

HOUSE BILL No. 1650

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-32; IC 36-4-13.

Synopsis: Food and beverage tax in second class cities. Permits second class cities to impose a 1% food and beverage tax for urban development projects. Establishes a five member urban development board in each city adopting the tax to plan and oversee the urban development projects, subject to common council approval. Models the urban development board powers and duties on the capital improvement board law applicable to Marion County.

Effective: July 1, 1999.

Tincher, Kersey, Kruse

January 21, 1999, read first time and referred to Committee on Local Government.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

HOUSE BILL No. 1650

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

1 SECTION 1. IC 6-9-32 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]:

4 **Chapter 32. Second Class City Food and Beverage Tax**
5 **Sec. 1. This chapter applies to a second class city, as classified**
6 **under IC 36-4-1-1.**

7 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
8 **chapter.**

9 **Sec. 3. (a) The fiscal body of the city may adopt an ordinance to**
10 **impose an excise tax, known as the city food and beverage tax, on**
11 **transactions described in section 4 of this chapter.**

12 **(b) If a fiscal body adopts an ordinance under subsection (a), the**
13 **fiscal body shall immediately send a certified copy of the ordinance**
14 **to the department of state revenue.**

15 **(c) If a fiscal body adopts an ordinance under subsection (a), the**
16 **city food and beverage tax applies to transactions that occur after**
17 **the last day of the month that succeeds the month in which the**



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1 ordinance was adopted.

2 **Sec. 4. (a) Except as provided in subsection (c), a tax imposed**
 3 **under section 3 of this chapter applies to a transaction in which**
 4 **food or beverage is furnished, prepared, or served:**

5 (1) for consumption at a location or on equipment provided by
 6 a retail merchant;

7 (2) in the city in which the tax is imposed; and

8 (3) by a retail merchant for consideration.

9 (b) Transactions described in subsection (a)(1) include
 10 transactions in which food or beverage is:

11 (1) served by a retail merchant off the merchant's premises;

12 (2) sold by a retail merchant that ordinarily bags, wraps, or
 13 packages the food or beverage for immediate consumption on
 14 or near the retail merchant's premises, including food or
 15 beverage sold on a "take out" or "to go" basis; or

16 (3) sold by a street vendor.

17 (c) The city food and beverage tax does not apply to the
 18 furnishing, preparing, or serving of a food or beverage in a
 19 transaction that is exempt, or to the extent the transaction is
 20 exempt, from the state gross retail tax imposed by IC 6-2.5.

21 **Sec. 5. The city food and beverage tax imposed on a food or**
 22 **beverage transaction described in section 4 of this chapter must be**
 23 **in increments of one-tenth of a percent (0.1%) and may not exceed**
 24 **one percent (1%) of the gross retail income received by the**
 25 **merchant from the transaction. For purposes of this chapter, the**
 26 **gross retail income received by the retail merchant from a**
 27 **transaction does not include the amount of tax imposed on the**
 28 **transaction under IC 6-2.5.**

29 **Sec. 6. A tax imposed under this chapter shall be imposed, paid,**
 30 **and collected in the same manner that the state gross retail tax is**
 31 **imposed, paid, and collected under IC 6-2.5. However, the return**
 32 **to be filed with the payment of the tax imposed under this chapter**
 33 **may be made on a separate return or may be combined with the**
 34 **return filed for the payment of the state gross retail tax, as**
 35 **prescribed by the department of state revenue.**

36 **Sec. 7. The amounts received from the tax imposed under this**
 37 **chapter shall be paid monthly by the treasurer of state to the city**
 38 **controller upon warrants issued by the auditor of state.**

39 **Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the**
 40 **city fiscal officer shall establish an urban development project**
 41 **fund.**

42 (b) The city fiscal officer shall deposit in this fund all amounts

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1 received under this chapter.

2 (c) Money earned from the investment of money in the fund
3 becomes a part of the fund.

4 **Sec. 9. (a) Money in the fund established under section 8 of this**
5 **chapter shall be used by the city for the financing, construction,**
6 **renovation, improvement, or equipping of urban development**
7 **projects approved by the city's urban development board and**
8 **common council under IC 36-4-13. Tax revenue deposited in the**
9 **fund may not be used for the operating or maintenance costs of an**
10 **urban development project.**

11 (b) The fiscal body of the city may pledge money in the fund to
12 pay bonds issued, loans obtained, and lease payments or other
13 obligations incurred by or on behalf of the city or a special taxing
14 district in the city to provide the projects described in subsection
15 (a).

16 (c) Subsection (b) applies only to bonds, loans, lease payments,
17 or obligations that are issued, obtained, or incurred after the date
18 on which the tax is imposed under section 3 of this chapter.

19 (d) A pledge under subsection (a) is enforceable under
20 IC 5-1-14-4.

21 **Sec. 10. With respect to obligations for which a pledge has been**
22 **made under section 9(b) of this chapter, the general assembly**
23 **covenants with the holders of the obligations that this chapter will**
24 **not be repealed or amended in a manner that will adversely affect**
25 **the imposition or collection of the tax imposed under this chapter**
26 **if the payment of any of the obligations is outstanding.**

27 SECTION 2. IC 36-4-13 IS ADDED TO THE INDIANA CODE AS
28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
29 1, 1999]:

30 **Chapter 13. Second Class City Urban Development Board**

31 **Sec. 1. This chapter applies to each second class city that has a**
32 **food and beverage tax in effect under IC 6-9-32.**

33 **Sec. 2. As used in this chapter, "board" refers to an urban**
34 **development board created under this chapter.**

35 **Sec. 3. As used in this chapter, "bonds" refers to bonds issued**
36 **under section 21 or section 24 of this chapter and, except as used**
37 **in section 21 of this chapter or unless the context otherwise**
38 **requires, lease agreements entered into under section 15(2) of this**
39 **chapter.**

40 **Sec. 4. As used in this chapter, "food and beverage taxes" refers**
41 **to the tax imposed under IC 6-9-32.**

42 **Sec. 5. As used in this chapter, "issue", "issued", or "issuance"**



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1 means in the case of lease agreements "execute", "executed", or
2 "execution" respectively.

3 Sec. 6. As used in this chapter, "lease agreements" means lease
4 agreements entered into under this chapter.

5 Sec. 7. As used in this chapter, "net income" means the gross
6 income from the operation of an urban development project after
7 deducting the necessary operating expenses of the board.

8 Sec. 8. As used in this chapter, "notes" refers to notes issued
9 under section 29 of this chapter.

10 Sec. 9. As used in this chapter, "operating expenses" means:

11 (1) the necessary operational expenses of the board in
12 performing its duties under this chapter, including
13 maintenance, repairs, replacements, alterations, and costs of
14 services of architects, engineers, accountants, attorneys, and
15 consultants;

16 (2) the expenses for any other purpose that has been approved
17 under section 17 of this chapter; and

18 (3) the maintenance of reasonable reserves for any of the
19 items listed in subdivisions (1) and (2) of this definition or for
20 other purposes required under a resolution, ordinance, or
21 trust agreement.

22 Sec. 10. As used in this chapter, "principal and interest"
23 includes, unless the context otherwise requires, payments required
24 by lease agreements.

25 Sec. 11. As used in this chapter, "trust agreements", except as
26 used in section 22 of this chapter or unless the context otherwise
27 requires, includes lease agreements.

28 Sec. 12. An urban development board is created in the city.

29 Sec. 13. (a) The board is composed of five (5) members. Three
30 (3) members shall be appointed by the executive of the city and two
31 (2) members shall be appointed by the common council of the city.
32 One (1) of the members appointed by the executive and one (1) of
33 the members appointed by the common council must be engaged
34 in the business of providing food or beverages subject to the tax
35 under IC 6-9-32 in the city. Not more than two (2) of the members
36 appointed by the executive may be affiliated with the same political
37 party and not more than one (1) of the members appointed by the
38 common council may be affiliated with the same political party.

39 (b) The terms of members are for two (2) years beginning on
40 January 15 and until a successor is appointed and qualified. A
41 member may be reappointed after the member's term has expired.

42 (c) If a vacancy occurs on the board, the appointing authority



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1 shall appoint a new member. That member serves for the
2 remainder of the vacated term.

3 (d) A board member may be removed for cause by the
4 appointing authority who appointed the member.

5 (e) Each member, before entering upon the duties of office, shall
6 take and subscribe an oath of office in the usual form. The oath
7 shall be endorsed upon the member's certificate of appointment,
8 which shall be promptly filed with the records of the board.

9 (f) A member does not receive a salary but is entitled to
10 reimbursement for any expenses necessarily incurred in the
11 performance of the member's duties.

12 **Sec. 14. (a)** Immediately after January 15 each year, the board
13 shall hold an organizational meeting. It shall elect one (1) of the
14 members president, another vice president, another secretary, and
15 another treasurer to perform the duties of those offices. The
16 officers serve from the date of their election until their successors
17 are elected and qualified.

18 (b) The board may adopt the bylaws and rules that it considers
19 necessary for the proper conduct of its duties and the safeguarding
20 of the funds and property entrusted to its care. A majority of the
21 members constitutes a quorum, and the concurrence of a majority
22 of the members is necessary to authorize any action.

23 **Sec. 15.** The board may, acting under the title "urban
24 development board of _____" (including the name of the city),
25 do the following:

26 (1) Acquire by grant, purchase, gift, devise, lease,
27 condemnation, or otherwise, and hold, use, sell, lease, or
28 dispose of, real and personal property and all property rights
29 and interests necessary or convenient for the exercise of its
30 powers under this chapter.

31 (2) Finance, construct, equip, remodel, enlarge, lease, operate,
32 and maintain an urban development project that is part of an
33 urban development project under this chapter.

34 (3) Fix charges and establish rules governing the use of an
35 urban development project.

36 (4) Accept gifts or contributions and enter into loans or accept
37 advances on the terms that the board considers necessary or
38 desirable, including entering into and carrying out contracts
39 and agreements in connection with this subdivision.

40 (5) Exercise within and in the name of the city the power of
41 eminent domain under general statutes governing the exercise
42 of the power for a public purpose.



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- 1 **(6) Receive and collect money due for the use or leasing of an**
2 **urban development project and expend the money for proper**
3 **purposes.**
4 **(7) Receive excise taxes, income taxes, and ad valorem**
5 **property taxes and expend the money for operating expenses,**
6 **payments of principal or interest of bonds or notes issued**
7 **under this chapter, and for all or part of the cost of an urban**
8 **development project.**
9 **(8) Retain the services of architects, engineers, accountants,**
10 **attorneys, and consultants and hire employees upon terms**
11 **and conditions established by the board, so long as any**
12 **employees or members of the board authorized to receive,**
13 **collect, and expend money are covered by a fidelity bond, the**
14 **amount of which shall be fixed by the board. Funds may not**
15 **be disbursed by an employee or member of the board without**
16 **prior specific approval by the board.**
17 **(9) Provide coverage for its employees under IC 22-3 and**
18 **IC 22-4.**
19 **(10) Purchase public liability and other insurance considered**
20 **desirable.**
21 **(11) Make and enter into all contracts and agreements**
22 **necessary or incidental to the performance of its duties and**
23 **the execution of its powers under this chapter, including the**
24 **enforcement of them.**
25 **(12) Sue and be sued in the name and style of "urban**
26 **development board of _____" (including the name of**
27 **the city), service of process being had by leaving a copy at the**
28 **board's office.**
29 **(13) Prepare and publish descriptive material and literature**
30 **relating to the facilities and advantages of an urban**
31 **development project and do all other acts that the board**
32 **considers necessary to promote and publicize an urban**
33 **development project, including the convention and visitor**
34 **industry, and serve the commercial, industrial, and cultural**
35 **interests of the city and its citizens. The board may assist,**
36 **cooperate, and fund governmental, public, and private**
37 **agencies and groups for these purposes.**
38 **Sec. 16. (a) The purchase or lease of material and work on an**
39 **urban development project shall be done by the board under**
40 **statutes governing these activities by the city. However, if the total**
41 **cost of construction or equipping of an urban development project**
42 **or of the alteration, maintenance, or repair of any building is**



1 estimated to be fifty thousand dollars (\$50,000) or less, the board
2 may procure materials and perform the work by its own employees
3 and with owned or leased equipment without awarding a contract.
4 In addition, in an emergency determined and declared by the
5 board and entered in its records, the board may make emergency
6 alterations, repairs, or replacements and contract for them without
7 advertising for bids.

8 (b) Title to or interest in any property acquired shall be held in
9 the name of the city, and the board has complete and exclusive
10 authority to sell, lease, or dispose of it and to execute all
11 conveyances, leases, contracts, and other instruments in connection
12 with it. However, real property may not be sold without the
13 approval of the executive of the city.

14 Sec. 17. (a) The board shall prepare a three (3) year plan,
15 including a budget for each of the three (3) plan years, covering
16 proposed urban development projects. The board shall also
17 prepare a plan update and a budget each year covering projected
18 operating expenses and estimated income to pay the operating
19 expenses, including amounts, if any, to be received from the food
20 and beverage taxes and ad valorem property taxes. The board shall
21 submit the plan and budget for review, approval, or rejection to
22 the common council. The board may make expenditures only as
23 provided in the budget as approved and only after appropriations
24 are made by the common council to fund the approved budget.

25 (b) If the board desires to finance an urban development project
26 in whole or in part by the issuance of bonds under section 21 or 24
27 of this chapter, the board shall submit the following information to
28 the common council at least fifteen (15) days before the adoption
29 of a resolution authorizing the issuance of the bonds:

30 (1) A description of the project to be financed through the
31 issuance of bonds.

32 (2) The total amount of the project anticipated to be funded
33 through the issuance of bonds.

34 (3) The total amount of other anticipated revenue sources for
35 the project.

36 (4) Any other terms upon which the bonds will be issued.

37 (c) The common council must discuss the information provided
38 in subsection (b) and take action on the bond issue at a public
39 hearing.

40 Sec. 18. (a) The treasurer of the board is the official custodian
41 of all funds and assets of the board and is responsible for their
42 safeguarding and accounting. The treasurer of the board shall give

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1 bond for the faithful performance and discharge of all duties
2 required by law in the amount and with surety and other
3 conditions that may be prescribed and approved by the board. All
4 funds and assets in the urban development project fund and the
5 urban development project bond fund created by this chapter and
6 all other funds, assets, and tax revenues held, collected, or received
7 by the city for the use of the board shall be promptly remitted and
8 paid over to the treasurer of the board, who shall issue receipts for
9 them.

10 (b) The treasurer of the board shall deposit all funds as required
11 by this chapter and by IC 6-9-32, and in accordance with IC 5-13.
12 Money so deposited may be invested and reinvested by the
13 treasurer in accordance with general statutes relating to the
14 investment of public funds and in securities that the board
15 specifically directs. All interest and other income earned on
16 investments becomes a part of the particular fund from which the
17 money was invested, except as provided in a resolution, ordinance,
18 or trust agreement providing for the issuance of bonds or notes. All
19 funds invested in deposit accounts as provided in IC 5-13-9 must be
20 insured under IC 5-13-12.

21 (c) The city controller shall act as the auditor and assistant
22 treasurer of the board. The city controller shall serve as the official
23 custodian of all books of account and other financial records of the
24 board and has the same powers and duties as the treasurer of the
25 board or the lesser powers and duties that the board prescribes.
26 The city controller, and any other employee or member of the
27 board authorized to receive, collect, or expend money, shall give
28 bond for the faithful performance and discharge of all duties in the
29 amount and with surety and other conditions that may be
30 prescribed and approved by the board. The city controller shall
31 keep an accurate account of all money due the board and of all
32 money received, invested, and disbursed in accordance with
33 generally recognized governmental accounting principles and
34 procedure. All accounting forms and records shall be prescribed
35 or approved by the state board of accounts.

36 (d) The city controller shall issue all warrants for the payment
37 of money from the funds of the board in accordance with
38 procedures prescribed by the board, but a warrant may not be
39 issued for the payment of a claim until an itemized and verified
40 statement of the claim has been filed with the city controller, who
41 may require evidence that all amounts claimed are justly due. All
42 warrants must be countersigned by the treasurer of the board.



1 Warrants may be executed with facsimile signatures.

2 (e) If there are outstanding bonds or notes issued under this
3 chapter, the city controller shall deposit with the paying agent or
4 other paying officer within a reasonable period before the date that
5 any principal or interest becomes due sufficient money for the
6 payment of the principal and interest on the due dates. The city
7 controller shall make the deposit with money from the sources
8 provided in this chapter and shall make the deposit in an amount
9 that, together with other money available for the payment of the
10 principal and interest, is sufficient to make the payment. In
11 addition, the city controller shall make other deposits for the bonds
12 and notes as is required by this chapter or by the resolutions,
13 ordinances, or trust agreements under which the bonds or notes
14 are issued.

15 (f) The city controller shall submit to the board, at least
16 annually, a report of accounts exhibiting the revenues, receipts,
17 and disbursements and the sources from which the revenues and
18 receipts were derived and the purpose and manner in which they
19 were disbursed. The board may require that the report be
20 prepared by an independent certified public accountant designated
21 by the board. The handling and expenditure of funds is subject to
22 audit and supervision by the state board of accounts.

23 **Sec. 19. (a)** Unless there are bonds or notes outstanding under
24 this chapter and secured in whole or in part by money deposited in
25 the urban development project bond fund, the proceeds of food and
26 beverage taxes received from the treasurer of state shall be
27 deposited in the urban development project fund created under
28 IC 6-9-32. The gross income received by the board from the
29 operation of urban development projects under this chapter shall
30 be deposited in the urban development project fund, regardless of
31 whether or not there are any bonds or notes outstanding. Any
32 money in the fund may be expended by the board after an
33 appropriation to pay operating expenses. Money in the fund may
34 also be used by the board after an appropriation to pay the
35 principal on, or interest of, any bonds or notes issued under this
36 chapter that cannot be paid from funds in the urban development
37 project bond fund or may be used for the payment of the principal
38 of, redemption premium, if any, for, and interest on any bonds or
39 notes issued under this chapter, upon prior redemption, or for all
40 or part of the cost of an urban development project.

41 (b) The board may covenant in any resolution, ordinance, or
42 trust agreement providing for the issuance of bonds or notes as to

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1 the order of application of money deposited in the urban
 2 development project fund, including the holding or disposing of
 3 any surplus in that fund.

4 (c) The net income from the operation of urban development
 5 projects under this chapter shall be transferred from the urban
 6 development project fund to the urban development project bond
 7 fund to the extent of any deficiency in the amount required to be in
 8 the urban development project fund.

9 Sec. 20. (a) If there are any outstanding bonds or notes issued
 10 under this chapter and secured in whole or in part by money
 11 deposited in the urban development project bond fund, the
 12 treasurer of the board shall, except as otherwise provided in this
 13 section, deposit the following amounts in a separate and distinct
 14 fund called the "urban development project bond fund":

15 (1) Food and beverage tax proceeds received by the treasurer.

16 (2) Net income transferred to the urban development project
 17 bond fund under section 19 of this chapter.

18 (3) Any other amounts received for deposit in the urban
 19 development project bond fund.

20 (b) Principal and interest subaccounts shall be maintained in the
 21 urban development project bond fund. The lesser of the following
 22 amounts shall be deposited in the principal and interest
 23 subaccounts:

24 (1) The total of the amounts listed in subsection (a).

25 (2) In the principal and interest subaccounts for all
 26 outstanding bonds and notes issued under this chapter, the
 27 amounts required by the resolutions, ordinances, and trust
 28 agreements under which the bonds or notes are issued.
 29 Deposits to principal and interest subaccounts for notes and
 30 for bonds shall be made in the manner and in the order of
 31 priority that is provided in the resolutions, ordinances, and
 32 trust agreements under which the bonds or notes are issued.
 33 Amounts in a principal and interest subaccount may be used
 34 solely to pay the principal of and interest on the issue or issues
 35 of bonds or notes for which the principal and interest
 36 subaccount was established.

37 (c) Amounts described in subsection (a) that are not required to
 38 be deposited in principal and interest subaccounts or bond reserve
 39 subaccounts under subsection (b) shall be deposited in the urban
 40 development project fund rather than the urban development
 41 project bond fund.

42 (d) Unless otherwise provided in any resolution, ordinance, or



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1 trust agreement under which bonds or notes are issued, amounts
 2 in the urban development project bond fund in excess of the
 3 amount required by this section to be on deposit in that fund shall
 4 be transferred to the urban development project fund.

5 (e) For purposes of this section and section 19 of this chapter,
 6 bonds issued under section 24 of this chapter shall be considered to
 7 be secured by money deposited in the urban development project
 8 bond fund, if provided in the resolution, ordinance, or trust
 9 agreement providing for the issuance of the bonds.

10 Sec. 21. (a) An urban development project may be financed in
 11 whole or in part by the issuance of bonds payable, to the extent
 12 stated in the resolution or trust agreement providing for the
 13 issuance of the bonds, solely from one (1) or more of the following
 14 sources:

15 (1) Net income received from the operation of the urban
 16 development project and not required to be deposited in the
 17 urban development project bond fund under section 20 of this
 18 chapter.

19 (2) Net income received from the operation of any other
 20 urban development project and not required to be deposited
 21 in the urban development project bond fund under section 20
 22 of this chapter.

23 (3) Money in the urban development project bond fund
 24 available for that purpose.

25 (4) Money in the urban development project fund available
 26 for that purpose.

27 (5) Any other funds made available for that purpose.

28 The resolution or trust agreement may pledge all or part of those
 29 amounts to the repayment of the bonds and may secure the bonds
 30 by a lien on the amounts pledged.

31 (b) If the board desires to finance an urban development project
 32 in whole or in part as provided in this section, it shall adopt a
 33 resolution authorizing the issuance of revenue bonds. The
 34 resolution must state the date or dates on which the principal of the
 35 bonds will mature (not exceeding forty (40) years from the date of
 36 issuance), the maximum interest rate to be paid, and the other
 37 terms upon which the bonds will be issued.

38 (c) The board shall submit the resolution to the executive of the
 39 city, who shall review it. If the executive approves the resolution,
 40 the board shall take all actions necessary to issue bonds in
 41 accordance with the resolution. The board may, under section 22
 42 of this chapter, enter into a trust agreement with a trust company



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1 as trustee for the bondholders. An action to contest the validity of
 2 bonds to be issued under this section may not be brought after the
 3 fifteenth day following:

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

6 (2) the publication one (1) time in a newspaper of general
 7 circulation published in the city of notice of the execution and
 8 delivery of the contract of sale for the bonds;

9 whichever occurs first.

10 (d) Bonds issued under this section may be sold at public or
 11 private sale for the price or prices that are provided in the
 12 resolution authorizing the issuance of bonds. All bonds and interest
 13 are exempt from taxation in Indiana as provided in IC 6-8-5.

14 (e) When issuing revenue bonds, the board may covenant with
 15 the purchasers of the bonds that any funds in the urban
 16 development project fund may be used to pay the principal on, or
 17 interest of, the bonds that cannot be paid from any other funds.

18 (f) The revenue bonds may be made redeemable before maturity
 19 at the price or prices and under the terms that are determined by
 20 the board in the authorizing resolution. The board shall determine
 21 the form of bonds, including any interest coupons to be attached,
 22 and shall fix the denomination or denominations of the bonds and
 23 the place or places of payment of the principal and interest, which
 24 may be at any bank or trust company within or outside Indiana.
 25 All bonds must have all the qualities and incidents of negotiable
 26 instruments under statute. Provision may be made for the
 27 registration of any of the bonds as to principal alone or to both
 28 principal and interest.

29 (g) The revenue bonds shall be issued in the name of the city and
 30 must recite on the face that the principal of and interest on the
 31 bonds is payable solely from the amounts pledged to their payment.
 32 The bonds shall be executed by the manual or facsimile signature
 33 of the president of the board, and the seal of the city shall be
 34 affixed or imprinted on the bonds. The seal shall be attested by the
 35 manual or facsimile signature of the city controller. However, one
 36 (1) of the signatures must be manual, unless the bonds are
 37 authenticated by the manual signature of an authorized officer or
 38 a trustee for the bondholders. Any coupons attached must bear the
 39 facsimile signature of the president of the board.

40 (h) This chapter constitutes full and complete authority for the
 41 issuance of revenue bonds. No law, procedure, proceedings,
 42 publications, notices, consents, approvals, orders, acts, or things by



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1 the board or any other officer, department, agency, or
 2 instrumentality of the state or any political subdivision is required
 3 to issue any revenue bonds, except as prescribed in this chapter.

4 (i) Revenue bonds issued under this section are legal investments
 5 for private trust funds and the funds of banks, trust companies,
 6 insurance companies, building and loan associations, credit unions,
 7 banks of discount and deposit, savings banks, loan and trust and
 8 safe deposit companies, rural loan and savings associations,
 9 guaranty loan and savings associations, mortgage guaranty
 10 companies, small loan companies, industrial loan and investment
 11 companies, and other financial institutions organized under
 12 statute.

13 **Sec. 22. (a) Revenue bonds issued under this chapter may be**
 14 **secured by a trust agreement by and between the board and a**
 15 **corporate trustee, which may be any trust company or bank having**
 16 **the powers of a trust company in Indiana. Any resolution adopted**
 17 **by the board providing for the issuance of revenue bonds and any**
 18 **trust agreement under which the revenue bonds are issued may**
 19 **pledge or assign, subject only to valid prior pledges, all or a part of**
 20 **the amounts authorized by this chapter, but the board may not**
 21 **convey or mortgage any urban development project or any part of**
 22 **an urban development project.**

23 (b) In authorizing the issuance of revenue bonds, the board
 24 may:

25 (1) limit the amount of revenue bonds that may be issued as a
 26 first lien against the amounts pledged to the payment of those
 27 revenue bonds; or

28 (2) authorize the issuance from time to time of additional
 29 revenue bonds secured by the same lien.

30 Additional revenue bonds shall be issued on the terms and
 31 conditions provided in the bond resolution or resolutions adopted
 32 by the board and in the trust agreement or any agreement
 33 supplemental to the trust agreement. Additional revenue bonds
 34 may be secured equally and ratably without preference, priority,
 35 or distinction with the original issue of revenue bonds or may be
 36 made junior to the original issue of revenue bonds.

37 (c) Any pledge or assignment made by the board under this
 38 section is valid and binding from the time that the pledge or
 39 assignment is made, and the amounts pledged and received by the
 40 board are immediately subject to the lien of the pledge or
 41 assignment without physical delivery of those amounts or further
 42 act. The lien of the pledge or assignment is valid and binding



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1 against all parties having claims of any kind in tort, contract, or
 2 otherwise against the board irrespective of whether these parties
 3 have notice of the lien. Neither the resolution nor any trust
 4 agreement by which a pledge is created or an assignment needs to
 5 be filed or recorded in order to perfect the resulting lien against
 6 third parties. However, a copy of the pledge or assignment shall be
 7 filed in the records of the board.

8 (d) Any trust agreement or resolution providing for the issuance
 9 of revenue bonds may contain provisions for protecting and
 10 enforcing the rights and remedies of the bondholders that are
 11 reasonable and proper and not in violation of law. The provisions
 12 may include covenants stating the duties of the board in relation to:

- 13 (1) the acquisition of property;
- 14 (2) the construction, improvement, maintenance, repair,
 15 operation, and insurance of the urban development project in
 16 connection with which the bonds have been authorized;
- 17 (3) the rates of fees, rentals, or other charges to be collected
 18 for the use of the urban development project;
- 19 (4) the custody, safeguarding, investment, and application of
 20 all money received or to be received by the board or trustee;
- 21 (5) the establishment of funds, reserves, and accounts; and
- 22 (6) the employment of consulting engineers in connection with
 23 the construction or operation of the urban development
 24 project.

25 (e) It is lawful for any bank or trust company incorporated
 26 under statute, and any national banking association that may act
 27 as depository of the proceeds of bonds or other funds of the board,
 28 to furnish indemnifying bonds or to pledge securities that are
 29 required by the board.

30 (f) Any trust agreement entered into under this section may
 31 state the rights and remedies of the bondholders and of the trustee
 32 and may restrict the individual right of action by bondholders as
 33 is customary in trust agreements or trust indentures securing
 34 bonds or debentures of private corporations. In addition, the trust
 35 agreement may contain other provisions that the board considers
 36 reasonable and proper for the security of the bondholders.

37 (g) All expenses incurred in carrying out a trust agreement
 38 entered into under this section may be treated as a part of the
 39 necessary operating expenses of the board.

40 Sec. 23. (a) The Indiana general assembly covenants with the
 41 purchasers of any bonds or notes issued under this chapter that:

- 42 (1) the food and beverage taxes pledged to the payment of



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1 those bonds and notes will not be repealed, amended, or
 2 altered in any manner that would reduce or adversely affect
 3 the levy and collection of those taxes; and

4 (2) it will not reduce the rates or amounts of those taxes;
 5 as long as the principal of, or interest on, any bonds or notes is
 6 unpaid.

7 (b) The board, on behalf of the city, may make a similar pledge
 8 or covenant in any agreement with the purchasers of any bonds or
 9 notes issued under this chapter.

10 (c) For purposes of this section, the principal of or interest on
 11 bonds or notes is considered paid if a provision has been made for
 12 their payment in such a manner that the bonds or notes are not
 13 considered to be outstanding under the resolution, ordinance, or
 14 trust agreement under which the bonds or notes are issued.

15 **Sec. 24. (a)** An urban development project may be financed in
 16 whole or in part by the issuance of general obligation bonds of the
 17 city.

18 (b) If the board desires to finance an urban development project
 19 in whole or in part as provided in this section, it shall have
 20 prepared a resolution to be adopted by the common council
 21 authorizing the issuance of general obligation bonds. The
 22 resolution must state the date or dates on which the principal of the
 23 bonds is payable, the maximum interest rate to be paid, and the
 24 other terms upon which the bonds shall be issued. The board shall
 25 submit the proposed resolution to the common council, together
 26 with a certificate to the effect that the issuance of bonds in
 27 accordance with the resolution will be in compliance with this
 28 section. The certificate must also state the estimated annual net
 29 income of the urban development project to be financed by the
 30 bonds, the estimated annual tax revenues, and the maximum
 31 amount payable in any year as principal and interest on the bonds
 32 issued under this chapter, including the bonds proposed to be
 33 issued, at the maximum interest rate set forth in the resolution. The
 34 bonds issued may mature over a period not exceeding forty (40)
 35 years from the date of issue.

36 (c) Upon receipt of the resolution and certificate, the common
 37 council may adopt them and take all action necessary to issue the
 38 bonds in accordance with the resolution. An action to contest the
 39 validity of bonds issued under this section may not be brought after
 40 the fifteenth day following the receipt of bids for the bonds.

41 (d) The provisions of all general statutes relating to:

42 (1) the filing of a petition requesting the issuance of bonds and

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- 1 giving notice;
 2 (2) the right of taxpayers to remonstrate against the issuance
 3 of bonds;
 4 (3) the giving of notice of the determination to issue bonds;
 5 (4) the giving of notice of a hearing on the appropriation of
 6 the proceeds of bonds;
 7 (5) the right of taxpayers to appear and be heard on the
 8 proposed appropriation;
 9 (6) the approval of the appropriation by the state board of tax
 10 commissioners; and
 11 (7) the sale of bonds at public sale for not less than par value;
 12 are applicable to the issuance of bonds under this section.

13 **Sec. 25.** All money received from any bonds issued under this
 14 chapter shall be applied solely to the payment of the construction
 15 cost of the urban development project or the cost of refunding or
 16 refinancing outstanding bonds or notes, for which the bonds are
 17 issued. The cost may include:

- 18 (1) planning and development of the urban development
 19 project and all buildings, facilities, structures, and
 20 improvements related to it;
 21 (2) acquisition of a site and clearing and preparing the site for
 22 construction;
 23 (3) equipment, facilities, structures, and improvements that
 24 are necessary or desirable to make the urban development
 25 project suitable for use and operation;
 26 (4) architectural, engineering, consultant, and attorney's fees;
 27 (5) incidental expenses in connection with the issuance and
 28 sale of bonds;
 29 (6) reserves for principal and interest and for operations,
 30 extensions, replacements, renovations, and improvements;
 31 (7) interest during construction;
 32 (8) financial advisory fees;
 33 (9) insurance during construction;
 34 (10) municipal bond insurance; and
 35 (11) in the case of refunding or refinancing, payment of the
 36 principal of, redemption premiums, if any, for, and interest on
 37 the bonds or notes being refunded or refinanced.

38 **Sec. 26.** Unless their rights are restricted by the appropriate
 39 bond resolution, ordinance, or trust agreement, any holder of notes
 40 or bonds issued under this chapter or a trustee under a trust
 41 agreement entered into under this chapter may, by any suitable
 42 form of legal proceeding, protect and enforce any rights provided



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1 under statute or granted by the bond resolution, ordinance, or
2 trust agreement.

3 **Sec. 27. All property owned or used and all income and revenues**
4 **received by the board are exempt from special assessments and**
5 **taxation in Indiana for all purposes.**

6 **Sec. 28. The board and the state, any department, agency, or**
7 **commission of the state, or any department, agency, or commission**
8 **of municipal or county government, may enter into agreements,**
9 **contracts, or leases with each other on the terms that are agreed**
10 **upon, providing for joint and cooperative planning, financing,**
11 **construction, operation, or maintenance of an urban development**
12 **project or of the buildings, facilities, structures, or improvements**
13 **that are necessary or desirable in connection with the use and**
14 **operation of an urban development project.**

15 **Sec. 29. (a) In anticipation of funds to be received from any**
16 **source, the board may borrow money and issue notes for a term**
17 **not exceeding ten (10) years and at a rate or rates of interest**
18 **determined by the board and approved by resolution of the**
19 **common council. The notes shall be issued in the name of the**
20 **"urban development board _____" (including the name of the**
21 **city) and may be secured (either on a parity with or junior and**
22 **subordinate to any outstanding bonds or notes) by:**

- 23 (1) the pledge of income and revenues of any urban
24 development project;
25 (2) the proceeds of food and beverage taxes; or
26 (3) any other funds anticipated to be received.

27 The notes are payable solely from the income, excise taxes,
28 revenues, and anticipated funds.

29 (b) The financing may be negotiated directly by the board with
30 any bank, insurance company, savings association, or other
31 financial institution licensed to do business in Indiana upon the
32 terms and conditions that are agreed upon, except as specifically
33 provided in this section, and may be consummated without public
34 offering. The notes plus interest are exempt from taxation in
35 Indiana as provided for bonds in IC 6-8-5.

36 **Sec. 30. A board established under this chapter may defend any**
37 **current or former member of the board or its officers, employees,**
38 **or agents in a claim or suit, at law or in equity, that arises from the**
39 **exercise of powers or the performance of duties or services for the**
40 **board or that arises from official acts as a member of the board.**
41 **The board may indemnify a person for any liability, cost, or**
42 **damages related to a claim or suit, including the payment of legal**



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1 **fees. Before taking action authorized by this section, the board**
2 **must, by resolution, determine that the action or conduct in**
3 **question was taken, done, or omitted in good faith.**

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