

SENATE BILL No. 543

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-13-1; IC 36-7-31.5.

Synopsis: Marion County sports development area. Establishes an additional professional sports development area in Marion County to capture state and local revenue for capital improvements. Provides for the issuance of indebtedness to finance a multipurpose soccer stadium.

Effective: Upon passage.

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January 15, 2019, read first time and referred to Committee on Appropriations.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 543

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

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

1 SECTION 1. IC 6-9-13-1, AS AMENDED BY P.L.214-2005,
2 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b),
4 the city-county council of a county that contains a consolidated first
5 class city may adopt an ordinance to impose an excise tax, known as
6 the county admissions tax, for the privilege of attending, before January
7 1, 2041, any event and, after December 31, 2040, any professional
8 sporting event:
9 (1) held in a facility financed in whole or in part by:
10 (A) bonds or notes issued under IC 18-4-17 (before its repeal
11 on September 1, 1981), IC 36-10-9, or IC 36-10-9.1; or
12 (B) a lease or other agreement under IC 5-1-17 **or**
13 **IC 36-7-31.5**; and
14 (2) to which tickets are offered for sale to the public by:
15 (A) the box office of the facility; or
16 (B) an authorized agent of the facility.
17 (b) The excise tax imposed under subsection (a) does not apply to



- 1 the following:
- 2 (1) An event sponsored by an educational institution or an
- 3 association representing an educational institution.
- 4 (2) An event sponsored by a religious organization.
- 5 (3) An event sponsored by an organization that is considered a
- 6 charitable organization by the Internal Revenue Service for
- 7 federal tax purposes.
- 8 (4) An event sponsored by a political organization.
- 9 (c) If a city-county council adopts an ordinance under subsection
- 10 (a), it shall immediately send a certified copy of the ordinance to the
- 11 commissioner of the department of state revenue.
- 12 (d) If a city-county council adopts an ordinance under subsection (a)
- 13 or section 2 of this chapter prior to June 1, the county admissions tax
- 14 applies to admission charges collected after June 30 of the year in
- 15 which the ordinance is adopted. If the city-county council adopts an
- 16 ordinance under subsection (a) or section 2 of this chapter on or after
- 17 June 1, the county admissions tax applies to admission charges
- 18 collected after the last day of the month in which the ordinance is
- 19 adopted.
- 20 SECTION 2. IC 36-7-31.5 IS ADDED TO THE INDIANA CODE
- 21 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 22 UPON PASSAGE]:
- 23 **Chapter 31.5. Additional Professional Sports Development Area**
- 24 **in a County Containing a Consolidated City**
- 25 **Sec. 1. (a) This chapter applies only to a county having a**
- 26 **consolidated city.**
- 27 **(b) The authority for the creation of a professional sports**
- 28 **development area under this chapter is in addition to the authority**
- 29 **for the creation of a professional sports development area under**
- 30 **IC 36-7-31.**
- 31 **Sec. 2. As used in this chapter, "bonds" means bonds, notes, or**
- 32 **other evidence of indebtedness.**
- 33 **Sec. 3. As used in this chapter, "budget agency" means the**
- 34 **budget agency created by IC 4-12-1.**
- 35 **Sec. 4. As used in this chapter, "budget committee" has the**
- 36 **meaning set forth in IC 4-12-1-3.**
- 37 **Sec. 5. As used in this chapter, "capital improvement" means**
- 38 **any facility or complex of facilities established as part of an**
- 39 **additional professional sports development area under section 16**
- 40 **of this chapter.**
- 41 **Sec. 6. As used in this chapter, "capital improvement board"**
- 42 **refers to the capital improvement board of managers created by**



1 **IC 36-10-9-3.**

2 **Sec. 7. As used in this chapter, "city" refers to the city of**
3 **Indianapolis, Indiana.**

4 **Sec. 8. As used in this chapter, "commission" refers to the**
5 **metropolitan development commission acting as the redevelopment**
6 **commission of a consolidated city.**

7 **Sec. 9. As used in this chapter, "covered taxes" means the**
8 **following:**

9 (1) **The state gross retail tax imposed under IC 6-2.5-2-1 or**
10 **use tax imposed under IC 6-2.5-3-2, including any of these**
11 **taxes paid by any contractor for materials used in the**
12 **construction of any facility located in the tax area, regardless**
13 **of where the materials are purchased.**

14 (2) **An adjusted gross income tax imposed under IC 6-3-2-1 on**
15 **an individual living in the tax area, an individual working in**
16 **the tax area, and a contractor that constructs any facility**
17 **located in the tax area to the extent that any adjusted gross**
18 **income is derived from the construction of any facility located**
19 **in the tax area.**

20 (3) **A tax imposed under IC 6-3.6 on an individual living in the**
21 **tax area, an individual working in the tax area, and a**
22 **contractor that constructs any facility located in the tax area**
23 **to the extent that any adjusted gross income is derived from**
24 **the construction of any facility located in the tax area.**

25 **Sec. 10. As used in this chapter, "department" refers to the**
26 **department of state revenue.**

27 **Sec. 11. As used in this chapter, "facility" means all or any part**
28 **of one (1) or more buildings, structures, or improvements**
29 **constituting a capital improvement. The term refers to and**
30 **includes a capital improvement.**

31 **Sec. 12. As used in this chapter, "facilities authority" refers to**
32 **the county convention and recreational facilities authority created**
33 **by IC 36-10-9.1.**

34 **Sec. 13. As used in this chapter, "tax area" means a geographic**
35 **area established by a commission as an additional professional**
36 **sports development area under section 20 of this chapter.**

37 **Sec. 14. As used in this chapter, "taxpayer" means a person that**
38 **is liable for a covered tax.**

39 **Sec. 15. (a) The general assembly finds the following:**

40 (1) **Marion County and municipalities located in Marion**
41 **County face unique and distinct challenges and opportunities**
42 **related to economic development issues associated with the**



1 construction of facilities that would host professional soccer
2 and other sporting and entertainment events in the city.

3 (2) A unique approach is required to ensure that the facilities
4 can be maintained to allow Marion County and those
5 municipalities to meet these challenges and opportunities.

6 (3) The powers and responsibilities provided to Marion
7 County, the city, the facilities authority, and the capital
8 improvement board created by this chapter are appropriate
9 and necessary to carry out the public purposes of encouraging
10 and fostering economic development in central Indiana and
11 constructing facilities that would host professional soccer and
12 other sporting and entertainment events in the city.

13 (4) Encouragement of economic development in central
14 Indiana will:

15 (A) generate significant economic activity, which may
16 attract new businesses and encourage existing businesses
17 to remain or expand in central Indiana;

18 (B) promote central Indiana to residents outside Indiana,
19 which may attract residents outside Indiana and new
20 businesses to relocate to central Indiana;

21 (C) protect and increase state and local tax revenues; and

22 (D) encourage overall economic growth in central Indiana
23 and in Indiana.

24 (b) Marion County faces unique challenges in the development
25 of infrastructure and other facilities necessary to promote
26 economic development:

27 (1) as a result of its need to rely on sources of revenue other
28 than property taxes;

29 (2) due to the large number of tax exempt properties located
30 in Marion County;

31 (3) because the city is the seat of state government and
32 Marion County government; and

33 (4) because Marion County is home to multiple institutions of
34 higher education and the site of numerous state and regional
35 nonprofit corporations.

36 (c) Economic development benefits the health and welfare of the
37 people of Indiana, is a public use and purpose for which public
38 money may be spent, and is of public utility and benefit.

39 Sec. 16. (a) A commission may establish as part of an additional
40 professional sports development area any facility or complex of
41 facilities that is:

42 (1) used to hold a professional sporting event, and which in



1 addition, may be used to hold other entertainment events,
 2 including any publicly owned parking garage, plaza, or
 3 infrastructure that is constructed or renovated in connection
 4 with the construction of the facility used to hold a professional
 5 sporting event;

6 (2) used in the training of a team engaged in professional
 7 sporting events;

8 (3) used in whole or in part to manage and operate the
 9 professional team that would participate in the facility used to
 10 hold a professional sporting event; or

11 (4) a mixed use development, consisting, in part, of retail
 12 space, office space, apartment dwelling units, and one (1) or
 13 more hotels.

14 The tax area may include a facility described in this subsection and
 15 any parcel of land on which the facility is located. An area may
 16 contain noncontiguous tracts of land within the county. The area
 17 must be separate from other professional sports development areas
 18 established under IC 36-7-31.

19 (b) Only the facilities described in subsection (a)(1) that are
 20 included within the additional professional sports development
 21 area may be financed with debt issued by or assumed by the capital
 22 improvement board, the facilities authority, or a political
 23 subdivision.

24 Sec. 17. (a) A tax area must be initially established before July
 25 1, 2021, according to the procedures set forth for the establishment
 26 of an economic development area under IC 36-7-15.1. A tax area
 27 may be changed or the terms governing the tax area revised in the
 28 same manner as the establishment of the initial tax area.

29 (b) In establishing or changing the terms of the tax area or
 30 revising the terms governing the tax area, the commission must
 31 make the following findings instead of the findings required for the
 32 establishment of economic development areas:

33 (1) That a project to be undertaken or that has been
 34 undertaken in the tax area is for a facility.

35 (2) That the project to be undertaken or that has been
 36 undertaken in the tax area will benefit the public health and
 37 welfare and will be of public utility and benefit.

38 (3) That the project to be undertaken or that has been
 39 undertaken in the tax area will protect or increase state and
 40 local tax bases and tax revenues.

41 (c) The tax area established by the commission under this
 42 chapter is a special taxing district authorized by the general



1 assembly to enable the county to provide special benefits to
 2 taxpayers in the tax area by promoting economic development that
 3 is of public use and benefit.

4 **Sec. 18. (a)** Upon adoption of a resolution establishing a tax area
 5 under section 20 of this chapter, the commission shall submit the
 6 resolution to the budget committee for review and
 7 recommendation to the budget agency. The budget committee shall
 8 meet not later than sixty (60) days after receipt of a resolution and
 9 shall make a recommendation on the resolution to the budget
 10 agency.

11 **(b)** Upon adoption of a resolution changing the boundaries of a
 12 tax area under section 20 of this chapter, the commission shall:

13 **(1)** publish notice of the adoption and substance of the
 14 resolution in accordance with IC 5-3-1; and

15 **(2)** file the following information with each taxing unit in the
 16 county in which the tax area is located:

17 **(A)** A copy of the notice required by subdivision (1).

18 **(B)** A statement disclosing the impact of the tax area,
 19 including the following:

20 **(i)** The estimated economic benefits and costs incurred
 21 by the tax, as measured by increased employment and
 22 anticipated growth of property assessed values.

23 **(ii)** The anticipated impact on tax revenues of each
 24 taxing unit.

25 The notice must state the general boundaries of the tax area.

26 **(c)** Upon completion of the actions required by subsection (b),
 27 the commission shall submit the resolution to the budget committee
 28 for review and recommendation to the budget agency. The budget
 29 committee shall meet not later than sixty (60) days after receipt of
 30 the resolution and shall make a recommendation on the resolution
 31 to the budget agency.

32 **Sec. 19. (a)** The budget agency must approve the resolution
 33 before the covered taxes may be allocated under section 20 of this
 34 chapter.

35 **(b)** When considering a resolution, the budget committee and
 36 the budget agency must make the following findings:

37 **(1)** The cost of the facility and facility site specified under the
 38 resolution exceeds one hundred thousand dollars (\$100,000).

39 **(2)** The project specified in the resolution is economically
 40 sound and will benefit the people of Indiana by protecting or
 41 increasing state and local tax bases and tax revenues for at
 42 least the duration of the tax area established under this



- 1 chapter.
- 2 (3) The political subdivisions affected by the project specified
- 3 in the resolution have committed significant resources toward
- 4 completion of the improvement.
- 5 (c) Revenues from the tax area may not be allocated until the
- 6 budget agency approves the resolution.
- 7 Sec. 20. (a) A tax area must be established by resolution. A
- 8 resolution establishing a tax area must provide for the allocation
- 9 of covered taxes attributable to a taxable event or covered taxes
- 10 earned in the tax area or by individuals living in the tax area to the
- 11 additional professional sports development area fund established
- 12 for the county. The allocation provision must apply to the part of
- 13 the tax area covered by this section. The resolution must provide
- 14 that the tax area terminates not later than December 1, 2052.
- 15 (b) All of the salary, wages, bonuses, and other compensation
- 16 that are:
- 17 (1) paid during a taxable year to a professional athlete for
- 18 professional athletic services;
- 19 (2) taxable in Indiana; and
- 20 (3) earned in the tax area;
- 21 shall be allocated to the tax area if the professional athlete is a
- 22 member of a team that plays the majority of the professional
- 23 athletic events that the team plays in Indiana in the tax area.
- 24 (c) The total amount of state revenue captured by the tax area
- 25 may not exceed eleven million dollars (\$11,000,000) per year for
- 26 thirty-two (32) consecutive years, commencing July 1, 2020.
- 27 (d) The resolution establishing the tax area must designate the
- 28 facilities and the sites of the facilities, for which the tax area is
- 29 established and covered taxes will be used.
- 30 (e) The department may adopt rules under IC 4-22-2 and
- 31 guidelines to govern the allocation of covered taxes to a tax area.
- 32 Sec. 21. (a) When the commission adopts an allocation
- 33 provision, the commission shall notify the department by certified
- 34 mail of the adoption of the provision and shall include with the
- 35 notification a complete list of the following:
- 36 (1) Employers in the tax area.
- 37 (2) Street names and the range of street numbers of each
- 38 street in the tax area.
- 39 The commission shall update the list before July 1 of each year.
- 40 (b) Taxpayers operating in the tax area shall report annually, in
- 41 the manner and in the form prescribed by the department,
- 42 information that the department determines necessary to calculate



1 the salary, wages, bonuses, and other compensation:

2 (1) that are:

3 (A) paid during a taxable year to a professional athlete for
4 professional athletic services;

5 (B) taxable in Indiana; and

6 (C) earned in the tax area; or

7 (2) that are:

8 (A) paid during a taxable year to a taxpayer other than a
9 professional athlete for professional athletic services; and

10 (B) earned in the tax area.

11 (c) A taxpayer operating in the tax area that files a consolidated
12 tax return with the department shall also file annually an
13 informational return with the department for each business
14 location of the taxpayer within the tax area.

15 (d) If a taxpayer fails to report the information required by this
16 section or file an informational return required by this section, the
17 department shall use the best information available in calculating
18 the amount of covered taxes attributable to a taxable event in a tax
19 area or covered taxes from income earned in a tax area or by
20 individuals living in the tax area.

21 **Sec. 22.** An additional professional sports development area
22 fund for the county is established. The fund shall be administered
23 by the department. Money in the fund does not revert to the state
24 general fund at the end of a state fiscal year.

25 **Sec. 23.** Covered taxes attributable to a tax area approved under
26 section 20 of this chapter shall be deposited in the additional
27 professional sports development area fund for the county. If the
28 written agreement to be entered into under section 38 of this
29 chapter is not entered into before July 1, 2021, all covered taxes in
30 the additional professional sports development area fund for the
31 county attributable to covered taxes described in:

32 (1) section 9(1) and 9(2) of this chapter shall revert to the state
33 general fund on July 1, 2021; and

34 (2) section 9(3) of this chapter shall be distributed
35 proportionately to the funds and the political subdivisions that
36 would have received such covered taxes if the covered taxes
37 had not been allocated to the tax area under this chapter.

38 **Sec. 24.** On or before the twentieth day of each month following
39 the month in which the written agreement is entered into under
40 section 38 of this chapter, all amounts on deposit in the additional
41 professional sports development area fund for the county are
42 appropriated for and shall be distributed to the capital



1 improvement board.

2 Sec. 25. The department shall notify the county auditor of the
3 amount of taxes to be distributed to the capital improvement
4 board.

5 Sec. 26. All distributions from the additional professional sports
6 development area fund for the county shall be made by warrants
7 issued by the auditor of state to the treasurer of state ordering
8 those payments to the capital improvement board.

9 Sec. 27. The capital improvement board may use money
10 distributed from the additional professional sports development
11 area fund to pay the cost of operation and maintenance of, or to
12 construct, renovate, and equip, a capital improvement, other than
13 the capital improvements set forth in section 16(a)(2) through
14 16(a)(4) of this chapter, including the financing or refinancing of
15 a capital improvement or the payment of lease payments for a
16 capital improvement, other than the capital improvements set forth
17 in section 16(a)(2) through 16(a)(4) of this chapter.

18 Sec. 28. All capital improvements financed under this chapter
19 are subject to the provisions of 25 IAC 5 concerning equal
20 opportunities for minority business enterprises, women's business
21 enterprises, and veteran or disabled business enterprises to
22 participate in procurement and contracting processes. The goals
23 for participation are the following:

- 24 (1) By minority business enterprises, fifteen percent (15%).
25 (2) By women's business enterprises, eight percent (8%).
26 (3) By veteran or disabled business enterprises, three percent
27 (3%).

28 These goals must be consistent with the goals of delivering the
29 project on time and within the budgeted amount and, insofar as
30 possible, using Indiana businesses for employees, goods, and
31 services. In fulfilling the goals, historical precedents in the same
32 market must be taken into account.

33 Sec. 29. The capital improvement board shall repay to the
34 additional professional sports development area fund any amount
35 that is distributed to the capital improvement board and used for
36 a purpose that is not described in section 27 of this chapter. The
37 department shall distribute the covered taxes repaid to the
38 additional professional sports development area fund under this
39 section proportionately to the funds and the political subdivisions
40 that would have received the covered taxes if the covered taxes had
41 not been allocated to the tax area under this chapter.

42 Sec. 30. (a) Before a lease of a capital improvement located in a



1 tax area may be entered into by the facilities authority and the
 2 capital improvement board, the capital improvement board must
 3 find that the lease rental provided for is fair and reasonable.

4 (b) A lease of a capital improvement from the facilities authority
 5 to the capital improvement board:

6 (1) may not have a term exceeding forty (40) years;

7 (2) may not require payment of lease rental for a newly
 8 constructed capital improvement or for improvements to an
 9 existing capital improvement until the capital improvement or
 10 improvements have been completed and are ready for
 11 occupancy;

12 (3) may provide for the responsibility for operation and
 13 maintenance of the capital improvements, including the
 14 retention of the revenues from the operation and maintenance
 15 of the capital improvements and the related obligations of the
 16 sublessee or sublessees as set forth in the written agreement
 17 to be entered into under section 38 of this chapter;

18 (4) must provide that the facilities authority has no
 19 responsibility to fund the ongoing maintenance and
 20 operations of the capital improvement;

21 (5) may contain provisions:

22 (A) allowing the capital improvement board to continue to
 23 operate an existing capital improvement until completion
 24 of the improvements, reconstruction, or renovation; and

25 (B) requiring payment of lease rentals for an existing
 26 capital improvement being used, reconstructed, or
 27 renovated;

28 (6) may contain an option to renew the lease for the same or
 29 shorter term on the conditions provided in the lease;

30 (7) must contain an option for the capital improvement board
 31 to purchase the capital improvement upon the terms stated in
 32 the lease during the term of the lease for a price equal to the
 33 amount required to pay all indebtedness incurred on account
 34 of the capital improvement, including indebtedness incurred
 35 for the refunding of that indebtedness;

36 (8) may be entered into before the acquisition or construction
 37 of a capital improvement;

38 (9) subject to IC 36-10-9-11, may provide that the lease rental
 39 payments by the capital improvement board may be made
 40 from any one (1) or more of the following sources:

41 (A) revenue captured under this chapter;

42 (B) tax increment revenues collected for lease rental



- 1 payments under IC 36-7-15.1-26 or IC 36-7-15.1-26.2;
- 2 (C) net revenues of the capital improvement;
- 3 (D) any funds received and to be applied by the capital
- 4 improvement board under section 35 of this chapter;
- 5 (E) any funds received and to be applied by the capital
- 6 improvement board under section 36 of this chapter;
- 7 (F) any funds received and to be applied by the capital
- 8 improvement board under section 37 of this chapter; and
- 9 (G) any other funds available to the capital improvement
- 10 board; and
- 11 (10) may contain any other terms the capital improvement
- 12 board determines to be appropriate.

13 **Sec. 31.** This chapter contains full and complete authority for
 14 leases between the facilities authority and the capital improvement
 15 board. No law, procedure, proceedings, publications, notices,
 16 consents, approvals, orders, or acts by the facilities authority or the
 17 capital improvement board or any other officer, department,
 18 agency, or instrumentality of the state or any political subdivision
 19 is required to enter into any lease, except as prescribed in this
 20 chapter.

21 **Sec. 32.** If the lease provides for a capital improvement or
 22 improvements to the capital improvement to be constructed by the
 23 facilities authority, the plans and specifications shall be submitted
 24 to and approved by the capital improvement board and all agencies
 25 designated by law to pass on plans and specifications for public
 26 buildings.

27 **Sec. 33.** The facilities authority and the capital improvement
 28 board may enter into common wall (party wall) agreements or
 29 other agreements concerning easements or licenses. The capital
 30 improvement board and any sublessee may enter into common wall
 31 (party wall) agreements or other agreements concerning easements
 32 or licenses. The capital improvement board shall record such an
 33 agreement with the recorder of the county.

34 **Sec. 34. (a)** The capital improvement board may lease for a
 35 nominal lease rental, or, subject to any sublease between the
 36 capital improvement board and a sublessee, sell to the facilities
 37 authority, one (1) or more capital improvements or parts of a
 38 capital improvement or land upon which a capital improvement is
 39 located or is to be constructed.

40 **(b)** Any lease of all or a part of a capital improvement by the
 41 capital improvement board to the facilities authority must be for
 42 a term equal to the term of the lease of that capital improvement



1 back to the capital improvement board.

2 (c) Subject to any sublease between the capital improvement
3 board and a sublessee, the capital improvement board may sell
4 property to the facilities authority for the amount the capital
5 improvement board determines to be in the best interest of the
6 capital improvement board, which amount may be paid from the
7 proceeds of bonds of the facilities authority.

8 Sec. 35. (a) The capital improvement board may adopt a
9 resolution to apply all or a portion of the county innkeeper's tax
10 collected under IC 6-9-8-3 in the tax area to the payment of lease
11 rentals by the capital improvement board under a lease entered
12 into under section 30 of this chapter, if the capital improvement
13 board determines that the use of the innkeeper's tax will not impair
14 the rights and remedies of holders of any bonds or other
15 obligations existing at the time of the determination.

16 (b) If there is an increase in the rate at which the county
17 innkeeper's tax is imposed or a portion of the county innkeeper's
18 tax is extended beyond the date on which it would otherwise expire,
19 any county innkeeper's tax collected in the tax area, as a result and
20 to the extent of the increase in the rate or as a result of the
21 extension of the county innkeeper's tax and to the extent of the rate
22 extended, shall be applied to the payment of lease rentals by the
23 capital improvement board under a lease entered into under
24 section 30 of this chapter.

25 Sec. 36. (a) The capital improvement board may adopt a
26 resolution to apply all or a portion of the county food and beverage
27 tax collected under IC 6-9-12-8 in the tax area to the payment of
28 lease rentals by the capital improvement board under a lease
29 entered into under section 30 of this chapter, if the capital
30 improvement board determines that the use of the county food and
31 beverage tax will not impair the rights and remedies of holders of
32 any bonds or other obligations existing at the time of the
33 determination.

34 (b) If there is an increase in the rate at which the county food
35 and beverage tax is imposed or a portion of the county food and
36 beverage tax is extended beyond the date on which it would
37 otherwise expire, any county food and beverage tax collected in the
38 tax area, as a result and to the extent of the increase in the rate or
39 as a result of the extension of the county food and beverage tax and
40 to the extent of the rate extended, shall be applied to the payment
41 of lease rentals by the capital improvement board under a lease
42 entered into under section 30 of this chapter.



1 **Sec. 37. The capital improvement board may adopt a resolution**
 2 **to apply all or a portion of the county admissions tax collected**
 3 **under IC 6-9-13-2 by or at the facility or complex of facilities that**
 4 **is used to hold a professional sporting event to the payment of lease**
 5 **rentals by the capital improvement board under a lease entered**
 6 **into under section 30 of this chapter, if the capital improvement**
 7 **board determines that the use of the county admissions tax will not**
 8 **impair the rights and remedies of holders of any bonds or other**
 9 **obligations existing at the time of the determination.**

10 **Sec. 38. (a) The facilities authority may issue bonds for the**
 11 **purpose of obtaining money to pay the cost of:**

12 **(1) acquiring property;**

13 **(2) constructing, improving, reconstructing, or renovating one**

14 **(1) or more capital improvements; or**

15 **(3) funding or refunding bonds issued under this chapter.**

16 **(b) The bonds are payable solely from the lease rentals from the**
 17 **lease of the capital improvements for which the bonds were issued,**
 18 **insurance proceeds, and any other funds pledged or available.**

19 **(c) The bonds shall be authorized by a resolution of the capital**
 20 **improvement board.**

21 **(d) The terms and form of the bonds shall be set out either in the**
 22 **resolution or in a form of trust indenture approved by the**
 23 **resolution.**

24 **(e) The bonds must mature within forty (40) years.**

25 **(f) The capital improvement board shall sell the bonds at public**
 26 **or private sale upon the terms determined by the capital**
 27 **improvement board.**

28 **(g) All money received from any bonds issued under this**
 29 **chapter shall be applied solely to the payment of the cost of the**
 30 **acquisition or construction, or both, of capital improvements, or**
 31 **the cost of refunding or refinancing outstanding bonds, for which**
 32 **the bonds are issued. The cost may include:**

33 **(1) planning and development of the facility and all buildings,**
 34 **facilities, structures, and improvements related to the facility;**

35 **(2) acquisition of a site and clearing and preparing the site for**
 36 **construction;**

37 **(3) equipment, facilities, structures, and improvements that**
 38 **are necessary or desirable to make the capital improvement**
 39 **suitable for use and operations;**

40 **(4) architectural, engineering, consultant, and attorney's fees;**

41 **(5) incidental expenses in connection with the issuance and**
 42 **sale of bonds;**



- 1 **(6) reserves for principal and interest;**
 2 **(7) interest during construction;**
 3 **(8) financial advisory fees;**
 4 **(9) insurance during construction;**
 5 **(10) municipal bond insurance, debt service reserve**
 6 **insurance, letters of credit, or other credit enhancement; and**
 7 **(11) in the case of refunding or refinancing, payment of the**
 8 **principal of, redemption premiums (if any) for, and interest**
 9 **on, the bonds being refunded or refinanced.**
- 10 **(h) If the facilities authority is acquiring land or all or a part of**
 11 **one (1) or more capital improvements from any person other than**
 12 **the capital improvement board by purchase or lease and is leasing**
 13 **the land or these capital improvements to the capital improvement**
 14 **board, with any additional improvements that may be made to**
 15 **them, and the capital improvement board intends to sublease the**
 16 **land or capital improvements to one (1) or more sublessees, the**
 17 **facilities authority may not issue bonds under this chapter unless**
 18 **the facilities authority first finds that the capital improvement**
 19 **board and the sublessee or sublessees have entered into a written**
 20 **agreement concerning the facility. This agreement must include the**
 21 **following provisions:**
- 22 **(1) That the sublessee or sublessees must commit to assist and**
 23 **cooperate with the facilities authority and the capital**
 24 **improvement board to design and construct the facility on**
 25 **time and on budget.**
- 26 **(2) That any of these capital improvements that are financed**
 27 **under this chapter must be approved by the capital**
 28 **improvement board. The capital improvement board shall**
 29 **secure the obligations of the sublessee or sublessees of the**
 30 **capital improvements to the capital improvement board**
 31 **under a sublease under this chapter with liens or security**
 32 **interests, which may include:**
- 33 **(A) perfected security interests in personal property;**
 34 **(B) a mortgage lien on the real property; and**
 35 **(C) any other security determined to be appropriate by the**
 36 **capital improvement board and the facilities authority.**
- 37 **(3) Specifying the extent to which the sublessee or sublessees**
 38 **shall be responsible for the operation and maintenance of the**
 39 **capital improvements.**
- 40 **(4) Specifying how the retention of the revenues from the**
 41 **operation and maintenance of the capital improvements will**
 42 **be shared between the capital improvement board and the**



- 1 sublessee or sublessees.
- 2 (5) That if any bonds are issued by the facilities authority
- 3 under this section to finance capital improvements, then on
- 4 the date that all these bonds are no longer considered
- 5 outstanding, the capital improvement board shall take the
- 6 legal steps required to terminate each of its security interests
- 7 in and mortgage liens on the capital improvements described
- 8 in subdivision (2).
- 9 (6) That if a controlling ownership interest in the sublessee's
- 10 interests in the sublease of the capital improvements is sold
- 11 after the facilities authority issues bonds under this section to
- 12 finance these capital improvements, the capital improvement
- 13 board shall determine whether there exists good cause not to
- 14 allow the purchaser to assume the sublessee's obligations
- 15 under the sublease and the agreement described in this
- 16 subsection. If the capital improvement board determines that
- 17 good cause does not exist, the capital improvement board is
- 18 considered to have accepted the purchaser's assumption of the
- 19 sublessee's obligations under the sublease and the agreement
- 20 described in this subsection, and the purchaser is considered
- 21 to have assumed and become obligated to fully perform those
- 22 obligations. If the capital improvement board determines that
- 23 there exists good cause not to approve the purchaser's
- 24 assumption of the sublessee's obligations under the sublease
- 25 and the agreement described in this subsection, the capital
- 26 improvement board is considered to have disapproved the
- 27 assumption and the capital improvement board may require
- 28 that the sublessee or sublessees of the capital improvements
- 29 shall pay or cause to be paid to the capital improvement
- 30 board an amount sufficient to pay the cost of defeasing all
- 31 outstanding bonds issued by the facilities authority under this
- 32 section to finance the capital improvements and paying all
- 33 expenses of the capital improvement board and the facilities
- 34 authority incurred in connection with the defeasance.
- 35 (7) That if, in any year commencing on January 1, the
- 36 aggregate of all:
- 37 (A) the state revenue captured by the tax area, subject to
- 38 the cap set forth in section 20(c) of this chapter;
- 39 (B) the county innkeeper's tax collected in the tax area and
- 40 otherwise to be applied to the payment of lease rentals by
- 41 the capital improvement board under section 35 of this
- 42 chapter;



- 1 **(C) the county food and beverage tax collected in the tax**
 2 **area and otherwise to be applied to the payment of lease**
 3 **rentals by the capital improvement board under section 36**
 4 **of this chapter;**
 5 **(D) the county admissions tax collected by or at the facility**
 6 **or complex of facilities that is used to hold a professional**
 7 **sporting event and otherwise to be applied to the payment**
 8 **of lease rentals by the capital improvement board under**
 9 **section 37 of this chapter; and**
 10 **(E) the tax increment revenues collected and otherwise to**
 11 **be applied for the purpose of making the payment of lease**
 12 **rentals by the capital improvement board under section**
 13 **30(b)(9) of this chapter and subsection (i);**
 14 **is in excess of the amount of lease rental payments due in that**
 15 **year, the excess shall be used to make further capital**
 16 **improvements to or pay the expenses of the operation and**
 17 **maintenance of the facility or complex of facilities that is used**
 18 **to hold a professional sporting event.**
 19 **(8) Any other terms the capital improvement board**
 20 **determines to be appropriate.**
 21 **(i) If the capital improvement board and the city determine that**
 22 **it would be appropriate that the lease rental payments by the**
 23 **capital improvement board are to be made from tax increment**
 24 **revenues collected for that purpose under IC 36-7-15.1-26 or**
 25 **IC 36-7-15.1-26.2 under section 30(b)(9)(B) of this chapter or that**
 26 **tax increment revenues collected under IC 36-7-15.1-26 or**
 27 **IC 36-7-15.1-26.2 are to be used to pay all or a portion of the**
 28 **expenses of the operation and maintenance of the facility or**
 29 **complex of facilities that is used to hold a professional sporting**
 30 **event, the city shall also be made a party to the agreement**
 31 **described in subsection (h) for the purpose of ensuring that the city**
 32 **provides the tax increment revenues to the capital improvement**
 33 **board or the sublessee as provided in this subsection. The use of the**
 34 **tax increment revenues as provided in this subsection is hereby**
 35 **authorized.**
 36 **Sec. 39. This chapter contains full and complete authority for**
 37 **the issuance of bonds. No law, procedure, proceedings,**
 38 **publications, notices, consents, approvals, orders, or acts by the**
 39 **capital improvement board, the facilities authority, or any other**
 40 **officer, department, agency, or instrumentality of the state or of**
 41 **any political subdivision is required to issue any bonds, except as**
 42 **prescribed in this chapter.**



1 **Sec. 40. Bonds issued under this chapter are legal investments**
2 **for private trust funds and the funds of banks, trust companies,**
3 **insurance companies, building and loan associations, credit unions,**
4 **banks of discount and deposit, savings banks, loan and trust and**
5 **safe deposit companies, rural loan and savings associations,**
6 **guaranty loan and savings associations, mortgage guaranty**
7 **companies, small loan companies, industrial loan and investment**
8 **companies, and other financial institutions organized under**
9 **Indiana law.**

10 **Sec. 41. (a) The facilities authority may secure bonds issued**
11 **under this chapter by a trust indenture between the facilities**
12 **authority and a corporate trustee, which may be any trust**
13 **company or national or state bank within Indiana that has trust**
14 **powers.**

15 **(b) The trust indenture may:**

16 **(1) pledge or assign lease rentals, receipts, and income from**
17 **leased capital improvements;**

18 **(2) contain provisions for protecting and enforcing the rights**
19 **and remedies of the bondholders, including covenants setting**
20 **forth the duties of the facilities authority and the board of**
21 **directors of the facilities authority;**

22 **(3) set forth the rights and remedies of bondholders and**
23 **trustee; and**

24 **(4) restrict the individual right of action of bondholders.**

25 **(c) Any pledge or assignment made by the facilities authority**
26 **under this section is valid and binding from the time that the**
27 **pledge or assignment is made, against all persons whether they**
28 **have notice of the lien or not. Any trust indenture by which a**
29 **pledge is created or an assignment made need not be filed or**
30 **recorded. The lien is perfected against third parties by filing the**
31 **trust indenture in the records of the board of directors of the**
32 **facilities authority.**

33 **Sec. 42. If the capital improvement board exercises its option to**
34 **purchase leased property, it may issue its bonds as authorized by**
35 **statute.**

36 **Sec. 43. All:**

37 **(1) property owned by the facilities authority;**

38 **(2) revenues of the facilities authority; and**

39 **(3) bonds issued by the facilities authority, the interest on the**
40 **bonds, the proceeds received by a holder from the sale of**
41 **bonds to the extent of the holder's cost of acquisition,**
42 **proceeds received upon redemption before maturity, proceeds**



1 received at maturity, and the receipt of interest in proceeds;
 2 are exempt from taxation in Indiana for all purposes except the
 3 financial institutions tax imposed under IC 6-5.5.

4 **Sec. 44.** The facilities authority shall not issue bonds under this
 5 chapter, unless on or before July 1, 2021, a tax area has been
 6 established under section 20 of this chapter.

7 **Sec. 45.** Any action to contest the validity of bonds to be issued
 8 under this chapter may not be brought after the fifteenth day
 9 following:

10 (1) the receipt of bids for the bonds, if the bonds are sold at
 11 public sale; or

12 (2) the publication one (1) time in a newspaper of general
 13 circulation published in the county of notice of the execution
 14 and delivery of the contract for the sale of bonds;

15 whichever occurs first.

16 **Sec. 46.** Nothing in this chapter shall compel or require the
 17 facilities authority or the capital improvement board to adopt any
 18 resolution, issue any bonds or other obligations, or approve or
 19 enter into any indenture, lease, sublease, or agreement that the
 20 facilities authority or the capital improvement board in its
 21 discretion determines to not be in the facilities authority's or the
 22 capital improvement board's best interests.

23 **Sec. 47.** This chapter expires December 31, 2052.

24 SECTION 3. An emergency is declared for this act.

