



February 19, 2010

**ENGROSSED
HOUSE BILL No. 1297**

DIGEST OF HB 1297 (Updated February 18, 2010 11:05 am - DI 58)

Citations Affected: IC 21-29; IC 21-32; IC 21-34.

Synopsis: Financing public university projects. Provides that the law on swap agreements does not limit Ivy Tech Community College's general investment policies. Permits proceeds from a temporary borrowing to be used for building or facility construction costing more than \$500,000 or for the purchase or lease-purchase of land, buildings, or facilities with a value of more than \$250,000. Permits electronic transfers to be used for performance bonds. Specifies conditions for grant anticipation notes concerning acquisition and improvement of building facilities and equipment.

Effective: Upon passage.

Klinker, Cherry, Pelath, Smith M

(SENATE SPONSORS — HERSHMAN, SIMPSON, ALTING, BRODEN,
ERRINGTON)

January 13, 2010, read first time and referred to Committee on Education.
January 28, 2010, reported — Do Pass.
February 1, 2010, read second time, amended, ordered engrossed.
February 2, 2010, engrossed. Read third time, passed. Yeas 70, nays 25.

SENATE ACTION

February 8, 2010, read first time and referred to Committee on Appropriations.
February 18, 2010, amended, reported favorably — Do Pass.

**C
O
P
Y**

EH 1297—LS 7098/DI 51+



February 19, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

ENGROSSED HOUSE BILL No. 1297

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

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

1 SECTION 1. IC 21-29-3-2, AS ADDED BY P.L.2-2007, SECTION
2 270, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]: Sec. 2. This chapter shall not be construed as limiting or
4 restricting the investment powers otherwise provided state educational
5 institutions, including the power to adopt and implement investment
6 policies under IC 21-29-2-1 **and IC 21-29-2-2**.

7 SECTION 2. IC 21-32-2-2, AS ADDED BY P.L.2-2007, SECTION
8 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
9 PASSAGE]: Sec. 2. A state educational institution may do any of the
10 following:

- 11 (1) Borrow funds on a temporary basis in anticipation of the
12 issuance of long term obligations.
13 (2) Use the proceeds of a temporary borrowing for any purpose
14 for which the institution could issue **or incur** obligations under
15 **IC 21-33-3-5**, IC 21-34, IC 21-35-2, IC 21-35-3, or IC 21-35-5.
16 (3) Issue a temporary borrowing:
17 (A) in the form of a bond, note, commercial paper, or any

EH 1297—LS 7098/DI 51+



C
O
P
Y

1 other form;
 2 (B) upon the terms and conditions and with the provisions
 3 (including redemption provisions);
 4 (C) at the rate or rates of interest (fixed or variable); and
 5 (D) subject to subdivision (5), in the denominations;
 6 as the state educational institution determines under subdivision
 7 (6).
 8 (4) Negotiate the terms of any temporary borrowing.
 9 (5) Make the denominations determined under subdivision (3)(D)
 10 convertible into different denominations.
 11 (6) Make the determinations under subdivision (3) by any of the
 12 following:
 13 (A) The adoption of a resolution.
 14 (B) The approval of a form of indenture between the state
 15 educational institution and a designated corporate trustee.
 16 SECTION 3. IC 21-32-3-7, AS ADDED BY P.L.2-2007, SECTION
 17 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
 18 PASSAGE]: Sec. 7. **(a) As used in this section, "check" includes**
 19 **electronic transfer by wire transfer or other similar means.**
 20 ~~(a)~~ **(b)** A state educational institution may not:
 21 (1) accept a bid for the bonds, other than a bid submitted by the
 22 federal government or any agency of the federal government; or
 23 (2) execute and deliver a contract of sale for the bonds;
 24 unless the bid or contract is accompanied by a certified check or
 25 cashier's check in an amount equal to one percent (1%) of the principal
 26 amount of the bonds sold.
 27 ~~(b)~~ **(c)** The check required by subsection ~~(a)~~ **(b)** must be:
 28 (1) payable to the state educational institution issuing the bonds;
 29 and
 30 (2) drawn on a bank or trust company, in or out of state, that is
 31 insured by the Deposit Insurance Fund of the Federal Deposit
 32 Insurance Corporation.
 33 ~~(c)~~ **(d)** The state educational institution shall:
 34 (1) hold the check required by subsection ~~(a)~~ **(b)** as a guaranty of
 35 the performance of:
 36 (A) the bid, if the bid is accepted; or
 37 (B) the contract, if the contract is signed; and
 38 (2) return the check required under subsection ~~(a)~~ **(b)** to a bidder
 39 if that bidder's bid is not accepted.
 40 ~~(d)~~ **(e)** If a bid is accepted and the bidder fails to perform the bid,
 41 the check required under subsection ~~(a)~~ **(b)** and the proceeds of the
 42 check are:

C
O
P
Y



1 (1) the property of the state educational institution; and
 2 (2) considered liquidated damages to the state educational
 3 institution arising from the default.
 4 ~~(e)~~ **(f)** A contract for the purchase of bonds at negotiated sale must
 5 provide that if the purchaser fails to perform the purchaser's obligation
 6 to pay for the bonds, the check required under subsection ~~(a)~~ **(b)** and
 7 the proceeds from the check are:
 8 (1) the property of the state university or college; and
 9 (2) considered liquidated damages to the state educational
 10 institution arising from the default.
 11 SECTION 4. IC 21-34-1-13, AS ADDED BY P.L.2-2007,
 12 SECTION 275, IS AMENDED TO READ AS FOLLOWS
 13 [EFFECTIVE UPON PASSAGE]: Sec. 13. "Grant" means money
 14 received **under a written agreement or written agreements for a**
 15 **grant or gift from any one (1) or more of the following sources:**
 16 (1) The United States government or its agencies.
 17 (2) The state or any of its agencies. ~~or~~
 18 (3) A private corporation, **individual**, trust, or foundation, ~~to be~~
 19 ~~used for the~~ **if the money is provided for the purpose of**
 20 acquisition, improvement, renovation, or construction of building
 21 facilities that a state educational institution may lawfully
 22 undertake.
 23 SECTION 5. IC 21-34-1-14.2 IS ADDED TO THE INDIANA
 24 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE UPON PASSAGE]: **Sec. 14.2. "Grant anticipation**
 26 **note" refers to a note executed to evidence a grant anticipation**
 27 **loan.**
 28 SECTION 6. IC 21-34-7-2, AS ADDED BY P.L.2-2007, SECTION
 29 275, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
 30 PASSAGE]: Sec. 2. A grant anticipation loan may not exceed ~~eighty~~
 31 ~~percent (80%)~~ of the estimated **aggregate** amount of the grant **or**
 32 **grants** in anticipation of which the loan is made. ~~The board of trustees~~
 33 ~~of the state educational institution shall make prepayments of the~~
 34 ~~outstanding balance of its note or retire one (1) or more of its series of~~
 35 ~~outstanding notes promptly upon partial receipt of grant funds so that~~
 36 ~~the outstanding amount of any loan does not exceed the balance of the~~
 37 ~~grant funds yet to be received. The grant anticipation note must be~~
 38 ~~structured to amortize and to pay principal of and interest on the~~
 39 ~~loan in accordance with anticipated receipts of the grant or grants.~~
 40 **A grant anticipation note may also be payable from other revenues**
 41 **or amounts available for pledge under IC 21-34-6-2.**
 42 SECTION 7. **An emergency is declared for this act.**

COPY



COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1297, 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.

PORTER, Chair

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1297 be amended to read as follows:

Page 3, between lines 22 and 23, begin a new paragraph and insert: "SECTION 5. IC 21-33-4-5, AS ADDED BY P.L.2-2007, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. After reviewing proposals submitted under this chapter, a state educational institution may enter into energy cost savings contracts with a qualified provider if the state educational institution reasonably expects that the cost of a qualified energy savings project recommended in the proposal would not exceed the amount to be saved in either energy or operational costs, or both, within the ~~ten (10)~~ **twenty (20)** year period following the date installation is complete if the recommendations in the proposal are followed. An energy cost savings contract may also include a guaranty from the qualified provider to the state educational institution that either the energy or operational cost savings, or both, will meet or exceed the cost of the energy cost savings projects not later than ~~ten (10)~~ **twenty (20)** years after the date installation is complete."

Re-number all SECTIONS consecutively.

(Reference is to HB 1297 as printed January 29, 2010.)

KLINKER

C
O
P
Y



COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1297, 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 7 through 17.

Page 2, delete line 1.

Page 3, delete lines 23 through 42.

Page 4, delete lines 1 through 32.

Page 5, delete lines 23 through 42.

Delete pages 6 through 7.

Page 8, delete lines 1 through 14.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1297 as reprinted February 2, 2010.)

KENLEY, Chairperson

Committee Vote: Yeas 9, Nays 0.

C
O
P
Y

