

Adopted Rejected

COMMITTEE REPORT

YES: 8
NO: 4

MR. SPEAKER:

*Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1410, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 state and local administration.
- 4 Delete everything after the enacting clause and insert the
- 5 following:
- 6 SECTION 1. IC 5-26 IS ADDED TO THE INDIANA CODE AS
- 7 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 8 1998]:
- 9 **ARTICLE 26. PROFESSIONAL SPORTS FRANCHISE**
- 10 **ACQUISITION**
- 11 **Chapter 1. General Provisions**
- 12 **Sec. 1. This article applies to a franchise that:**
- 13 (1) operates a professional sports team in Indiana; and
- 14 (2) has at any time received governmental assistance.

1 **Sec. 2. After June 30, 1998, a governmental entity may not**
2 **provide governmental assistance to a franchise unless any**
3 **agreement relating to the governmental assistance contains specific**
4 **language stating in substance both of the following:**

- 5 (1) **The franchise acknowledges the effect of this article.**
- 6 (2) **The franchise agrees that it is bound by this article.**

7 **Sec. 3. For purposes of this article, a franchise has received**
8 **governmental assistance if any of the following apply:**

9 (1) **The franchise has received any funds from a**
10 **governmental entity:**

- 11 (A) **in consideration for the franchise to locate or**
12 **maintain the franchise's professional sports team in**
13 **Indiana; or**
- 14 (B) **to support any aspect of the franchise's operation.**

15 (2) **The franchise has received any incentives in the form of**
16 **special tax treatment or other incentives provided under**
17 **Indiana law.**

18 (3) **A governmental entity has spent funds for infrastructure**
19 **to benefit the franchise.**

20 (4) **The franchise operates in facilities or on real property**
21 **acquired by or leased with, in whole or in part, funds spent**
22 **by a governmental entity.**

23 **Sec. 4. A franchise that operates a professional sports team in**
24 **Indiana irrevocably consents to:**

- 25 (1) **jurisdiction of Indiana courts; and**
- 26 (2) **service of process;**

27 **in any legal proceeding relating to the franchise regardless of any**
28 **subsequent location of the franchise.**

29 **Chapter 2. Definitions**

30 **Sec. 1. The definitions in this chapter apply throughout this**
31 **article.**

32 **Sec. 2. "Arena" refers to the place where a franchise's**
33 **professional sports team conducts the majority of the team's home**
34 **games.**

35 **Sec. 3. "Board" refers to the board of directors of a**
36 **corporation.**

37 **Sec. 4. "Corporation" refers to a franchise acquisition**
38 **corporation established under IC 5-26-4.**

1 **Sec. 5. "Franchise"** refers to the entity that comprises the
 2 entire operation of a professional sports team and includes all
 3 property, real and personal, tangible and intangible, used in the
 4 operation of a professional sports team.

5 **Sec. 6. "Governmental entity"** refers to any of the following:

6 (1) The state.

7 (2) A political subdivision (as defined in IC 36-1-2-13).

8 (3) An agency or instrumentality of an entity described in
 9 subdivision (1) or (2).

10 (4) An entity established under Indiana law to perform
 11 public functions or to operate a public enterprise.

12 **Sec. 7. "League"** refers to the person that:

13 (1) consists of more than one (1) professional sports team;
 14 and

15 (2) is organized to provide professional sports competition.

16 The term includes all persons involved in the organization and
 17 operation of the professional sports teams to provide professional
 18 sports competition.

19 **Sec. 8. "Municipality"** refers to the city or town where a
 20 franchise's professional sports team's arena is located. If the arena
 21 is not located within a municipality, the term refers to the county
 22 where the arena is located.

23 **Sec. 9. "Owner"** refers to the person or group of persons who
 24 own a franchise. The term includes a person authorized by the
 25 owner to act as the owner's agent with respect to the franchise.

26 **Sec. 10. "Person"** means an individual, a corporation, a limited
 27 liability company, a partnership, a limited partnership, a limited
 28 liability partnership, a trust, an estate, an unincorporated
 29 association, or any other legal entity.

30 **Sec. 11. "Player"** refers to an individual who renders
 31 professional athletic services to a professional sports team.

32 **Sec. 12. "Professional sports team"** refers to that part of a
 33 franchise operation that consists of players, coaches, and other
 34 personnel and property that are organized to engage in
 35 professional sports competitions.

36 **Chapter 3. Notification of Franchise Relocation**

37 **Sec. 1. (a)** Not later than one hundred eighty (180) days before
 38 a franchise relocates from its arena, the owner shall notify the

1 following of its intention to relocate:

2 (1) The governor.

3 (2) The executive of the municipality in which the arena is
4 located.

5 (b) The owner of the franchise shall include in the notice all the
6 information required by IC 5-26-7-1.

7 Sec. 2. (a) Not later than ten (10) days after receiving notice
8 under section 1 of this chapter, the governor shall notify the
9 following to make appointments under IC 5-26-4:

10 (1) The chief justice of Indiana.

11 (2) The speaker of the house of representatives.

12 (3) The president pro tempore of the senate.

13 (b) Not later than ten (10) days after receiving notice under
14 section 1 of this chapter, the executive of the municipality shall
15 notify the presiding officer of the municipality's legislative body to
16 make an appointment under IC 5-26-4. If the municipality's
17 executive is the presiding officer of the municipality's legislative
18 body, the executive shall notify the legislative body's president pro
19 tempore to make an appointment.

20 Sec. 3. Not later than twenty (20) days after the franchise has
21 given notice under section 1 of this chapter, the members of the
22 board shall be appointed under IC 5-26-4-3.

23 Sec. 4. The board shall hold its first meeting not later than
24 thirty (30) days after the franchise has given notice under section
25 1 of this chapter.

26 Sec. 5. (a) Subject to section 4 of this chapter, the governor
27 shall call the first meeting of the board at a date, time, and place
28 designated by the governor.

29 (b) The governor shall preside at the board's first meeting
30 until the chair of the board is elected under this section. Except as
31 provided in subsection (c)(2), the governor has no vote on matters
32 before the board.

33 (c) The board shall do the following at the board's first
34 meeting under section 4 of this chapter, in the following order:

35 (1) Convene.

36 (2) Elect the board chair. If the members of the board are
37 equally divided on the election of the chair, the governor
38 shall cast the deciding vote.

- 1 **(3) Elect the board secretary.**
- 2 **(4) Elect other officers the board considers necessary.**
- 3 **(5) Conduct other business the board considers necessary to**
- 4 **fulfill its duties under this article.**

5 **Sec. 6. After the first meeting of the board, the board shall file**
 6 **a statement with the secretary of state certifying all of the**
 7 **following:**

- 8 **(1) That the corporation has been formed.**
- 9 **(2) The board has been appointed. The certificate shall**
- 10 **include the following information regarding the board:**
 - 11 **(A) The name and mailing address of each member of**
 - 12 **the board.**
 - 13 **(B) The name of the board's chair.**
 - 14 **(C) The name of the board's secretary.**
- 15 **(3) The first meeting has been conducted according to this**
- 16 **article.**
- 17 **(4) The corporation is doing business under this article.**

18 **Chapter 4. Franchise Acquisition Corporations**

19 **Sec. 1. (a) When the governor receives notice under**
 20 **IC 5-26-3-1, a franchise acquisition corporation is established.**

21 **(b) The name of the corporation is "_____**
 22 **(name of the franchise's professional sports team) acquisition**
 23 **corporation".**

24 **Sec. 2. A corporation established under section 1 of this**
 25 **chapter is a body corporate and politic, and though it is separate**
 26 **from the state, the exercise by the corporation of its powers**
 27 **constitutes an essential governmental function.**

28 **Sec. 3. (a) The corporation is governed by a board of directors**
 29 **consisting of the following:**

- 30 **(1) One (1) individual appointed by the governor. The term**
- 31 **of office of the member first appointed under this subdivision**
- 32 **expires July 1 of the third year after the member is**
- 33 **appointed.**
- 34 **(2) One (1) individual appointed by the executive of the**
- 35 **municipality in which the professional sports team's arena is**
- 36 **located. The term of office of the member first appointed**
- 37 **under this subdivision expires July 1 of the third year after**
- 38 **the member's appointment.**

- 1 **(3) One (1) individual appointed by the speaker of the house**
 2 **of representatives. The term of office of the member first**
 3 **appointed under this subdivision expires July 1 of the second**
 4 **year after the member's appointment.**
- 5 **(4) One (1) individual appointed by the president pro**
 6 **tempore of the senate. The term of office of the member first**
 7 **appointed under this subdivision expires July 1 of the second**
 8 **year after the member's appointment.**
- 9 **(5) One (1) individual appointed by the presiding officer of**
 10 **the municipality's legislative body. If the municipality's**
 11 **executive is the presiding officer of the municipality's**
 12 **legislative body, the legislative body's president pro tempore**
 13 **shall make the appointment under this subdivision. The term**
 14 **of office of the member first appointed under this subdivision**
 15 **expires July 1 of the year after the member's appointment.**
- 16 **(6) One (1) individual appointed by the chief justice of**
 17 **Indiana. The term of office of the member first appointed**
 18 **under this subdivision expires July 1 of the year after the**
 19 **member's appointment.**
- 20 **(b) Not:**
- 21 **(1) earlier than thirty (30) days; and**
 22 **(2) later than sixty (60) days;**
- 23 **after the governor receives notice under IC 5-26-3-1, the governor**
 24 **shall appoint an individual to serve on the board if any of the**
 25 **officials described in subsection (a)(2) through (a)(6) fail to make**
 26 **an appointment within the time required under IC 5-26-3-3.**
- 27 **(c) Except as provided in subsection (a), a member's term of**
 28 **office expires July 1 of the third year after the member is**
 29 **appointed.**
- 30 **(d) A member may be reappointed to a new term of office by**
 31 **the member's appointing authority.**
- 32 **Sec. 4. (a) A board member serves until the earliest of the**
 33 **following:**
- 34 **(1) The member resigns from the board.**
 35 **(2) The member's term of office expires.**
 36 **(3) The member fails to attend three (3) consecutive meetings**
 37 **of the board.**
 38 **(4) The board member dies.**

1 **(b) If a vacancy occurs on the board, the remaining members**
 2 **of the board shall notify the following of the vacancy:**

3 **(1) The governor.**

4 **(2) The official who appointed the member whose position is**
 5 **vacant, if that official is not the governor.**

6 **(c) The official who appointed the member whose position is**
 7 **vacant shall appoint another individual to fill the vacancy not later**
 8 **than thirty (30) days after the official is notified of the vacancy.**
 9 **The official filling the vacancy shall notify the following of the**
 10 **appointment:**

11 **(1) The board.**

12 **(2) The governor, if the official making the appointment is**
 13 **not the governor.**

14 **(d) If an appointment is not made under subsection (c) within**
 15 **the time specified in subsection (c), the governor shall fill the**
 16 **vacancy not later than forty-five (45) days after receiving**
 17 **notification under subsection (b).**

18 **(e) If the governor does not fill the vacancy as provided in**
 19 **subsection (d), the board shall fill the vacancy.**

20 **Sec. 5. (a) The board chair serves a term that ends on the**
 21 **earlier of the following:**

22 **(1) July 1 of the second year after the chair is elected.**

23 **(2) The individual serving as chair is no longer a member of**
 24 **the board.**

25 **(b) The individual who serves as chair may be reelected as**
 26 **chair.**

27 **Sec. 6. The board shall meet at:**

28 **(1) the call of the chair;**

29 **(2) times scheduled by the board; and**

30 **(3) the written call of any three (3) members.**

31 **Sec. 7. (a) Four (4) members of the board constitute a quorum.**

32 **(b) Except as provided in subsection (c), the affirmative vote**
 33 **of four (4) members of the board is required for the board to take**
 34 **action.**

35 **(c) If the board is evenly divided on a question, the chair shall**
 36 **give the casting vote.**

37 **Sec. 8. A member of the board is entitled to all of the**
 38 **following:**

- 1 **(1) The minimum salary per diem provided for by**
- 2 **IC 4-10-11-2.1(b). The member is not entitled to payment**
- 3 **under this subdivision if the member is an employee of a**
- 4 **governmental entity.**
- 5 **(2) Reimbursement for traveling as provided under**
- 6 **IC 4-13-1-4.**
- 7 **(3) Reimbursement for other expenses actually incurred in**
- 8 **connection with the member's duties as provided in the state**
- 9 **travel policies and procedures established by the Indiana**
- 10 **department of administration and approved by the budget**
- 11 **agency.**

12 **Sec. 9. In addition to the purposes set forth in IC 5-14-1.5-6.1,**
 13 **the board may hold an executive session for any of the following**
 14 **purposes:**

- 15 **(1) To receive and deliberate about financial information**
- 16 **relating acquisition of the franchise.**
- 17 **(2) To receive and deliberate about terms and conditions for**
- 18 **acquisition of the franchise.**
- 19 **(3) To conduct negotiations with the owner or agents of the**
- 20 **owner.**

21 **Chapter 5. Franchise Acquisition Corporation Powers**

22 **Sec. 1. A corporation may sue, be sued, and otherwise be**
 23 **involved in litigation.**

24 **Sec. 2. The board may adopt, amend, and repeal bylaws for the**
 25 **regulation of the corporation's affairs and the conduct of the**
 26 **corporation's business.**

27 **Sec. 3. A corporation may:**

- 28 **(1) accept gifts, devises, bequests, grants, loans,**
- 29 **appropriations, financing, and any other aid from any**
- 30 **source; and**
- 31 **(2) agree to and comply with conditions attached to**
- 32 **acceptance.**

33 **Sec. 4. A corporation may do the following with respect to real**
 34 **property:**

- 35 **(1) Acquire title or any interest in real property by lease,**
- 36 **conveyance (including purchase) in lieu of foreclosure, or**
- 37 **foreclosure.**
- 38 **(2) Own, manage, operate, hold, clear, improve, and**

1 **construct facilities on real property.**

2 **(3) Sell, assign, exchange, transfer, convey, lease, mortgage,**
 3 **or otherwise dispose of or encumber real property, an**
 4 **interest in real property or facilities on real property.**

5 **(4) Exercise any other powers that a corporation formed**
 6 **under IC 23 may exercise with respect to its property or**
 7 **property that the corporation wants to acquire.**

8 **Sec. 5. A corporation may exercise the financial powers**
 9 **described in IC 5-26-6.**

10 **Sec. 6. A corporation may acquire insurance against any loss**
 11 **in connection with its operations in amounts, and from insurers, as**
 12 **the board considers necessary or desirable.**

13 **Sec. 7. (a) A corporation may employ fiscal consultants,**
 14 **engineers, bond counsel, other special counsel, real estate**
 15 **counselors, appraisers, and other consultants, employees, and**
 16 **agents as the board considers necessary or appropriate.**

17 **(b) The board may fix and pay the compensation of persons**
 18 **employed under subsection (a) from the corporation's funds.**

19 **Sec. 8. A corporation may make, execute, and implement**
 20 **contracts, agreements, or other documents with any person the**
 21 **board considers necessary or convenient to accomplish the**
 22 **purposes of this article.**

23 **Sec. 9. A corporation may acquire and own a franchise under**
 24 **this article.**

25 **Sec. 10. A corporation may do any and all things the board**
 26 **considers necessary, proper, or convenient to carry out this article.**

27 **Chapter 6. Franchise Acquisition Corporation Financial**
 28 **Powers**

29 **Sec. 1. (a) A corporation may borrow money from a bank, an**
 30 **insurance company, an investment company, or any other person.**

31 **(b) The corporation may negotiate the terms of a loan**
 32 **contract. The contract must provide for repayment of the money**
 33 **in not more than forty (40) years.**

34 **(c) The loan contract must provide that the loan may be**
 35 **prepaid.**

36 **(d) The loan contract must plainly state that it is not an**
 37 **indebtedness of the state but constitutes a corporate obligation**
 38 **solely of the corporation and is payable solely from funds of the**

1 corporation, the proceeds of future loan contracts or bonds, or any
2 funds the corporation may acquire for its purposes.

3 Sec. 2. (a) A corporation may issue and sell debt instruments
4 of the corporation.

5 (b) Debt instruments, when issued by the corporation, have all
6 the qualities of negotiable instruments under IC 26 and are
7 incontestable in the hands of a bona fide purchaser or holder of the
8 debt instruments for value.

9 (c) The corporation may sell or issue bonds and other
10 evidences of debt at a public or private sale at a time or times
11 determined by the board. The corporation may negotiate the terms
12 and conditions of each issue of its securities on terms that the
13 board considers to be commercially reasonable.

14 (d) The corporation shall deposit and disburse the proceeds of
15 the securities issued in accordance with any provisions and
16 restrictions that the board may approve. The maturities of the debt
17 instruments, the rights of the holders, and the rights, duties, and
18 obligations of the corporation are governed in all respects by the
19 terms of the loan documents and this article.

20 (e) The debt instruments issued under this article constitute
21 the corporate obligations only of the corporation and are payable
22 solely from and may be secured exclusively as provided in
23 resolution of the board. The loan documents shall plainly state that
24 the debt does not constitute an indebtedness of the state within the
25 meaning or application of any constitutional provision or limitation
26 but that it is payable solely as to both principal and interest from
27 the corporation's assets. The provisions of this article and the
28 covenants and undertakings of the corporation as expressed in any
29 proceedings preliminary to or in connection with the issuance of
30 debt instruments may be enforced by a holder by action for
31 injunction or mandamus against the corporation or any officer,
32 agent, or employee of the corporation. A holder may not maintain
33 an action for monetary judgment against the state for violations of
34 this article.

35 Sec. 3. (a) A corporation may establish reserves or sinking
36 funds from the proceeds of the sale of debt instruments, or both, to
37 secure the payment of the debt.

38 (b) A corporation may invest any funds held in reserve or in

1 sinking fund accounts or any money not required for immediate
 2 disbursement in obligations of the state, the United States, or their
 3 agencies or instrumentalities, and other obligors as may be
 4 permitted under the terms of a resolution authorizing the issuance
 5 of the corporation's debt instruments.

6 Sec. 4. (a) A corporation may issue and sell common and
 7 preferred, voting and nonvoting shares in the corporation as
 8 authorized by the board.

9 (b) Issuance of shares by the corporation is governed by:

10 (1) federal law; and

11 (2) IC 23 to the extent not inconsistent with this article.

12 (c) No person may hold more than ten percent (10%) of the
 13 number of voting securities of the corporation.

14 (d) If the corporation issues shares under this section, the
 15 affirmative vote of:

16 (1) not fewer than five (5) members of the board; and

17 (2) seventy-five percent (75%) of the voting securities of the
 18 corporation;

19 are required for disposition of substantially all the assets of the
 20 corporation.

21 Sec. 5. A corporation may include in any borrowing or issue
 22 amounts the board considers necessary to pay financing charges,
 23 interest on the obligations, consultant, advisory, and legal fees, and
 24 other expenses as are necessary or incident to a borrowing or issue.

25 Sec. 6. (a) Except as provided in subsection (b), all property of
 26 the corporation is public property devoted to an essential public
 27 and governmental function and purpose and is exempt from all
 28 taxes and special assessments of the state or an Indiana political
 29 subdivision.

30 (b) Any property the corporation acquires from the franchise
 31 that was subject to taxes and special assessments of the state or an
 32 Indiana political subdivision before acquisition by the corporation
 33 remains subject to those taxes or special assessments after
 34 acquisition by the corporation.

35 (c) All debt instruments issued under this article are issued by
 36 a body corporate and politic of this state, but not a state agency,
 37 and for essential public and governmental purposes. The following
 38 are exempt from taxation for all purposes except the financial

1 institutions tax imposed under IC 6-5.5 or a state inheritance tax
2 imposed under IC 6-4.1:

3 (1) Debt instruments issued by the corporation.

4 (2) Interest paid under the corporation's debt instruments.

5 (3) Proceeds received by a holder from the sale of the
6 corporation's debt instruments, to the extent of the holder's
7 cost of acquisition.

8 (4) Proceeds received upon redemption of the corporation's
9 debt instruments before maturity.

10 (5) Proceeds received at maturity of the corporation's debt
11 instruments.

12 (6) Receipt of the interest and proceeds paid with respect to
13 the corporation's debt instruments.

14 **Chapter 7. Acquisition of a Franchise**

15 **Sec. 1. (a) The owner shall include the following information**
16 **with the notice given under IC 5-26-3-1:**

17 (1) The fair market value of the franchise on the date the
18 notice is given.

19 (2) Other reasonable terms and conditions for acquisition of
20 the franchise by the corporation. The terms and conditions
21 may include reasonable terms of payment for acquisition of
22 the franchise. For purposes of this subdivision, payment
23 terms and conditions are considered reasonable if
24 substantially similar terms and conditions have been
25 accepted for the purchase of a like franchise within the
26 previous five (5) year period.

27 (b) The governor shall give the information required by
28 subsection (a) to the board at the board's first meeting under
29 IC 5-26-3-5.

30 **Sec. 2. Not later than thirty (30) days after the board's first**
31 **meeting under IC 5-26-3-5, the board shall do one (1) of the**
32 **following:**

33 (1) **Conditionally accept:**

34 (A) the value of the franchise provided under section 1
35 of this chapter as the purchase price for the franchise;
36 and

37 (B) the other terms and conditions for acquisition of the
38 franchise;

1 subject to the corporation obtaining financing for the
2 acquisition acceptable to the board.

3 (2) Make a counter offer for acquisition of the franchise.

4 **Sec. 3. If the board conditionally accepts the purchase price**
5 **and terms and conditions for acquisition of the franchise under**
6 **section 2(1) of this chapter, the board shall expeditiously exercise**
7 **its powers under this article, including arranging for the payment**
8 **to the owner, to conclude acquisition of the franchise.**

9 **Sec. 4. (a) If the board determines the corporation will be**
10 **unable to:**

11 (1) secure necessary financing for acquisition of the franchise
12 under the terms and conditions stated by the owner; or

13 (2) otherwise be unable to comply with the terms and
14 conditions for acquisition of the franchise stated by the
15 owner;

16 the board shall make a counteroffer for acquisition of the
17 franchise.

18 (b) If the board makes a counter offer for acquisition of the
19 franchise, the board shall appoint agents to negotiate with the
20 owner to establish the terms and conditions for acquisition of the
21 franchise by the corporation. The owner shall negotiate in good
22 faith with the agents appointed by the board.

23 (c) If the corporation's negotiating agents and the owner reach
24 agreement on the purchase price and other terms and conditions
25 of the acquisition, the tentative agreement shall be presented to the
26 board.

27 (d) If the board accepts an agreement negotiated under this
28 section, the board shall exercise its powers under this article,
29 including arranging for the payment to the owner, to conclude
30 acquisition of the franchise.

31 **Sec. 5. (a) If any of the following occur, the matter shall be**
32 **referred to an arbitrator under IC 34-4-2:**

33 (1) The owner and the board request arbitration.

34 (2) The owner and the corporation's negotiating agents fail
35 to reach an agreement for acquisition of the franchise by the
36 corporation not later than thirty (30) days after the
37 corporation's negotiating agents and the franchise owner's
38 negotiating agents first meet.

1 **(3) The owner refuses to negotiate with the corporation's**
2 **negotiating agents.**

3 **(b) The owner shall negotiate in good faith while the matter is**
4 **before the arbitrator.**

5 **Sec. 6. The arbitrator shall determine the following under**
6 **IC 34-4-2:**

7 **(1) The fair market value of the franchise on the date of the**
8 **arbitrator's decision.**

9 **(2) Other reasonable terms and conditions for acquisition of**
10 **the franchise by the corporation.**

11 **Sec. 7. (a) Not later than thirty (30) days after the arbitrator**
12 **has announced the arbitrator's decision, the board shall do either**
13 **of the following:**

14 **(1) Accept the arbitrator's determination as the price and**
15 **other terms and conditions for acquisition of the franchise.**

16 **(2) Waive acquisition of the franchise.**

17 **(b) The board may act under subsection (a)(2) only if the**
18 **board determines any of the following apply:**

19 **(1) The league will award a new franchise to the corporation**
20 **as provided in section 9 of this chapter.**

21 **(2) The corporation will be unable to:**

22 **(A) secure necessary financing for acquisition of the**
23 **franchise at the price and under the terms and**
24 **conditions determined by the arbitrator; or**

25 **(B) otherwise comply with the terms and conditions for**
26 **acquisition of the franchise determined by the**
27 **arbitrator.**

28 **(3) Acquisition of the franchise at the price and under the**
29 **terms and conditions determined by the arbitrator would not**
30 **be in the best interest of the state and the municipality. A**
31 **determination under this subdivision requires the unanimous**
32 **vote of the board.**

33 **Sec. 8. If the board accepts the arbitrator's determination of**
34 **the price and other terms and conditions for acquisition of the**
35 **franchise:**

36 **(1) the corporation shall exercise its powers under this article**
37 **to conclude acquisition of the franchise; and**

38 **(2) the board and the franchise owner shall execute the**

1 necessary documents to transfer ownership of the franchise
2 to the corporation.

3 **Sec. 9. (a) The corporation may waive acquisition of the**
4 **franchise if the franchise owner, the league, and the corporation**
5 **enter into a written agreement to award a new franchise to the**
6 **corporation.**

7 **(b) An agreement entered into under subsection (a) must**
8 **include the following provisions:**

9 **(1) A new franchise must be awarded to the corporation so**
10 **that the franchise will be permitted to participate in league**
11 **competition not later than the league's next season.**

12 **(2) The terms and conditions under which the corporation**
13 **will be awarded a franchise must be no less favorable than**
14 **the terms and conditions under which:**

15 **(A) the most recent new franchise was granted to join**
16 **the league; and**

17 **(B) any other new franchises are granted during the**
18 **same year the corporation is granted a franchise.**

19 **(3) The terms and conditions under which the corporation's**
20 **franchise is permitted to acquire players for the franchise**
21 **must be no less favorable than the terms and conditions**
22 **under which:**

23 **(A) the most recent new franchise was permitted to**
24 **acquire players; and**

25 **(B) any other new franchise granted during the same**
26 **year the corporation is granted a franchise is permitted**
27 **to acquire players.**

28 **(c) If the corporation, the owner, and the league enter into an**
29 **agreement under this section, the corporation shall exercise its**
30 **powers under this article to establish the new franchise.**

31 **Sec. 10. (a) If the corporation acquires a franchise under this**
32 **chapter, the corporation shall exercise its powers under this article**
33 **to operate the franchise.**

34 **(b) All the rights and obligations of the franchise become the**
35 **rights and obligations of the corporation.**

36 **Chapter 8. Dissolution of the Corporation**

37 **Sec. 1. This chapter applies if the board:**

38 **(1) waives acquisition of the franchise under**

1 **IC 5-26-7-7(a)(2); and**
2 **(2) does not acquire a new franchise under IC 5-26-7-10.**

3 **Sec. 2. The corporation shall do the following:**

- 4 **(1) Pay all the corporation's obligations.**
- 5 **(2) Pay to the treasurer of state any unencumbered funds**
- 6 **remaining with the corporation. The treasurer of state shall**
- 7 **deposit money received under this subdivision in the general**
- 8 **fund.**

9 **Sec. 3. After the corporation complies with section 2 of this**
10 **chapter, the board shall file with the secretary of state a statement**
11 **that the corporation is dissolved.**

12 **Chapter 9. Penalties**

13 **Sec. 1. (a) If an owner fails to comply with IC 5-26-3-1, the**
14 **owner is subject to a civil penalty determined in STEP THREE of**
15 **the following formula:**

16 **STEP ONE: Determine the franchise's gross revenue during**
17 **the franchise's most recently completed fiscal year.**

18 **STEP TWO: Determine the number of home games played**
19 **during the franchise's most recently completed fiscal year.**

20 **STEP THREE: Divide the number determined in STEP ONE**
21 **by the number determined in STEP TWO.**

22 **(b) The attorney general shall file an action in a court of**
23 **jurisdiction to enforce and collect a civil penalty imposed by**
24 **subsection (a).**

25 **(c) A civil penalty collected under this section shall be**
26 **deposited as follows:**

- 27 **(1) If the corporation has been formed, with the corporation.**
- 28 **(2) If the corporation has not been formed, in the state**
- 29 **general fund.**

30 **Sec. 2. If an arbitrator finds that an owner has refused to**
31 **negotiate with the corporation, or has negotiated in bad faith, the**

1 **arbitrator shall reduce the amount of the acquisition price of the**
2 **franchise by one million dollars (\$1,000,000) for each day that the**
3 **owner has failed to negotiate or has negotiated in bad faith.**

(Reference is to HB 1410 as introduced.)

and when so amended that said bill do pass.

Representative Bailey