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# HOUSE BILL No. 1271

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-28; IC 6-1.1-39.

**Synopsis:** Criteria for industrial development programs. Provides that, in deciding whether to award a loan from the industrial development fund, the Indiana economic development corporation (IEDC) and the state board of finance may not: (1) require evidence of preliminary commitments to initiate or complete the program; or (2) base their decision on such evidence. Requires the secretary of commerce, in awarding grants from the industrial development grant fund, to use the same standards used for loans from the industrial development fund. Provides that grants may be awarded for the construction of utilities or public infrastructure to improve the chance of securing future commitments for an industrial development program. Provides that if a unit adopts an ordinance after June 30, 2011, to create an economic development district, a qualified industrial development project proposed for the district is not required to be supported by certain preliminary commitments. Provides that the IEDC, in determining preliminarily whether to authorize a district, may not base its determination on the likelihood that a proposed project will be initiated or accomplished. Updates references to certain federal statutes.

**Effective:** July 1, 2011.

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### Grubb, Brown T

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January 12, 2011, read first time and referred to Committee on Commerce, Small Business and Economic Development.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## HOUSE BILL No. 1271



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 5-28-9-5, AS ADDED BY P.L.4-2005, SECTION  
2 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2011]: Sec. 5. As used in this chapter, "minority enterprise small  
4 business investment company" means an investment company ~~licensed~~  
5 ~~under described in 15 U.S.C. 681(d)~~: **681(d) (before its repeal).**

6 SECTION 2. IC 5-28-9-7, AS ADDED BY P.L.4-2005, SECTION  
7 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
8 2011]: Sec. 7. As used in this chapter, "small business investment  
9 company" means an investment company licensed under 15 U.S.C. ~~691~~  
10 **681** et seq. or a successor statute.

11 SECTION 3. IC 5-28-9-12, AS ADDED BY P.L.4-2005, SECTION  
12 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
13 2011]: Sec. 12. (a) The state board of finance and the corporation shall  
14 authorize the making of a loan to a qualified entity under this chapter  
15 only when all the following conditions exist:

16 (1) An application for the loan has been submitted by the  
17 qualified entity, in a verified petition, to the state board of finance



1 and the corporation in the manner and form as the state board of  
 2 finance and the corporation direct. The application must set forth  
 3 all the following:

4 (A) The need for the program and the need for funds for  
 5 instituting and administering the program.

6 (B) An engineering estimate of the cost of the proposed  
 7 program acceptable to the state board of finance and the  
 8 corporation.

9 (C) The amount of money needed.

10 (D) Other information that is requested by the state board of  
 11 finance and the corporation.

12 (2) The proposed program has been approved by the state board  
 13 of finance and the corporation, which they may do only if they  
 14 have determined that the program is based on sound engineering  
 15 principles and is in the interest of industrial development. **In**  
 16 **deciding whether to approve a program submitted for**  
 17 **approval after June 30, 2011, the state board of finance and**  
 18 **the corporation may not:**

19 (A) **require the qualified entity to provide evidence of**  
 20 **preliminary commitments that:**

21 (i) **are made by business enterprises, associations, state**  
 22 **or federal governmental units, or similar entities; and**  
 23 (ii) **demonstrate a reasonable likelihood that any project**  
 24 **or construction proposed as part of the program will be**  
 25 **initiated and accomplished; or**

26 (B) **base the decision whether to approve the program on**  
 27 **the presence or lack of any evidence described in clause**  
 28 **(A).**

29 (3) The loan does not exceed one hundred percent (100%) of the  
 30 cost to the qualified entity of an approved program, with the cost  
 31 of the program to be based on an estimate made by a competent  
 32 engineering authority and approved by the corporation.

33 (4) The qualified entity has agreed to furnish assurance,  
 34 satisfactory to the state board of finance and the corporation, that  
 35 the qualified entity will operate and maintain the program, after  
 36 completion, in a satisfactory manner.

37 (b) The state board of finance and the corporation shall authorize a  
 38 loan to a small business investment company or minority enterprise  
 39 small business investment company under this chapter only if:

40 (1) the small business investment company or minority enterprise  
 41 small business investment company has loaned to or invested in  
 42 a business located in an enterprise zone for a purpose directly

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1 related to the enterprise zone an amount that is at least twice the  
 2 amount of the requested loan; and  
 3 (2) the small business investment company or minority enterprise  
 4 small business investment company has submitted an application,  
 5 before the beginning of the phase out period of the enterprise  
 6 zone, to the state board of finance and the corporation that shows  
 7 the amount of the loan requested and other information that is  
 8 requested by the state board of finance and the corporation.

9 SECTION 4. IC 5-28-25-5, AS ADDED BY P.L.4-2005, SECTION  
 10 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 11 2011]: Sec. 5. (a) The secretary of commerce, subject to the approval  
 12 of the governor and budget director, may direct the auditor of state to  
 13 make an approved grant from the fund to an eligible entity.

14 (b) The money granted must be used by the recipient **for any of the**  
 15 **following:**

16 (1) To institute and administer an approved industrial  
 17 development program.

18 (2) **For grants awarded after June 30, 2011, to undertake any**  
 19 **of the following activities to improve the likelihood of securing**  
 20 **future commitments by business enterprises, associations,**  
 21 **state or federal governmental units, or similar entities to**  
 22 **collaborate with the recipient in an industrial development**  
 23 **program:**

- 24 (A) **The construction, extension, or completion of:**
- 25 (i) **sanitary sewerlines, storm sewers, and other related**
  - 26 **drainage facilities;**
  - 27 (ii) **waterlines;**
  - 28 (iii) **roads and streets;**
  - 29 (iv) **sidewalks;**
  - 30 (v) **rail spurs and sidings; and**
  - 31 (vi) **information and high technology infrastructure (as**
  - 32 **defined in IC 5-28-9-4).**

33 (B) **The preparation of surveys, plans, and specifications**  
 34 **for the construction of publicly owned and operated**  
 35 **facilities, utilities, and services.**

36 (c) **In approving an industrial development program under**  
 37 **subsection (b)(1) for purposes of this chapter, the secretary of**  
 38 **commerce shall use the same standards set forth in**  
 39 **IC 5-28-9-12(a)(2) for the approval of programs for loans from the**  
 40 **industrial development fund under IC 5-28-9.**

41 SECTION 5. IC 6-1.1-39-2, AS AMENDED BY P.L.216-2005,  
 42 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2011]: Sec. 2. (a) If the fiscal body of a unit finds that:  
 2 (1) in order to promote opportunities for the gainful employment  
 3 of its citizens, the attraction of a new business enterprise to the  
 4 unit, the retention or expansion of a business enterprise existing  
 5 within the boundaries of the unit, or the preservation or  
 6 enhancement of the tax base of the unit, an area under the fiscal  
 7 body's jurisdiction should be declared an economic development  
 8 district;  
 9 (2) the public health and welfare of the unit will be benefited by  
 10 designating the area as an economic development district; and  
 11 (3) there has been proposed a qualified industrial development  
 12 project to be located in the economic development district, with  
 13 the proposal supported by:  
 14 (A) financial and economic data; and  
 15 (B) **except as provided in subsection (d)**, preliminary  
 16 commitments by business enterprises, associations, state or  
 17 federal governmental units, or similar entities that evidence a  
 18 reasonable likelihood that the proposed qualified industrial  
 19 development project will be initiated and accomplished;  
 20 the fiscal body may on or before the adoption deadline determined  
 21 under subsection (c), adopt an ordinance declaring the area to be an  
 22 economic development district and declaring that the public health and  
 23 welfare of the unit will be benefited by the designation.  
 24 (b) For the purpose of adopting an ordinance under subsection (a),  
 25 it is sufficient to describe the boundaries of the area by its location in  
 26 relation to public ways or streams or otherwise as determined by the  
 27 fiscal body.  
 28 (c) The adoption deadline referred to in subsection (a) is determined  
 29 in the following manner:  
 30 (1) The initial adoption deadline is December 31, 2011.  
 31 (2) Subject to subdivision (3), the initial adoption deadline and  
 32 subsequent adoption deadlines are automatically extended in  
 33 increments of five (5) years, so that adoption deadlines  
 34 subsequent to the initial adoption deadline fall on December 31,  
 35 2016, and December 31 of each fifth year thereafter.  
 36 (3) At least one (1) year before the date of an adoption deadline  
 37 determined under subdivision (2), the general assembly may enact  
 38 a law that:  
 39 (A) terminates the automatic extension of adoption deadlines  
 40 under subdivision (2); and  
 41 (B) specifically designates a particular date as the final  
 42 adoption deadline.

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1 (d) If a unit adopts an ordinance under subsection (a) after June  
2 30, 2011, the unit is not required to make the finding described in  
3 subsection (a)(3)(B).

4 SECTION 6. IC 6-1.1-39-2.5, AS AMENDED BY P.L.4-2005,  
5 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2011]: Sec. 2.5. (a) Within thirty (30) days after the adoption  
7 of the ordinance under section 2 of this chapter, the fiscal body shall  
8 file with the Indiana economic development corporation:

- 9 (1) a copy of the ordinance;
- 10 (2) a description of the proposed industrial development program  
11 and qualified industrial development project; and
- 12 (3) other additional data and information that will enable the  
13 corporation to determine preliminarily whether the unit may  
14 qualify for a loan from the industrial development fund  
15 established under IC 5-28-9.

16 (b) The Indiana economic development corporation shall review the  
17 data and related information submitted under subsection (a) to  
18 determine preliminarily whether:

- 19 (1) the proposed project will qualify as a qualified industrial  
20 development project;
- 21 (2) **for a project described in an ordinance adopted by a unit**  
22 **under section 2 of this chapter before July 1, 2011**, there is a  
23 reasonable likelihood that the proposed qualified industrial  
24 development project will be initiated and accomplished; and
- 25 (3) there is a reasonable likelihood that an application by the unit  
26 under IC 5-28-9-12 for a loan from the industrial development  
27 fund to institute and administer the proposed industrial  
28 development program will be approved by the corporation and the  
29 state board of finance.

30 (c) If the Indiana economic development corporation preliminarily  
31 determines under subsection (b) that the proposed project does not or  
32 will not qualify as a qualified industrial development project or that  
33 there is not a reasonable likelihood that a loan from the industrial  
34 development fund will be approved under IC 5-28-9-12, the  
35 corporation shall certify this determination in writing to the fiscal body  
36 adopting the ordinance. **For a proposed project described in an**  
37 **ordinance adopted by a unit under section 2 of this chapter after**  
38 **June 30, 2011, the corporation may not base the preliminary**  
39 **determination referred to in this subsection on any determination**  
40 **made under subsection (b)(2).** Upon this certification, the ordinance  
41 proposing to establish the economic development district is void.

42 (d) If the Indiana economic development corporation preliminarily

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1 determines under subsection (b) that the proposed project qualifies or  
 2 will qualify as a qualified industrial development project and that there  
 3 is a reasonable likelihood that a loan from the industrial development  
 4 fund will be approved under IC 5-28-9-12, the corporation shall certify  
 5 this determination to the fiscal body adopting the ordinance proposing  
 6 to establish the economic development district. **For a proposed**  
 7 **project described in an ordinance adopted by a unit under section**  
 8 **2 of this chapter after June 30, 2011, the corporation may not base**  
 9 **the preliminary determination referred to in this subsection on any**  
 10 **determination made under subsection (b)(2).** Upon receipt of this  
 11 certification, the fiscal body shall proceed to take final action with  
 12 respect to the ordinance in accordance with section 3 of this chapter.

13 (e) A favorable preliminary certification under subsection (d) does  
 14 not, however, represent or constitute a final determination by the  
 15 Indiana economic development corporation and state board of finance  
 16 as to whether the unit will obtain a loan from the industrial  
 17 development fund in accordance with IC 5-28-9.

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