commuter transportation services in an eligible county or eligible municipality.

(8) Provide funding to assist an airport authority located in an eligible county or eligible municipality in the construction, reconstruction, renovation, purchase, lease, acquisition, and



equipping of an airport facility or airport project.

(9) Provide funding to assist in the development of an intermodal facility to facilitate the interchange and movement of freight.

(10) Provide funding to assist the Lake Michigan marina and shoreline development commission in carrying out the purposes of IC 36-7-13.5.

(11) Provide funding for economic development projects in an eligible county or eligible municipality.

(12) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property located in an eligible county or eligible municipality.

(13) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(14) Make or enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article.

(15) Sue, be sued, plead, and be impleaded.

(16) Design, order, contract for, and construct, reconstruct, and renovate a project or improvements to a project.

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

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

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

(20) Provide funding for regional transportation infrastructure projects under IC 36-9-43.

~~(20)~~ **(21)** Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development



authority may not institute a proceeding until it has adopted a resolution that:

- (1) describes the real property sought to be acquired and the purpose for which the real property is to be used;
- (2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and
- (3) sets out any other facts that the development authority considers necessary or pertinent.

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

SECTION 39. IC 36-7.5-4-1, AS AMENDED BY P.L.197-2016, SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) The development board shall establish and administer a development authority fund.

(b) The development authority fund consists of the following:

- (1) Riverboat admissions tax revenue, riverboat wagering tax revenue, or riverboat incentive payments received by a city or county described in IC 36-7.5-2-3(b) and transferred by the county or city to the fund.
- (2) Local income tax revenue dedicated to economic development purposes by a county or city and transferred by the county or city to the fund.
- (3) Amounts distributed under IC 8-15-2-14.7.
- (4) Food and beverage tax revenue deposited in the fund under IC 6-9-36-8.
- (5) Funds received from the federal government.
- (6) Appropriations to the fund by the general assembly.
- (7) Other local revenue appropriated to the fund by a political subdivision.
- (8) Gifts, donations, and grants to the fund.

(c) The development authority shall establish a development authority fund. The development board shall establish and administer a general account, a lease rental account, and such other accounts in the fund as are necessary or appropriate to carry out the powers and duties of the development authority. Except as otherwise provided by law, ~~or~~ agreement with holders of any obligations of the development authority, **or subsection (d)**, all money transferred to the development authority fund under subsection (b)(1), (b)(2), and (b)(4) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by an eligible political



subdivision and the development authority under this chapter. ~~However, any money~~ **Money** deposited in the lease rental account and not used for the purposes of this subsection **pledged to payment of any existing or future leases or reasonably necessary for the purposes of this article shall** may be returned by the treasurer of the development authority to the respective counties and cities that contributed the money to the development authority.

(d) If the amount of money transferred to the development authority fund under subsection (b)(1), (b)(2), and (b)(4) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to:

- (1) one and twenty-five hundredths (1.25); multiplied by
- (2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

all or a portion of the excess may instead be deposited in the general account.

(e) Except as otherwise provided by law or agreement with the holders of obligations of the development authority, all other money and revenues of the development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(f) The development authority fund shall be administered by the development authority.

(g) Money in the development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

SECTION 40. IC 36-7.5-4-16, AS AMENDED BY P.L.192-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) This section applies if a **political subdivision or** city or county described in IC 36-7.5-2-3 fails to make a transfer or a part of a transfer required by section 2 of this chapter **or fails to pay or transfer any amounts a political subdivision or a city or county described in IC 36-7.5-2-3 has agreed to pay or transfer to the development authority pursuant to the terms of any bond, note, debenture, warrant, contractual agreement, or any other promise or agreement.**



(b) **The treasurer of state shall do the following: The development authority shall notify the treasurer of state or the fiscal officer of a city or county described in IC 36-7.5-2-3 when a city, county, or political subdivision has failed to pay or transfer all or part of a payment or transfer due under this section. Upon receiving notice from the development authority, the treasurer of state or fiscal officer shall:**

(1) **Deduct from amounts otherwise payable to the city or county under IC 4-33-13 or other political subdivision:**

(A) an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the city, or county, or subdivision failed to make; and

(B) an amount equal to any other amounts due to the development authority that the city, county, or political subdivision failed to make.

(2) **Pay the amount deducted under subdivision (1) to the development authority.**

(3) Notify the city, county, or political subdivision that the amount that would otherwise be available for distribution to the city, county, or political subdivision has been reduced by an amount necessary to satisfy all or part of the transfers required under section 2 of this chapter or any other amounts due to the development authority.

(c) A deduction under subsection (b) must be made as follows:

(1) First, from amounts otherwise payable to the city, county, or other political subdivision under IC 4-33-13.

(2) Second, from local income tax distributions under IC 6-3.6-9 that would otherwise be distributed to the city, county, or other political subdivision under the schedules in IC 6-3.6-9-12 and IC 6-3.6-9-16.

(3) Third, from any other revenues or money otherwise available for distribution from the city, county, or other political subdivision.

SECTION 41. IC 36-7.6-2-2, AS AMENDED BY P.L.178-2015, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A development authority established under this chapter is a separate body corporate and politic that shall carry out the purposes of this article by:

(1) **acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; and**

(2) **funding and developing:**



- (A) airport authority projects;
- (B) commuter transportation district and other rail projects and services;
- (C) regional transportation authority projects and services;
- (D) economic development projects;
- (E) intermodal transportation projects;
- (F) regional trail or greenway projects; **and**
- (G) regional transportation infrastructure projects under IC 36-9-43; and**
- ~~(G)~~ **(H)** any project that enhances the region with the goal of attracting people or business; that are of regional importance.

SECTION 42. IC 36-7.6-3-2, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A development authority may do any of the following:

- (1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects that are of regional importance.
- (2) Lease land or a project to an eligible political subdivision.
- (3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.
- (4) Construct or reconstruct highways, roads, and bridges.
- (5) Acquire land or all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.
- (6) Acquire all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.
- (7) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:
 - (A) A commuter transportation district.
 - (B) An airport authority.
 - (C) A regional transportation authority. A loan, a loan guarantee, a grant, or other financial assistance under this



clause may be used by a regional transportation authority for acquiring, improving, operating, maintaining, financing, and supporting the following:

(i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.

(ii) Bus terminals, stations, or facilities or other regional bus authority projects.

(D) A county.

(E) A municipality.

(8) Provide funding to assist a railroad that is providing commuter transportation services in a county containing territory included in the development authority.

(9) Provide funding to assist an airport authority located in a county containing territory included in the development authority in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(10) Provide funding for intermodal transportation projects and facilities.

(11) Provide funding for regional trails and greenways.

(12) Provide funding for economic development projects.

(13) Provide funding for regional transportation infrastructure projects under IC 36-9-43.

~~(13)~~ **(14)** Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property.

~~(14)~~ **(15)** After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

~~(15)~~ **(16)** Make or enter into all contracts and agreements necessary or incidental to the performance of the development authority's duties and the execution of the development authority's powers under this article.

~~(16)~~ **(17)** Sue, be sued, plead, and be impleaded.

~~(17)~~ **(18)** Design, order, contract for, construct, reconstruct, and renovate a project or improvements to a project.

~~(18)~~ **(19)** Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its



duties under this article.

~~(19)~~ **(20)** Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

~~(20)~~ **(21)** Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

~~(21)~~ **(22)** Except as prohibited by law, take any action necessary to carry out this article.

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

(c) If a development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

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

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

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

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

SECTION 43. IC 36-9-43 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 43. Regional Funding of Transportation Infrastructure Projects

Sec. 1. As used in this chapter, "development board" means the following:

(1) In the case of a regional development authority established under IC 36-7.5, the governing body of the regional development authority appointed under IC 36-7.5-2-3.

(2) In the case of a regional development authority established under IC 36-7.6, the governing body of the regional development authority appointed under IC 36-7.6-2-3.

Sec. 2. As used in this chapter, "regional development authority" includes both:

(1) the northwest Indiana regional development authority



established by IC 36-7.5-2-1; and

(2) a regional development authority established under IC 36-7.6-2-3.

Sec. 3. As used in this chapter, "regional transportation infrastructure project" means a project for the construction, reconstruction, rehabilitation, extension, or completion of:

(1) highways (including a state highway or bypass or an interstate highway or bypass), roads, streets, bridges, overpasses, interchanges, ramps, or access roads or service roads;

(2) rail lines, rail spurs, and sidings;

(3) airports, including runways, hangars, and other airport facilities; and

(4) a rail project as defined in IC 36-7.5-1-13.5;

within a county or municipality participating in a regional development authority.

Sec. 4. As used in this chapter, "supplemental funding agreement" refers to a supplemental funding agreement entered into under section 8 of this chapter between:

(1) a regional development authority; and

(2) the Indiana department of transportation or a political subdivision.

Sec. 5. The powers granted to a regional development authority under this chapter are in addition to any powers granted to the regional development authority under IC 36-7.5 or IC 36-7.6.

Sec. 6. (a) A regional development authority may do the following:

(1) Apply for federal funds from any of the following:

(A) A federal grant award under 23 U.S.C. 117 for nationally significant freight and highway projects (commonly known as "FASTLANE" grants).

(B) A federal grant award that is authorized to be made directly to the authority under any other federal grant program with a transportation infrastructure component.

(2) Negotiate the terms of and enter into a supplemental funding agreement with the Indiana department of transportation or a political subdivision. Negotiation under this subsection may include the execution of a preliminary memorandum of understanding.

(3) Issue bonds or enter into leases as provided in IC 36-7.5 or IC 36-7.6 (as appropriate) for the purposes set forth in this chapter.



(b) A regional development authority may do all acts or things necessary or proper to carry out this chapter.

Sec. 7. (a) In coordination with the Indiana department of transportation, a regional development authority may finance and plan regional transportation infrastructure projects or provide funding for these regional transportation infrastructure projects.

(b) To the extent required by federal law, a regional development authority that undertakes a highway project under this section shall comply with the laws, rules, and regulations applicable for the expenditure of federal money received from:

- (1) the Highway Trust Fund (23 U.S.C.); or
- (2) any other federal fund or program;

for projects within Indiana and within the boundaries of the regional development authority.

(c) If the proposed location of a regional transportation infrastructure project funded with a federal grant described in section 6 of this chapter is within the boundaries of a metropolitan planning commission, the regional development authority must first consult with the metropolitan planning commission before applying for the federal grant.

Sec. 8. (a) The development board of a regional development authority may negotiate and enter into a supplemental funding agreement with the Indiana department of transportation or a political subdivision to contribute local matching funds to the Indiana department of transportation or political subdivision, to be used by the Indiana department of transportation or the political subdivision to pay a part or all of the nonfederal share of the costs necessary to carry out a regional transportation infrastructure project, including the construction or reconstruction of a state highway or bypass or an interstate highway in a manner that will increase an existing state highway's traffic capacity within the boundaries of the counties participating in the regional development authority.

(b) A supplemental funding agreement must contain at least the following provisions:

- (1) The Indiana department of transportation or the political subdivision must commit to using money it receives under a supplemental funding agreement only for projects located within a county or municipality participating in the regional development authority.
- (2) The source of the money committed and pledged by a regional developmental authority for local funding under a



supplemental funding agreement shall be from funds provided to the regional development under section 9 of this chapter or from other funds provided to the regional development authority for purposes of this chapter.

(3) The supplemental funding agreement must be signed by all members of the regional development authority and the Indiana department of transportation.

(4) The regional development authority must agree to be responsible to pay all cost increases or change orders associated with the project or projects using eligible local funding sources.

(5) The Indiana department of transportation shall treat and prosecute all projects in the same manner as other federal-aid projects or local federal-aid projects, and shall let projects in accordance with its usual procedures.

(6) For projects involving federal-aid funds, land acquisition activities, if any, must be completed in accordance with all applicable federal laws and regulations. The Indiana department of transportation is responsible for acquiring any real property needed for regional transportation infrastructure projects on state highways.

(c) The Indiana department of transportation may establish a cap on contributions to local matching funds under this section. If the department establishes a cap, the cap may be aggregated to reflect the number of members, including cities and counties, of the regional development authority applying for matching funds.

Sec. 9. (a) This section applies only to a regional development authority created or established after June 30, 2017.

(b) The Indiana finance authority shall create the regional development authority infrastructure fund for the purpose of allowing a regional development authority to finance or contribute to the financing of regional transportation infrastructure projects.

(c) The fund is administered by the Indiana finance authority. The Indiana finance authority shall create an account within the fund for each regional development authority established under IC 36-7.5 or IC 36-7.6.

(d) A person, including a political subdivision, may make a contribution or gift to the fund. Any expenditure from the account must be approved by the regional development authority that holds the account within the fund and must be expended for regional transportation infrastructure projects in cooperation with the Indiana department of transportation.



(e) An expenditure from the fund may be used to supplement financing from the Indiana department of transportation for regional transportation infrastructure projects.

(f) The Indiana finance authority shall invest money from the fund in one (1) or more fiduciary accounts with a trustee that is a financial institution. A trustee may make an investment under this subsection in accordance with a trust agreement or indenture and may permit disbursements by the trustee to:

- (1) the Indiana finance authority;
- (2) the Indiana department of transportation;
- (3) the state budget agency; or
- (4) any other person provided for in the trust agreement or indenture.

(g) Interest or other income earned on money in the fund becomes part of the fund.

(h) Expenses incurred in the administration of the fund are to be paid from the fund.

(i) A person who makes a contribution or gift to the fund is entitled to a deduction from the taxpayer's adjusted gross income for the taxable year under IC 6-3-2-26.

SECTION 44. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

