March 27, 2007

ENGROSSED
HOUSE BILL No. 1774

DIGEST OF HB 1774 (Updated March 26, 2007 12:56 pm - DI 113)

Citations Affected: IC 5-1.5; IC 6-3.5; IC 8-14; IC 36-7.6.

Synopsis: Regional development authorities. Authorizes the establishment of not more than two regional development authorities (development authorities) in each economic growth region designated by the department of workforce development. Authorizes counties and second class cities to establish the development authorities. Specifies that if a county becomes a member of a development authority, each municipality in the county is also a member of the development authority. Provides that a county may be a member of a development authority only if the county is contiguous to at least one other county that is a member of the development authority. Provides that a second class city may be a member of a development authority only if the county in which the second class city is located is contiguous to at least one other county that is a member of the development authority.
(Continued next page)

Effective: Upon passage.

Van Haaften, Borror, Crouch, Moses, GiaQuinta
(SENATE SPONSORS — RIEGSECKER, BECKER, DEIG)

January 26, 2007, read first time and referred to Committee on Local Government.
February 12, 2007, reported — Do Pass.
February 19, 2007, read second time, amended, ordered engrossed.
February 20, 2007, engrossed.
February 26, 2007, read third time, passed. Yeas 71, nays 25.

SENATE ACTION

March 5, 2007, read first time and referred to Committee on Economic Development and Technology.
March 27, 2007, amended, reported favorably — Do Pass.

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Specifies that a development authority is a separate body corporate and politic. Provides that a development authority is governed by a board consisting of one individual appointed by the executive of each county and each second class city that is a member of the development authority. Provides that if a development authority receives or will receive an appropriation, grant, or distribution of money from the state, the development board may adopt a resolution to add one or more members appointed by the governor to the development board. Requires each county and each municipality that is a member of a development authority to pay annually to the development authority the amount that would be distributed to the county and the municipality as certified distributions of county economic development income tax revenue raised from a tax rate of 0.05% in the county. Provides that if a county is a member of a development authority, the county may impose an additional county economic development income tax at a rate of 0.05%. Requires revenue from the additional tax to be used to satisfy the obligations of the county and municipalities to make payments to the development authority. Provides that, except in a county in which the additional county economic development income tax has been imposed, a county's or municipality's required payments to the development authority may be made from any local revenue (other than property tax revenue) of the county or municipality, including excise tax revenue, income tax revenue, local option tax revenue, riverboat tax revenue, distributions, or incentive payments, or money deposited in the county's or municipality's local major moves construction fund. Authorizes the Indiana bond bank to provide bond and loan financing to a development authority. Provides that a county or second class city shall be a member of the development authority for five years after the date the county or second class city becomes a member of the development authority. Specifies that at least 12 months and not more than 18 months before the end of a five year period, the fiscal body of a county or second class city that is a member of a development authority must adopt a resolution that either commits the county or second class city to an additional five years as a member of the development authority or withdraws the county or second class city from membership in the development authority. Authorizes a development authority to: (1) make loans, loan guarantees, and grants to or on behalf of a county, a municipality, a commuter transportation district, an airport authority, an airport development authority, and a regional transportation authority; (2) issued bond; (3) lease land or projects to a commuter transportation district, an airport authority, an airport development authority, or a regional transportation authority; (4) use the development authority's funds to match federal grants; and (5) take other actions to carry out its purposes. Requires projects funded by a development authority to be of regional importance. Requires a development authority to comply with the common construction wage law, the public purchasing laws, the public works laws, and any applicable federal bidding statutes and regulations. Requires a political subdivision that receives a loan, grant, or other financial assistance from the development authority to comply with applicable federal, state, and local public purchasing and bidding laws and regulations. Requires a development authority to submit to the budget committee and to the director of the office of management and budget for approval a comprehensive strategic development plan that includes detailed information concerning: (1) the proposed air, rail, transportation, and other economic development projects to be undertaken or financed by the development authority; and (2) the timelines, budgets, returns on investment, projected need for ongoing subsidies, and projected federal matching funds for each project. Requires a development authority to sell bonds issued by the development authority only to the Indiana bond bank. Requires a development authority to issue an annual report to the legislative

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council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding state fiscal year. Authorizes a development authority to enter into an agreement to jointly equip, own, lease, and finance projects and facilities or otherwise carry out the purposes of the development authority. Requires a development authority to: (1) assist in the coordination of local efforts concerning airport development projects and transportation projects; (2) assist a commuter transportation district and an airport authority in coordinating regional transportation and economic development efforts; and (3) fund various projects and facilities, including intermodal transportation projects and facilities and regional trails and greenways.

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March 27, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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ENGROSSED
HOUSE BILL No. 1774

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

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

SECTION 1. IC 5-1.5-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. "Qualified entity" means:

(1) a political subdivision (as defined in IC 36-1-2-13);

(2) a state educational institution (as defined in ~~IC 20-12-0.5-1(b)),~~ **IC 20-12-0.5-1);**

(3) a leasing body (as defined in IC 5-1-1-1(a));

(4) a not-for-profit utility (as defined in IC 8-1-2-125);

(5) any rural electric membership corporation organized under IC 8-1-13;

(6) any corporation that was organized in 1963 under Acts 1935, c. 157 and that engages in the generation and transmission of electric energy;

(7) any telephone cooperative corporation formed under IC 8-1-17;

(8) any commission, authority, or authorized body of any qualified entity;

(9) any organization, association, or trust with members, participants, or beneficiaries that are all individually qualified entities;

(10) any commission, authority, or instrumentality of the state;

(11) any other participant (as defined in IC 13-11-2-151.1);

(12) a charter school established under IC 20-5.5 **(before its repeal)** that is not a qualified entity under IC 5-1.4-1-10; ~~or~~

(13) a volunteer fire department (as defined in IC 36-8-12-2); **or**

(14) a development authority (as defined in IC 36-7.6-1-8).

SECTION 2. IC 5-1.5-4-1, AS AMENDED BY P.L.192-2006, SECTION 1, AND AS AMENDED BY P.L.2-2006, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The bank may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this article, including:

(1) the purchase or acquisition of securities;

(2) the making of loans to or agreements with qualified entities through the purchase of securities;

(3) the payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued by it whether the bonds or notes or interest to be paid, funded, or refunded have or have not become due; ~~*and*~~

(4) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bank incident to and necessary or convenient to carry out its corporate purposes and powers*; and*

(5) the acquisition of school buses to be leased or sold to school corporations (as defined in IC 36-1-2-17).

(b) Except as otherwise provided in this article or by the board, every issue of bonds or notes shall be general obligations of the bank payable out of the revenues or funds of the bank, subject only to agreements with the holders of a particular series of bonds or notes pledging a particular revenue or fund. Bonds or notes may be additionally secured by a pledge of a grant or contributions from the United States, a qualified entity, or a person or a pledge of income or revenues, funds, or money of the bank from any source.

(c) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except:

(1) bonds or notes issued to fund or refund bonds or notes; and

(2) bonds or notes issued for the purpose of purchasing an

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agreement executed by a qualified entity under ~~*IC 21-1-5,*~~ *IC 20-49-4;*

may not exceed one billion dollars ($1,000,000,000) for qualified entities described in IC 5-1.5-1-8(1) through IC 5-1.5-1-8(4), ~~and~~ IC 5-1.5-1-8(8) through IC 5-1.5-1-8(11), **and IC 5-1.5-1-8(14).**

(d) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed two hundred million dollars ($200,000,000) for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(6).

(e) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed thirty million dollars ($30,000,000) for qualified entities described in IC 5-1.5-1-8(7).

(f) The limitations contained in subsections (c), (d), and (e) do not apply to bonds, notes, or other obligations of the bank if:

(1) the bonds, notes, or other obligations are not secured by a reserve fund under IC 5-1.5-5; or

(2) funds and investments, and the anticipated earned interest on those funds and investments, are irrevocably set aside in amounts sufficient to pay the principal, interest, and premium on the bonds, notes, or obligations at their respective maturities or on the date or dates fixed for redemption.

SECTION 3. IC 6-3.5-7-5, AS AMENDED BY P.L.162-2006, SECTION 33, AND AS AMENDED BY P.L.184-2006, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6

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concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), (p), and (r) **and section 28 of this chapter,** the county economic development income tax may be imposed at a rate of:

(1) one-tenth percent (0.1%);
(2) two-tenths percent (0.2%);
(3) twenty-five hundredths percent (0.25%);
(4) three-tenths percent (0.3%);
(5) thirty-five hundredths percent (0.35%);
(6) four-tenths percent (0.4%);
(7) forty-five hundredths percent (0.45%); or
(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), (p), ~~or~~ (s), ~~or~~ *(v),* **or (w),** the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), (p), (r), (t), ~~or~~ (u), **or (w),** the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year.".

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

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(A) fifteen-hundredths percent (0.15%);
(B) two-tenths percent (0.2%); or
(C) twenty-five hundredths percent (0.25%); and
(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);
if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):
(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);
if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as

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provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

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(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) *or residential property (as defined in section 26 of this chapter), as appropriate under the ordinance adopted by the adopting body in the county,* resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(s) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

(t) This subsection applies to Howard County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(u) This subsection applies to Scott County. Except as provided in

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subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(v) This subsection applies to Jasper County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(w) An additional county economic development income tax rate imposed under section 28 of this chapter may not be considered in calculating any limit under this section on the sum of:

(1) the county economic development income tax rate plus the county adjusted gross income tax rate; or

(2) the county economic development tax rate plus the county option income tax rate.

SECTION 4. IC 6-3.5-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Except as provided in sections 23, 25, 26, ~~and~~ 27, **and 28** of this chapter, the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

(b) Except as provided in subsections (c) and (h) and sections 15 and 25 of this chapter, the amount of the certified distribution that the county and each city or town in a county is entitled to receive during May and November of each year equals the product of the following:

(1) The amount of the certified distribution for that month; multiplied by

(2) A fraction. The numerator of the fraction equals the sum of the following:

(A) Total property taxes that are first due and payable to the county, city, or town during the calendar year in which the month falls; plus

(B) For a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

The denominator of the fraction equals the sum of the total property taxes that are first due and payable to the county and all cities and towns of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

(c) This subsection applies to a county council or county income tax council that imposes a tax under this chapter after June 1, 1992. The

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body imposing the tax may adopt an ordinance before July 1 of a year to provide for the distribution of certified distributions under this subsection instead of a distribution under subsection (b). The following apply if an ordinance is adopted under this subsection:

(1) The ordinance is effective January 1 of the following year.

(2) Except as provided in sections 25 and 26 of this chapter, the amount of the certified distribution that the county and each city and town in the county is entitled to receive during May and November of each year equals the product of:

(A) the amount of the certified distribution for the month; multiplied by

(B) a fraction. For a city or town, the numerator of the fraction equals the population of the city or the town. For a county, the numerator of the fraction equals the population of the part of the county that is not located in a city or town. The denominator of the fraction equals the sum of the population of all cities and towns located in the county and the population of the part of the county that is not located in a city or town.

(3) The ordinance may be made irrevocable for the duration of specified lease rental or debt service payments.

(d) The body imposing the tax may not adopt an ordinance under subsection (c) if, before the adoption of the proposed ordinance, any of the following have pledged the county economic development income tax for any purpose permitted by IC 5-1-14 or any other statute:

(1) The county.

(2) A city or town in the county.

(3) A commission, a board, a department, or an authority that is authorized by statute to pledge the county economic development income tax.

(e) The department of local government finance shall provide each county auditor with the fractional amount of the certified distribution that the county and each city or town in the county is entitled to receive under this section.

(f) Money received by a county, city, or town under this section shall be deposited in the unit's economic development income tax fund.

(g) Except as provided in subsection (b)(2)(B), in determining the fractional amount of the certified distribution the county and its cities and towns are entitled to receive under subsection (b) during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(h) In a county having a consolidated city, only the consolidated city

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is entitled to the certified distribution, subject to the requirements of sections 15, 25, and 26 of this chapter.

SECTION 5. IC 6-3.5-7-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28. (a) This section applies only to a county that is a member of a regional development authority under IC 36-7.6.**

(b) In addition to the rates permitted by section 5 of this chapter, the entity that imposed the county economic development income tax under section 5 of this chapter (or, in the case of a county that has not imposed the county economic development income tax, the entity that may impose the county economic development income tax under section 5(a)(3) of this chapter) may by ordinance impose an additional county economic development income tax at a rate of five-hundredths of one percent (0.05%) on the adjusted gross income of county taxpayers.

(c) If an additional county economic development income tax is imposed under this section, the county treasurer shall establish a county regional development authority fund. Notwithstanding any other provision of this chapter, the county economic development income tax revenues derived from the additional county economic development income tax imposed under this section must be deposited in the county regional development authority fund before any certified distributions are made under section 12 of this chapter.

(d) County economic development income tax revenues derived from the additional county economic development income tax imposed under this section and deposited in the county regional development authority fund:

(1) shall, not more than thirty (30) days after being deposited in the county regional development authority fund, be transferred as provided in IC 36-7.6-4-2 to the development fund of the regional development authority for which the county is a member; and

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy under IC 6-1.1-18.5.

(e) Notwithstanding sections 5 and 6 of this chapter, if a county becomes a member of a regional development authority under IC 36-7.6 and imposes an additional county economic development income tax under this section, then, notwithstanding section 11 or any other provision of this chapter, the initial certified distribution

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of the tax revenue that results from the additional tax shall be distributed to the county treasurer from the account established for the county under this chapter according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county adopts the ordinance to impose the additional tax:

(1) One-fourth (1/4) on October 1 of the year in which the ordinance to impose the additional tax is adopted.

(2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance to impose the additional tax is adopted.

(3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance to impose the additional tax is adopted.

(4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance to impose the additional tax is adopted.

SECTION 6. IC 8-14-16-5, AS ADDED BY P.L.47-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Money in the fund may be expended only for the following purposes:

(1) Construction of highways, roads, and bridges.

(2) In a county that is a member of the northwest Indiana regional development authority, or in a city or town located in such a county, any purpose for which the regional development authority may make expenditures under IC 36-7.5.

(3) Providing funding for economic development projects (as defined in IC 6-3.5-7-13.1(c)(1) or IC 6-3.5-7-13.1(c)(2)(A) through IC 6-3.5-7-13.1(c)(2)(K)).

(4) Matching federal grants for a purpose described in this section.

(5) Providing funding for interlocal agreements under IC 36-1-7 for a purpose described in this section.

(6) Providing the county's, ~~or~~ city's, **or town's** contribution to ~~the northwest Indiana~~ **a** regional development authority ~~in the case of a county described in section 1(3) of this chapter or a city described in IC 36-7.5-2-3(c).~~ **established under IC 36-7.6-2-3.**

SECTION 7. IC 36-7.6 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 7.6. REGIONAL DEVELOPMENT AUTHORITIES

Chapter 1. Definitions

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Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

Sec. 2. "Airport authority" refers to an airport authority established under IC 8-22-3.

Sec. 3. "Airport authority project" means a project that can be financed with the proceeds of bonds issued by an airport authority under IC 8-22-3.

Sec. 4. "Bonds" means, except as otherwise provided, bonds, notes, or other evidences of indebtedness issued by a development authority.

Sec. 5. "Commuter transportation district" refers to a commuter transportation district established under IC 8-5-15.

Sec. 6. "Commuter transportation district project" means a project that can be financed with the proceeds of bonds issued by a commuter transportation district under IC 8-5-15.

Sec. 7. "Economic growth region" refers to an economic growth region designated by the department of workforce development.

Sec. 8. "Development authority" refers to a regional development authority established under IC 36-7.6-2-3.

Sec. 9. "Development board" refers to the governing body of a development authority appointed under IC 36-7.6-2-3.

Sec. 10. "Economic development project" means an economic development project described in IC 6-3.5-7-13.1(c).

Sec. 11. "Eligible political subdivision" means any of the following:

(1) A county.

(2) A municipality.

(3) An airport authority.

(4) A commuter transportation district.

(5) A regional transportation authority.

Sec. 12. "Project" means an airport authority project, a commuter transportation district project, an economic development project, a regional transportation authority project, an intermodal transportation project, or a regional trail or greenway project.

Sec. 13. "Regional transportation authority" means a regional transportation authority established under IC 36-9-3.

Sec. 14. "Regional transportation authority project" means a project that can be financed with the proceeds of bonds issued by a regional transportation authority under IC 36-9-3.

Chapter 2. Development Authority and Board

Sec. 1. (a) Development authorities may be established under

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this chapter in the economic growth regions of Indiana.

(b) The provisions of section 3 of this chapter govern the establishment of a development authority.

Sec. 2. A development authority established under this chapter is a separate body corporate and politic that shall carry out the purposes of this article by:

(1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; and

(2) funding and developing:

(A) airport authority projects;

(B) commuter transportation district and other rail projects and services;

(C) regional transportation authority projects and services;

(D) economic development projects;

(E) intermodal transportation projects; and

(F) regional trail or greenway projects;

that are of regional importance.

Sec. 3. (a) Subject to the provisions of this article, regional development authorities may be established under subsection (b), (c), or (d).

(b) A development authority may be established by two (2) or more counties that are located in the same economic growth region.

(c) A development authority may be established by:

(1) two (2) or more counties that are located in the same economic growth region; and

(2) one (1) or more counties that:

(A) are not located in the same economic growth region as the counties described in subdivision (1); and

(B) are adjacent to the economic growth region containing the counties described in subdivision (1).

(d) A development authority may be established by:

(1) one (1) or more counties; and

(2) one (1) or more second class cities that:

(A) are not located in the county or counties described in subdivision (1); and

(B) are located in the same economic growth region as the county or counties described in subdivision (1).

(e) A county or second class city may participate in the establishment of a development authority under this section and become a member of the development authority only if the fiscal

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body of the county or second class city adopts an ordinance authorizing the county or second class city to participate in the establishment of the development authority.

(f) A county may be a member of a development authority only if the county is contiguous to at least one (1) other county that is a member of the development authority. A second class city may be a member of a development authority only if the county in which the second class city is located is contiguous to at least one (1) other county that is a member of the development authority.

(g) Notwithstanding any other provision, if a county becomes a member of a development authority, each municipality in the county also becomes a member of the development authority.

(h) Not more than two (2) development authorities may be established in a particular economic growth region. For purposes of this subsection, a development authority is considered to be established in a particular economic growth region if a county or municipality located in the economic growth region is a member of a development authority.

(i) A county or municipality may be a member of only one (1) development authority.

(j) A county or municipality that is a member of the northwest Indiana regional development authority under IC 36-7.5 may not be a member of a development authority under this article.

Sec. 4. (a) A county or second class city that:

(1) is not a member of a development authority; and

(2) was eligible to participate in the establishment of a particular development authority established under this article;

may join that development authority under this section.

(b) A county or second class city described in subsection (a) may join a development authority under this section only if:

(1) the fiscal body of the county or second class city adopts an ordinance authorizing the county or second class city to become a member of the development authority; and

(2) after the fiscal body adopts an ordinance under subdivision (1), the development board of the development authority adopts a resolution authorizing the county or second class city to become a member of the development authority.

(c) A county or second class city becomes a member of a development authority on January 1 of the year following the year in which the development board adopts a resolution under subsection (b)(2) authorizing the county or second class city to

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become a member of the development authority.

(d) The executive of a county or second class city that becomes a member of a development authority under this section is entitled to appoint a member to the development board under section 7 of this chapter.

(e) A county or second class city may not join a development authority under this section if joining the development authority would violate the requirement in section 3(i) of this chapter that not more than two (2) development authorities may be established in a particular economic growth region.

(f) If a county joins a development authority under this section, each municipality in the county also becomes a member of the development authority.

Sec. 5. (a) This section applies to the following:

(1) A county that participates in the establishment of a development authority under section 3 of this chapter or that joins a development authority under section 4 of this chapter.

(2) A second class city that participates in the establishment of a development authority under section 3(d) of this chapter or that joins a development authority under section 4 of this chapter.

(b) A county or second class city described in subsection (a) shall be a member of the development authority for five (5) years after the date the county or second class city becomes a member of the development authority.

(c) At least twelve (12) months and not more than eighteen (18) months before the end of a five (5) year period under subsection (b), the fiscal body of the county or second class city described in subsection (a) must adopt a resolution that:

(1) commits the county or second class city to an additional five (5) years as a member of the development authority, beginning at the end of the current five (5) year period; or

(2) withdraws the county or second class city from membership in the development authority not earlier than the end of the current five (5) year period.

(d) The fiscal body of a county or second class city described in subsection (a) must adopt a resolution under subsection (c) during each five (5) year period in which the county or second class city is a member of the development authority.

(e) A county or second class city described in subsection (a) may withdraw from a development authority as provided in this section without the approval of the development board.

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(f) If at the end of a five (5) year period a county described in subsection (a) does not withdraw from the development authority under this section and remains a member of the development authority, the municipalities in the county may not withdraw from the development authority and remain members of the development authority.

(g) If at the end of a five (5) year period a county described in subsection (a) withdraws from the development authority under this section, the municipalities in the county are also withdrawn from the development authority on the effective date of the county's withdrawal.

Sec. 6. A county or municipality that withdraws from a development authority under section 5 of this chapter is liable to the development authority for any unpaid transfers under IC 36-7.6-4-2 that become due before the withdrawal of the county or municipality from the development authority is effective.

Sec. 7. (a) A development authority is governed by a development board appointed under this section.

(b) A development board is composed of the following members:

(1) One (1) member appointed by the executive of each county that is a member of the development authority.

(2) One (1) member appointed by the executive of each second class city that is a member of the development authority.

(3) If the development authority receives or will receive an appropriation, a grant, or a distribution of money from the state, one (1) or more members appointed by the governor under section 8 of this chapter, if approved by the development board.

(c) A member appointed to the development board must have knowledge of and at least five (5) years professional work experience in at least one (1) of the following:

(1) Rail transportation or air transportation.

(2) Regional economic development.

(3) Business or finance.

Sec. 8. (a) If a development authority receives or will receive an appropriation, a grant, or a distribution of money from the state, the development board may adopt a resolution to add to the development board one (1) or more members appointed by the governor.

(b) If a development board adopts a resolution under this section, the governor shall appoint to the development board the number of members specified in the resolution.

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(c) A member appointed by the governor under this section must meet the knowledge and professional work experience requirements of section 7(c) of this chapter.

(d) If the governor appoints a member to a development board under this section, the governor retains the authority to appoint a member to the development board regardless of whether the state continues to appropriate, grant, or distribute money to the development authority.

Sec. 9. (a) A member appointed to a development board serves a four (4) year term. However, a member serves at the pleasure of the appointing authority. A member may be reappointed to subsequent terms.

(b) If a vacancy occurs on a development board, the appointing authority that made the initial appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(c) Each member appointed to a development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(d) A member appointed to a development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

Sec. 10. (a) In January of each year, a development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

(1) A chair.

(2) A vice chair.

(3) A secretary-treasurer.

(b) The affirmative vote of at least a majority of the appointed members of a development board is necessary to elect an officer under subsection (a).

(c) An officer elected under subsection (a) serves from the date of the officer's election until the officer's successor is elected and qualified.

Sec. 11. (a) A development board shall meet at least quarterly.

(b) The chair of a development board or any two (2) members

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of a development board may call a special meeting of the development board.

(c) A majority of the appointed members of a development board constitutes a quorum.

(d) The affirmative votes of at least a majority of the appointed members of a development board are necessary to authorize any action of the development authority.

Sec. 12. A development board may adopt the bylaws and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property.

Sec. 13. (a) A development authority shall comply with IC 5-16-7 (common construction wage), IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations. An eligible political subdivision that receives a loan, a grant, or other financial assistance from a development authority or enters into a lease with a development authority must comply with applicable federal, state, and local public purchasing and bidding laws and regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of an eligible political subdivision may:

(1) assign or sell a lease for property to a development authority; or

(2) enter into a lease for property with a development authority;

at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or a sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by a development authority, the development authority shall set a goal for participation by minority business enterprises and women's business enterprises. The goals must be consistent with:

(1) the participation goals established by the counties and municipalities that are members of the development authority; and

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(2) the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services.

Sec. 14. (a) The office of management and budget shall contract with a certified public accountant for an annual financial audit of each development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to any development authority.

(b) The certified public accountant shall present an audit report not later than four (4) months after the end of each calendar year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period.

(c) A development authority shall pay the cost of the annual financial audit under subsection (a). In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of a development authority. A development authority shall pay the cost of any audit by the state board of accounts.

Sec. 15. Each county or municipality that is member of a development authority may appoint a local advisory committee to advise the county or municipality on issues related to the development authority.

Chapter 3. Development Authority Powers and Duties

Sec. 1. A development authority shall do the following:

(1) Assist in the coordination of local efforts concerning projects that are of regional importance.

(2) Assist a county, a municipality, a commuter transportation district, an airport authority, and a regional transportation authority in coordinating regional transportation and economic development efforts.

(3) Fund projects that are of regional importance, as provided in this article.

Sec. 2. (a) A development authority may do any of the following:

(1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects that are of regional importance.

(2) Lease land or a project to an eligible political subdivision.

(3) Finance and construct additional improvements to projects or other capital improvements owned by the

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development authority and lease them to or for the benefit of an eligible political subdivision.

(4) Construct or reconstruct highways, roads, and bridges.

(5) Acquire land or all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.

(6) Acquire all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(7) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:

(A) A commuter transportation district.

(B) An airport authority.

(C) A regional transportation authority. A loan, a loan guarantee, a grant, or other financial assistance under this clause may be used by a regional transportation authority for acquiring, improving, operating, maintaining, financing, and supporting the following:

(i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.

(ii) Bus terminals, stations, or facilities or other regional bus authority projects.

(D) A county.

(E) A municipality.

(8) Provide funding to assist a railroad that is providing commuter transportation services in a county containing territory included in the development authority.

(9) Provide funding to assist an airport authority located in a county containing territory included in the development authority in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(10) Provide funding for intermodal transportation projects and facilities.

(11) Provide funding for regional trails and greenways.

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(12) Provide funding for economic development projects.

(13) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property.

(14) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(15) Make or enter into all contracts and agreements necessary or incidental to the performance of the development authority's duties and the execution of the development authority's powers under this article.

(16) Sue, be sued, plead, and be impleaded.

(17) Design, order, contract for, construct, reconstruct, and renovate a project or improvements to a project.

(18) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(19) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(20) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(21) Except as prohibited by law, take any action necessary to carry out this article.

(b) Projects funded by a development authority must be of regional importance.

(c) If a development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property

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involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

Sec. 3. A development authority may enter into an agreement with another development authority or any other entity to:

(1) jointly equip, own, lease, and finance projects and facilities; or

(2) otherwise carry out the purposes of the development authority;

in any location.

Sec. 4. A development authority shall before April 1 of each year issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding calendar year. The report to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 5. (a) A development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

(1) The proposed projects to be undertaken or financed by the development authority.

(2) The following information for each project included under subdivision (1):

(A) Timeline and budget.

(B) The return on investment.

(C) The projected or expected need for an ongoing subsidy.

(D) Any projected or expected federal matching funds.

(b) The development authority shall, not later than January 1 of the second year following the year in which the development authority is established, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget.

Chapter 4. Financing; Issuance of Bonds; Leases

Sec. 1. (a) A development board shall establish and administer a development authority fund.

(b) A development authority fund consists of the following:

(1) Amounts transferred under section 2 of this chapter by each county and municipality that is a member of the development authority.

(2) Appropriations, grants, or other distributions made to the

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fund by the state.

(3) Money received from the federal government.

(4) Gifts, contributions, donations, and private grants made to the fund.

(c) On the date a development authority issues bonds for any purpose under this article, which are secured in whole or in part by the development authority fund, the development board shall establish and administer two (2) accounts within the development authority fund. The accounts must be the general account and the lease rental account. After the accounts are established, all money transferred to the development authority fund under subsection (b)(1) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by the eligible political subdivision and the development authority under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the secretary-treasurer of the development authority to the unit that contributed the money to the development authority.

(d) Notwithstanding subsection (c), if the amount of all money transferred to a development authority fund under subsection (b)(1) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to the product of:

(1) one and twenty-five hundredths (1.25); multiplied by

(2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

then all or a part of the excess may instead be deposited in the general account.

(e) All other money and revenue of a development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(f) A development authority fund shall be administered by the development authority that established the development authority fund.

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(g) Money in a development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

Sec. 2. (a) Beginning January 1 of the year following the year in which a development authority is established, the fiscal officer of each county and each municipality that is a member of the development authority shall transfer the amount determined under subsection (b) to the development authority for deposit in the development authority fund.

(b) The amount of the transfer required each year by subsection (a) from each county and each municipality is equal to the amount that would be distributed to the county or the municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of five-hundredths of one percent (0.05%) in the county.

(c) Notwithstanding subsection (b), if the additional county economic development income tax under IC 6-3.5-7-28 is in effect in a county, the obligations of the county and each municipality in the county under this section are satisfied by the transfer to the development fund of all county economic development income tax revenue derived from the additional tax and deposited in the county regional development authority fund.

(d) The following apply to the transfers required by this section:

(1) The transfers shall be made without appropriation by the fiscal body of the county or the fiscal body of the municipality.

(2) Except as provided in subdivision (3), the fiscal officer of each county and each municipality that is a member of the development authority shall transfer twenty-five percent (25%) of the total transfers due for the year before the last business day of January, April, July, and October of each year.

(3) County economic development income tax revenue derived from the additional county economic development income tax under IC 6-3.5-7-28 must be transferred to the development fund not more than thirty (30) days after being deposited in the county regional development fund.

(4) This subdivision does not apply to a county in which the additional county economic development income tax under IC 6-3.5-7-28 has been imposed or to any municipality in the county. The transfers required by this section may be made from any local revenue (other than property tax revenue) of the county or municipality, including excise tax revenue,

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income tax revenue, local option tax revenue, riverboat tax revenue, distributions, incentive payments, or money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16.

Sec. 3. (a) Subject to subsection (h), a development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or

(3) funding or refunding bonds issued under this chapter, IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law.

(b) The bonds are payable solely from:

(1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and

(2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.

(c) The bonds must be authorized by a resolution of the development board of the development authority that issues the bonds.

(d) The terms and form of the bonds must either be set out in the resolution or in a form of trust indenture approved by the resolution.

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

(f) A development board shall sell the bonds only to the Indiana bond bank established by IC 5-1.5-2-1 upon the terms determined by the development board and the Indiana bond bank.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;

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

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use

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and operations;

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

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

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.

(h) A development authority may not issue bonds under this article unless the development authority first finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.

Sec. 4. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by a development board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.

Sec. 5. (a) A development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank in Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;

(3) set forth the rights and remedies of bondholders and trustees; and

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

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

Sec. 6. (a) Bonds issued under IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law may be refunded as provided in this section.

(b) An eligible political subdivision may:

(1) lease all or a part of land or a project or projects to a development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision, conditioned upon the development authority assuming bonds issued under IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law and issuing its bonds to refund those bonds; and

(2) sell all or a part of land or a project or projects to a development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

Sec. 7. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from a development authority to an eligible political subdivision:

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

(2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;

(3) may contain provisions:

(A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and

(B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;

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

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(5) must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a project;

(7) may provide that the eligible political subdivision shall agree to:

(A) pay any taxes and assessments on the project;

(B) maintain insurance on the project for the benefit of the development authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the development authority from any funds available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and

(8) must provide that the lease rental payments by the eligible political subdivision shall be made from the development authority fund established under section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:

(A) net revenues of the project;

(B) any other funds available to the eligible political subdivision; or

(C) both sources described in clauses (A) and (B).

Sec. 8. This chapter contains full and complete authority for leases between a development authority and an eligible political subdivision. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by a development authority or the eligible political subdivision or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

Sec. 9. If the lease provides for a project or improvements to a project to be constructed by a development authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

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Sec. 10. A development authority and an eligible political subdivision may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the project is located.

Sec. 11. (a) An eligible political subdivision may lease for a nominal lease rental, or sell to a development authority, one (1) or more projects or parts of a project or land on which a project is located or is to be constructed.

(b) Any lease of all or a part of a project by an eligible political subdivision to a development authority must be for a term equal to the term of the lease of that project back to the eligible political subdivision.

(c) An eligible political subdivision may sell property to a development authority for the amount the eligible political subdivision determines to be in the best interest of the eligible political subdivision. The development authority may pay that amount from the proceeds of bonds of the development authority.

Sec. 12. If an eligible political subdivision exercises its option to purchase leased property, the eligible political subdivision may issue its bonds as authorized by statute.

Sec. 13. (a) All:

(1) property owned by a development authority;

(2) revenue of a development authority; and

(3) bonds issued by a development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All securities issued under this chapter are exempt from the registration requirements of IC 23-2-1 and other securities registration statutes.

Sec. 14. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associates, credit unions, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other

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financial institutions organized under Indiana law.

Sec. 15. An action to contest the validity of bonds to be issued under this chapter may not be brought after the time limitations set forth in IC 5-1-14-13.

Sec. 16. (a) This section applies if:

(1) a county or municipality that is a member of a development authority fails to make a transfer or a part of a transfer required by section 2 of this chapter; and

(2) the development authority has bonds or other debt or lease obligations outstanding.

(b) The treasurer of state shall, notwithstanding IC 6-1.1-21, do the following:

(1) Reduce the next distribution of property tax replacement credits under IC 6-1.1-21 to the county or municipality that failed to make a transfer or part of a transfer and withhold an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the unit failed to make.

(2) Pay the amount withheld under subdivision (1) to the development authority.

Sec. 17. (a) If there are bonds outstanding that have been issued under this article by a development authority and are not secured by a lease, or if there are leases in effect under this article, the general assembly covenants that it will not reduce the amount required to be transferred under section 2 of this chapter from a county or municipality that is a member of a development authority to the development authority below an amount that would produce one and twenty-five hundredths (1.25) multiplied by the total of the highest annual debt service on the bonds to their final maturity plus the highest annual lease payments on the leases to their final termination date.

(b) The general assembly also covenants that it will not:

(1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this chapter; or

(2) in any way impair the rights of owners of bonds of a development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter;

except as otherwise set forth in subsection (a).

SECTION 8. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1774, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

SMITH V, Chair

Committee Vote: yeas 9, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1774 be amended to read as follows:

Page 13, line 5, after "authority" delete ";" and insert "**established under this article;**".

(Reference is to HB 1774 as printed February 13, 2007.)

PELATH

SENATE MOTION

Madam President: I move that Senator Deig be added as cosponsor of Engrossed House Bill 1774.

RIEGSECKER

COMMITTEE REPORT

Madam President: The Senate Committee on Economic Development and Technology, to which was referred House Bill No. 1774, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 15, begin a new paragraph and insert:

"SECTION 1. IC 5-1.5-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. "Qualified entity" means:

(1) a political subdivision (as defined in IC 36-1-2-13);

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(2) a state educational institution (as defined in ~~IC 20-12-0.5-1(b)),~~ **IC 20-12-0.5-1);**

(3) a leasing body (as defined in IC 5-1-1-1(a));

(4) a not-for-profit utility (as defined in IC 8-1-2-125);

(5) any rural electric membership corporation organized under IC 8-1-13;

(6) any corporation that was organized in 1963 under Acts 1935, c. 157 and that engages in the generation and transmission of electric energy;

(7) any telephone cooperative corporation formed under IC 8-1-17;

(8) any commission, authority, or authorized body of any qualified entity;

(9) any organization, association, or trust with members, participants, or beneficiaries that are all individually qualified entities;

(10) any commission, authority, or instrumentality of the state;

(11) any other participant (as defined in IC 13-11-2-151.1);

(12) a charter school established under IC 20-5.5 **(before its repeal)** that is not a qualified entity under IC 5-1.4-1-10; ~~or~~

(13) a volunteer fire department (as defined in IC 36-8-12-2); **or**

(14) a development authority (as defined in IC 36-7.6-1-8).

SECTION 2. IC 5-1.5-4-1, AS AMENDED BY P.L.192-2006, SECTION 1, AND AS AMENDED BY P.L.2-2006, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The bank may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this article, including:

(1) the purchase or acquisition of securities;

(2) the making of loans to or agreements with qualified entities through the purchase of securities;

(3) the payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued by it whether the bonds or notes or interest to be paid, funded, or refunded have or have not become due; ~~*and*~~

(4) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bank incident to and necessary or convenient to carry out its corporate purposes and powers*; and*

(5) the acquisition of school buses to be leased or sold to school corporations (as defined in IC 36-1-2-17).

(b) Except as otherwise provided in this article or by the board,

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every issue of bonds or notes shall be general obligations of the bank payable out of the revenues or funds of the bank, subject only to agreements with the holders of a particular series of bonds or notes pledging a particular revenue or fund. Bonds or notes may be additionally secured by a pledge of a grant or contributions from the United States, a qualified entity, or a person or a pledge of income or revenues, funds, or money of the bank from any source.

(c) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except:

(1) bonds or notes issued to fund or refund bonds or notes; and

(2) bonds or notes issued for the purpose of purchasing an agreement executed by a qualified entity under ~~*IC 21-1-5,*~~ *IC 20-49-4;*

may not exceed one billion dollars ($1,000,000,000) for qualified entities described in IC 5-1.5-1-8(1) through IC 5-1.5-1-8(4), ~~and~~ IC 5-1.5-1-8(8) through IC 5-1.5-1-8(11), **and IC 5-1.5-1-8(14).**

(d) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed two hundred million dollars ($200,000,000) for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(6).

(e) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed thirty million dollars ($30,000,000) for qualified entities described in IC 5-1.5-1-8(7).

(f) The limitations contained in subsections (c), (d), and (e) do not apply to bonds, notes, or other obligations of the bank if:

(1) the bonds, notes, or other obligations are not secured by a reserve fund under IC 5-1.5-5; or

(2) funds and investments, and the anticipated earned interest on those funds and investments, are irrevocably set aside in amounts sufficient to pay the principal, interest, and premium on the bonds, notes, or obligations at their respective maturities or on the date or dates fixed for redemption.".

Page 2, delete line 1.

Page 24, delete lines 5 through 8, begin a new paragraph and insert:

"**(f) A development board shall sell the bonds only to the Indiana**

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bond bank established by IC 5-1.5-2-1 upon the terms determined by the development board and the Indiana bond bank.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1774 as reprinted February 20, 2007.)

FORD, Chairperson

Committee Vote: Yeas 8, Nays 0.

C o p y