

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. 346

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-1-14-1, AS AMENDED BY P.L.142-2009, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section does not apply to donations of gaming revenue to a public school endowment corporation under IC 20-47-1-3.

(b) As used in this section, "gaming revenue" means either of the following:

(1) Tax revenue received by a unit under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.

(2) Revenue received by a unit under IC 4-35-8.5 or an agreement to share revenue received by another unit under IC 4-35-8.5.

(c) Notwithstanding IC 8-1.5-2-6(d), a unit may donate the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or gaming revenue to a foundation under the following conditions:

(1) The foundation is a charitable nonprofit community foundation.

(2) The foundation retains all rights to the donation, including investment powers.

(3) The foundation agrees to do the following:

(A) Hold the donation as a permanent endowment.

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(B) Distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit.

(C) Return the donation to the general fund of the unit if the foundation:

- (i) loses the foundation's status as a public charitable organization;
- (ii) is liquidated; or
- (iii) violates any condition of the endowment set by the fiscal body of the unit.

(d) This subsection applies only to the donation of proceeds described in subsection (c) that occurs after December 31, 2015. Notwithstanding subsection (c)(3)(B), the unit and the foundation may agree that distribution of the proceeds is governed by IC 30-2-12.

(e) The department of local government finance may not reduce a unit's property tax levy under IC 6-1.1-18.5 or any other law because of any of the following:

- (1) The donation of the proceeds of money from the sale of a utility or a facility as provided in this section.**
- (2) A distribution from the endowment to the unit as provided in this section.**
- (3) A return of the donation to the general fund of the unit as provided in this section.**

SECTION 2. IC 36-1-14-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) This section applies to a county that before 1990 sold its hospital property and established a trust to hold the proceeds from the sale.

(b) As used in this section, "trust" refers to a charitable trust established to hold the proceeds from the sale of a county hospital.

(c) The trustees of a trust shall contract with investment managers, investment advisors, investment counsel, trust companies, banks, or other finance professionals to assist the trustees in an investment program. Money held by the trust must be invested in accordance with the terms of an investment policy statement developed by the trustees with an investment advisor that:

- (1) is approved by the trustees; and**
- (2) complies with the diversification, risk management, and other fiduciary requirements common to the management of charitable trusts, including that the funds of the trust must be invested according to the prudent investor rule. However, the**



investment policy statement may not allow the trust to invest in any investments in which the political subdivision that established the trust is not permitted to invest under the Constitution of the State of Indiana. The investment policy statement must include the limitation on the investment in equities specified in subsection (e).

(d) Money held by the trust:

- (1) may be invested in any legal, marketable securities; and**
- (2) is not subject to any other investment limitations in the law, other than the limitations under this section and the limitations in the investment policy statement.**

(e) The total amount of the funds invested by a trust in equity securities under this section may not exceed fifty-five percent (55%) of the total value of the portfolio of funds invested by the trust under this section. However:

- (1) an investment that complies with this subsection when the investment is made remains legal even if a subsequent change in the value of the investment or a change in the value of the total portfolio of funds invested by the trust causes the percentage of investments in equity securities to exceed the fifty-five percent (55%) limit on equity securities; and**
- (2) if the total amount of the funds invested by a trust in equity securities exceeds the fifty-five percent (55%) limit on equity securities because of a change described in subdivision (1), the investments by the trust must be rebalanced to comply with the fifty-five percent (55%) limit on equity investments not later than one hundred twenty (120) days after the equity investments first exceed that limit.**

(f) The following apply if a trust is established under this section:

- (1) To the extent that investment income earned on the principal amount of the trust during a calendar year exceeds five percent (5%) of the amount of the principal at the beginning of the calendar year, that excess investment income shall, for purposes of this section, be added to and be considered a part of the principal amount of the trust.**
- (2) An expenditure or transfer of any money that is part of the principal amount of the trust may be made only upon unanimous approval of the trustees.**
- (3) The trust must be audited annually by an independent third party auditor.**
- (4) The trustees must meet at least quarterly to receive a**



quarterly compliance and performance update from the investment advisor.

(5) Three (3) nonvoting advisors who are officers of different county designated depositories shall attend the quarterly meetings in an advisory capacity to assist the trustees:

(A) in reviewing the compliance and performance report from the investment advisor; and

(B) in reviewing the annual audit required by subdivision (3).

The three (3) nonvoting advisors may not vote on any action of the board of trustees. The trustees shall by majority vote select the three (3) depositories from which the three (3) nonvoting advisors will be chosen. Each of the three (3) depositories selected under this subdivision shall select an officer of the depository to serve as one (1) of the three (3) nonvoting advisors. Each nonvoting advisor shall serve a term of three (3) years, and the nonvoting advisor shall continue to serve until a successor is selected. However, to provide for staggered terms, the trustees shall provide that the initial term of one (1) nonvoting advisor is one (1) year, the initial term of one (1) nonvoting advisor is two (2) years, and the initial term of one (1) nonvoting advisor is three (3) years. For purposes of avoiding a conflict of interest, a financial institution for which a nonvoting advisor is an officer (and any affiliate of such a financial institution) may not receive a commission or other compensation for investments made by the trust under this section.

SECTION 3. 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: _____

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