

CONFERENCE COMMITTEE REPORT DIGEST FOR HB 1985

Citations Affected: IC 4-4; IC 4-23-5.5-15; IC 36-1-12.5-1.5.

Synopsis: Economic development. Provides that information and high technology infrastructure is eligible for programs under the industrial development fund, the industrial development grant fund, or the industrial development project guaranty fund. Defines high growth companies with high skilled jobs and information and high technology infrastructure. Specifies the amount that the Indiana development finance authority may transfer to the reserve fund under the capital access program in the case of a borrower that is a high growth company with highly skilled jobs. Provides that school corporations, political subdivisions, and libraries may apply for loans from the Indiana energy efficiency loan fund to undertake energy efficiency projects. Provides that a library board of a public library and certain private libraries may participate in energy efficiency programs and enter into guaranteed energy savings contracts that exist for school corporations and political subdivisions. Allows the Indiana development finance authority to triple its contribution to a participating lender's loan loss reserve fund if the borrower is a child care facility currently licensed by the state. Allows the Indiana development finance authority to issue bonds for the purpose of financing capital expenditures at licensed child care facilities in the state. Allows the Indiana development finance authority to use appropriations to create a debt service reserve fund for the purpose of allowing the authority to issue pooled bonds for the construction or renovation of licensed child care facilities or facilities in the process of being licensed. Requires the regulatory flexibility committee to: (1) study the telecommunications systems (and related cost structures) used in all state agencies as compared with similar services provided by privately owned telecommunications companies; and (2) report the results of its study to the legislative council by November 1, 1999. (This conference committee report: (1) adds the provisions concerning the Indiana energy efficiency loan fund and guaranteed energy savings contracts; (2) adds a provision ordering the regulatory flexibility committee to study the telecommunications systems used in all state agencies; (3) allows the Indiana development finance authority to triple its contribution to a participating lender's loan loss reserve fund if the borrower is a child care facility currently licensed by the state; (4) allows the Indiana development finance authority to issue bonds for the purpose of financing capital expenditures at licensed child care facilities in the state; and (5) allows the Indiana development finance authority to use appropriations to create a debt service reserve fund for the purpose of allowing the authority to issue pooled bonds for the construction or renovation of licensed child care facilities or facilities in the process of being licensed.)

Effective: Upon passage; July 1, 1999.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1985 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Page 2, between lines 17 and 18, begin a new paragraph and insert:
2 "SECTION 1. IC 4-4-10.9-3.1 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 1999]: **Sec. 3.1. "Child care facility" means**
5 **a:**
6 (1) **child care center licensed under IC 12-17.2-4;**
7 (2) **child care home licensed under IC 12-17.2-5; or**
8 (3) **child care ministry licensed under IC 12-17.2-6.**
9 SECTION 2. IC 4-4-10.9-3.2 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 1999]: **Sec. 3.2. "Child care facility project"**
12 **includes the acquisition of land, site improvements, infrastructure**
13 **improvements, buildings or structures, rehabilitation, renovation,**
14 **and enlargement of buildings and structures, machinery,**
15 **equipment, working capital, furnishings, or facilities (or any**
16 **combination of these):**
17 (1) **comprising or being functionally related and subordinate**
18 **to a child care facility; and**
19 (2) **not used or to be used primarily:**
20 (A) **for sectarian care;**
21 (B) **as a place for devotional activities; or**
22 (C) **in connection with any part of the program of a:**
23 (i) **church;**
24 (ii) **school; or**
25 (iii) **department of divinity;**
26 **for any religious denomination."**
27 Page 3, line 9, strike "and".

- 1 Page 3, line 10, after "projects" delete "." and insert "; and".
- 2 Page 3, between lines 10 and 11, begin a new line block indented
- 3 and insert:
- 4 **"(3) child care facility projects."**
- 5 Page 3, after line 42, begin a new paragraph and insert:
- 6 "SECTION 6. IC 4-4-11-2 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The legislature
- 8 makes the following findings of fact:
- 9 (1) That there currently exists in certain areas of the state critical
- 10 conditions of unemployment or environmental pollution,
- 11 including water pollution, air pollution, sewage and solid waste,
- 12 radioactive waste, thermal pollution, radiation contamination, and
- 13 noise pollution, and that these conditions may well exist, from
- 14 time to time, in other areas of the state.
- 15 (2) That in some areas of the state such conditions are chronic and
- 16 of long standing and that without remedial measures they may
- 17 become so in other areas of the state.
- 18 (3) That economic insecurity due to unemployment or
- 19 environmental pollution is a menace to the health, safety, morals,
- 20 and general welfare of not only the people of the affected areas
- 21 but of the people of the entire state.
- 22 (4) That involuntary unemployment and its resulting burden of
- 23 indigency falls with crushing force upon the unemployed worker
- 24 and ultimately upon the state in the form of public assistance and
- 25 unemployment compensation.
- 26 (5) That security against unemployment and the resulting spread
- 27 of indigency and economic stagnation in the areas affected can
- 28 best be provided by:
- 29 (A) the promotion, attraction, stimulation, rehabilitation, and
- 30 revitalization of industrial development projects, rural
- 31 development projects, mining operations, and agricultural
- 32 operations that involve the processing of agricultural products;
- 33 (B) the promotion and stimulation of international exports; and
- 34 (C) the education, both formal and informal, of people of all
- 35 ages throughout the state by the promotion, attraction,
- 36 construction, renovation, rehabilitation, and revitalization of
- 37 educational facility projects.
- 38 (6) That the present and prospective health, safety, morals, right
- 39 to gainful employment, and general welfare of the people of the
- 40 state require as a public purpose the abatement or control of
- 41 pollution, the promotion of increased educational enrichment
- 42 (including cultural, intellectual, scientific, or artistic
- 43 opportunities) for people of all ages through new, expanded, or
- 44 revitalized educational facility projects, and the promotion of
- 45 employment creation or retention through development of new
- 46 and expanded industrial development projects, rural development
- 47 projects, mining operations, and agricultural operations that
- 48 involve the processing of agricultural products.
- 49 (7) That there is a need to stimulate a larger flow of private
- 50 investment funds from commercial banks, investment bankers,
- 51 insurance companies, other financial institutions, and individuals

1 into such industrial development projects, rural development
 2 projects, mining operations, international exports, and agricultural
 3 operations that involve the processing of agricultural products in
 4 the state.

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

12 (9) That the issuance of bonds of the authority to create a
 13 financing pool for industrial development projects promoting a
 14 substantial likelihood of opportunities for:

- 15 (A) gainful employment;
- 16 (B) business opportunities;
- 17 (C) educational enrichment (including cultural, intellectual,
 18 scientific, or artistic opportunities);
- 19 (D) the abatement, reduction, or prevention of pollution; ~~or~~
- 20 (E) the removal or treatment of any substances in materials
 21 being processed that otherwise would cause pollution when
 22 used; ~~or~~

23 **(F) increased options for and availability of child care;**
 24 will improve the health, safety, morals, and general welfare of the
 25 people of the state and constitutes a public purpose for which the
 26 authority shall exist and operate.

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

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

- 38 (1) promoting opportunities for gainful employment and business
 39 opportunities by the promotion and development of industrial
 40 development projects, rural development projects, mining
 41 operations, international exports, and agricultural operations that
 42 involve the processing of agricultural products, in any areas of the
 43 state;
- 44 (2) promoting the educational enrichment (including cultural,
 45 intellectual, scientific, or artistic opportunities) of all the people
 46 of the state by the promotion and development of educational
 47 facility projects;
- 48 (3) promoting affordable farm credit and agricultural loan
 49 financing at interest rates that are consistent with the needs of
 50 borrowers for farming and agricultural enterprises; ~~and~~
- 51 (4) preventing and remediating environmental pollution,

1 including water pollution, air pollution, sewage and solid waste
 2 disposal, radioactive waste, thermal pollution, radiation
 3 contamination, and noise pollution affecting the health and well
 4 being of the people of the state by the promotion and development
 5 of industrial development projects; **and**
 6 **(5) promoting affordable and accessible child care for the**
 7 **people of the state by the promotion and development of child**
 8 **care facilities.**

9 SECTION 7. IC 4-4-11-17 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) The authority
 11 may enter into negotiations with one (1) or more persons concerning
 12 the terms and conditions of financing agreements for industrial
 13 development projects. The authority shall consider whether a proposed
 14 industrial development project may have an adverse competitive effect
 15 on similar industrial development projects already constructed or
 16 operating in the local governmental unit where the industrial
 17 development project will be located. Preliminary expenses in
 18 connection with negotiations under this section may be paid from:

- 19 (1) money furnished by the proposed user or developer;
- 20 (2) money made available by the state or federal government, or
- 21 by any of their departments or agencies; or
- 22 (3) money of the authority, exclusive of the industrial
- 23 development project guaranty fund.

24 (b) The authority shall prepare a report that:

- 25 (1) briefly describes the proposed industrial development project;
- 26 (2) estimates the number and expense of public works or services
- 27 that would be made necessary or desirable by the proposed
- 28 industrial development project, including public ways, schools,
- 29 water, sewers, street lights, and fire protection;
- 30 (3) estimates the total costs of the proposed industrial
- 31 development project;
- 32 (4) for an industrial development project that is not exclusively
- 33 either a pollution control facility or an educational facility project,
- 34 estimates the number of jobs and the payroll to be created or
- 35 saved by the project;
- 36 (5) for pollution control facilities, describes the facilities and how
- 37 they will abate, reduce, or prevent pollution; ~~and~~
- 38 (6) for educational facility projects, describes the facilities and
- 39 how the facilities promote the educational enrichment (including
- 40 cultural, intellectual, scientific, or artistic opportunities) of the
- 41 people of the state; **and**
- 42 **(7) for child care facility projects, describes the facilities and**
- 43 **how the facilities promote accessibility to and increased**
- 44 **options for child care for the people of the state.**

45 The report shall be submitted to the executive director or chairman of
 46 the plan commission, if any, having jurisdiction over the industrial
 47 development project and, if the number of new jobs estimated exceeds
 48 one hundred (100), to the superintendent of the school corporation
 49 where the industrial development project will be located. The executive
 50 director or chairman of the plan commission and the school
 51 superintendent may formulate their written comments concerning the

1 report and transmit their comments, if any, to the authority within five
2 (5) days from the receipt of the report.

3 (c) The authority shall hold a public hearing, which may be
4 conducted by the authority, or any officer, member, or agent designated
5 thereby, on the proposed financing agreement for the industrial
6 development project, after giving notice by publication in one (1)
7 newspaper of general circulation in the city, town, or county where the
8 industrial development project is to be located at least ten (10) days in
9 advance of this public hearing.

10 (d) If the authority finds that the industrial development project will
11 be of benefit to the health, safety, morals, and general welfare of the
12 area where the industrial development project is to be located, and
13 complies with the purposes and provisions of this chapter, it may by
14 resolution approve the proposed financing agreement. This resolution
15 may also authorize the issuance of bonds payable solely from revenues
16 and receipts derived from the financing agreement or from payments
17 made under an agreement to guarantee obligations of the developer, a
18 user, a related person, or the authority by a developer, a user, a related
19 person thereto, or the authority pursuant to the industrial development
20 project guaranty fund. The bonds are not in any respect a general
21 obligation of the state, nor are they payable in any manner from
22 revenues raised by taxation.

23 (e) A financing agreement approved under this section must provide
24 for payments in an amount sufficient to pay the principal of, premium,
25 if any, and interest on the bonds authorized for the financing of the
26 industrial development project. However, interest payments for the
27 anticipated construction period, plus a period of not more than one (1)
28 year, may be funded in the bond issue. The term of a financing
29 agreement may not exceed fifty (50) years from the date of any bonds
30 issued under the financing agreement. However, a financing agreement
31 does not terminate after fifty (50) years if a default under that financing
32 agreement remains uncured, unless the termination is authorized by the
33 terms of the financing agreement. If the authority retains an interest in
34 the industrial development project, the financing agreement must
35 require the user or the developer to pay all costs of maintenance, repair,
36 taxes, assessments, insurance premiums, trustee's fees, and any other
37 expenses relating to the industrial development projects, so that the
38 authority will not incur any expenses on account of the industrial
39 development projects other than those that are covered by the payments
40 provided for in the financing agreement.

41 SECTION 8. IC 4-4-11-17.5 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17.5. (a) In addition to
43 all other authority granted to the authority under this chapter, including
44 the authority to borrow money and to issue bonds to finance directly or
45 indirectly the acquisition or development of industrial development
46 projects undertaken or initiated by the authority, the authority may
47 initiate programs for financing industrial development projects for
48 developers and users in Indiana through the issuance of bonds under
49 this chapter. In furtherance of this objective, the authority may do any
50 of the following:

51 (1) Establish eligibility standards for developers and users,

- 1 without complying with IC 4-22-2. However, these standards have
2 the force of law if the standards are adopted after a public hearing
3 for which notice has been given by publication under IC 5-3-1.
- 4 (2) Contract with any entity securing the payment of bonds issued
5 under this chapter and authorizing the entity to approve the
6 developers and users that can finance or refinance industrial
7 development projects with proceeds from the bond issue secured
8 by that entity.
- 9 (3) Lease to a developer or user industrial development projects
10 upon terms and conditions that the authority considers proper and,
11 with respect to the lease:
- 12 (A) charge and collect rents;
- 13 (B) terminate the lease upon the failure of the lessee to comply
14 with any of its obligations under the lease or otherwise as the
15 lease provides; and
- 16 (C) include in the lease provisions that the lessee has the
17 option to renew the term of the lease for such periods and at
18 such rents as may be determined by the authority or to
19 purchase any or all of the industrial development projects to
20 which the lease applies.
- 21 (4) Lend money, upon such terms and conditions as the authority
22 considers proper, to a developer or user under an installment
23 purchase contract or loan agreement to:
- 24 (A) finance, reimburse, or refinance the cost of an industrial
25 development project; and
- 26 (B) take back a secured or unsecured promissory note
27 evidencing such a loan or a security interest in the industrial
28 development project financed or refinanced with the loan.
- 29 (5) Sell or otherwise dispose of any unneeded or obsolete
30 industrial development project under terms and conditions
31 determined by the authority.
- 32 (6) Maintain, repair, replace, and otherwise improve or cause to
33 be maintained, repaired, replaced, and otherwise improved any
34 industrial development project owned by the authority.
- 35 (7) Require any type of security that the authority considers
36 reasonable and necessary.
- 37 (8) Obtain or aid in obtaining property insurance on all industrial
38 development projects owned or financed, or accept payment if
39 any industrial development project property is damaged or
40 destroyed.
- 41 (9) Enter into any agreement, contract, or other instrument with
42 respect to any insurance, guarantee, letter of credit, or other form
43 of credit enhancement, accepting payment in such manner and
44 form as provided in the instrument if a developer or user defaults,
45 and assign any such insurance, guarantee, letter of credit, or other
46 form of credit enhancement as security for bonds issued by the
47 authority.
- 48 (10) Finance for eligible developers and users in connection with
49 their industrial development projects:
- 50 (A) the cost of their industrial development projects; and
51 (B) in the case of a program funded from the proceeds of

1 taxable bonds, working capital associated with the operation
 2 of such industrial development projects;
 3 in amounts determined to be appropriate by the authority.

4 (11) Issue bonds to fund a program for financing multiple,
 5 identified or unidentified industrial development projects if the
 6 authority finds that issuance of the bonds will be of benefit to the
 7 health, safety, morals, or general welfare of the state and complies
 8 with the purposes and provisions of this chapter by promoting a
 9 substantial likelihood for:

10 (A) creating opportunities for gainful employment;

11 (B) creating business opportunities;

12 (C) educational enrichment (including cultural, intellectual,
 13 scientific, or artistic opportunities);

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

15 (E) the removal or treatment of any substances in materials
 16 being processed that would otherwise cause pollution when
 17 used; ~~or~~

18 **(F) promoting affordable and accessible child care.**

19 The authority may by resolution approve the proposed taxable bond
 20 issue. **The authority may use appropriations to create a debt
 21 service reserve fund for the purpose of allowing the authority to
 22 issue pooled bonds, either tax-exempt or taxable, for the
 23 construction or renovation of licensed child care facilities (or child
 24 care facilities that are in the process of being licensed) under the
 25 authority's industrial development project section.**

26 (b) As each unidentified industrial development project is identified
 27 for possible funding from a program under subsection (a)(11), the
 28 requirements of sections 17(a), 17(b), 17(c), and 17(e) of this chapter
 29 shall be complied with as a condition precedent to entering into a
 30 financing agreement for the funding of the industrial development
 31 project.

32 (c) Bonds issued to fund a program under this section are not in any
 33 respect a general obligation of the state, nor are they payable in any
 34 manner from revenues raised by taxation.

35 (d) Any resolution adopted to authorize the issuance of taxable
 36 bonds to fund a program under subsection (a)(11) may provide that the
 37 bonds are payable solely from:

38 (1) revenues and receipts derived from the various financing
 39 agreements; or

40 (2) the payments made under any other agreements to secure the
 41 obligations of the developers, users, related persons, or the
 42 authority.

43 (e) The obligations described in subsection (d)(2) may be secured
 44 under the agreement by the authority under the industrial development
 45 project guaranty fund or by the developers, users, or related persons."

46 Page 6, line 3, after "IC 4-4-10.9-9.5)." insert "**The authority may
 47 transfer to the reserve fund three (3) times the amount determined
 48 under this section if the borrower is a child care facility.**".

49 Page 6, after line 6, begin a new paragraph and insert:

50 "SECTION 11. IC 4-23-5.5-15 IS AMENDED TO READ AS
 51 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) The Indiana

1 energy efficiency loan fund is established for the purpose of assisting
 2 Indiana industries **and governing bodies (as defined in**
 3 **IC 36-1-12.5-1.5)** in undertaking energy efficiency projects. The fund
 4 shall be administered by the board.

5 (b) Sources of money for the fund consist of the following:

6 (1) Appropriations from the general assembly.

7 (2) Repayment proceeds, including interest, of loans made from
 8 the fund.

9 (3) Donations, gifts, and money received from any other source,
 10 including transfers from other funds or accounts.

11 (c) Money remaining in the fund at the end of a state fiscal year
 12 does not revert to the state general fund.

13 (d) The treasurer of state shall invest the money in the fund not
 14 currently needed to meet the obligations of the fund in the same
 15 manner as other public funds may be invested. Interest that accrues
 16 from these investments shall be deposited in the fund.

17 (e) The board shall establish:

18 (1) amounts, terms, and interest rates for loans under this section;
 19 and

20 (2) criteria for awarding loans under this section.

21 (f) A person, business, **governing body**, or manufacturer that wants
 22 a loan from the fund must file an application in the manner prescribed
 23 by the board.

24 SECTION 12. IC 36-1-12.5-1.5 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1.5. As used in this
 26 chapter, "governing body" means **the following**:

27 (1) With respect to school corporations, the governing body (as
 28 defined in IC 20-10.1-1-5). ~~and~~

29 (2) **With respect to a public library, the library board (as**
 30 **defined in IC 20-14-1-2).**

31 (3) **With respect to a library described in IC 20-14-7-6, the**
 32 **trustees of the library.**

33 ~~(2)~~ (4) With respect to other political subdivisions, the legislative
 34 body (as defined in IC 36-1-2-9).

35 SECTION 13. [EFFECTIVE UPON PASSAGE] (a) **The regulatory**
 36 **flexibility committee established by IC 8-1-2.6-4 shall:**

37 (1) **review and study the scope, mission, programs, budget,**
 38 **and cost structure of all state agencies' telecommunications**
 39 **systems and services, as compared with the same or similar**
 40 **services provided by privately owned telecommunications**
 41 **service companies; and**

42 (2) **report the results of its review and study to the legislative**
 43 **council by November 1, 1999.**

44 (b) **This SECTION expires December 31, 1999.**

45 SECTION 14. **An emergency is declared for this act."**

46 Renumber all SECTIONS consecutively

(Reference is to EHB 1985 as printed March 17, 1999.)

Conference Committee Report
on
House Bill 1985

Signed by:

Senator Lubbers

Representative Bottorff

Senator Washington

Representative Lutz J

Senate Conferees

House Conferees