
HOUSE BILL No. 1457

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-9-39.5.

Synopsis: Clean energy improvement financing district. Allows the legislative body of a political subdivision (other than a township) to establish a clean energy improvement financing district for the purpose of issuing bonds to fund clean energy improvements for voluntary participants in the program. Provides that the bond proceeds are used to pay all costs associated with the improvements and that assessments are imposed only on participating property owners to repay the bonds. Establishes a 20 year period for bond repayment and for the payment of assessments on each property. Provides that assessments are billed, collected, and enforced in the same manner as property taxes.

Effective: July 1, 2011.

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January 20, 2011, read first time and referred to Committee on Local Government.

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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. 1457



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:

1 SECTION 1. IC 36-9-39.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]:

4 **Chapter 39.5. Clean Energy Improvement Financing Districts**
5 **Sec. 1. This chapter applies to all political subdivisions except**
6 **townships.**

7 **Sec. 2. As used in this chapter, "clean energy improvement"**
8 **means a fixture, product, system, device, or interacting group of**
9 **devices that is permanently installed behind the meter of any**
10 **building to:**

11 (1) produce energy from one (1) or more clean energy
12 resources; or

13 (2) reduce energy consumption.

14 **Sec. 3. As used in this chapter, "clean energy resources" means**
15 **the following sources and programs for the production or**
16 **conservation of electricity:**

17 (1) Energy from wind.



- 1 (2) Solar energy.
- 2 (3) Photovoltaic cells and panels.
- 3 (4) Energy from:
- 4 (A) landfill gas to electric systems; and
- 5 (B) manure to gas systems.
- 6 (5) Geothermal heating and cooling systems.
- 7 (6) Energy from waste heat recovery systems.
- 8 (7) Conservation measures that reduce electricity
- 9 consumption.

10 **Sec. 4. (a) As used in this chapter, "conservation measure"**
 11 **means:**

- 12 (1) a facility alteration;
- 13 (2) an alteration of a structure (as defined in IC 36-1-10-2); or
- 14 (3) a technology upgrade;

15 **designed to reduce energy or other operating costs.**

16 **(b) The term includes the following:**

- 17 (1) Providing insulation of the facility or structure and
- 18 systems in the facility or structure.
- 19 (2) Installing or providing for window and door systems,
- 20 including:
- 21 (A) storm windows and storm doors;
- 22 (B) caulking or weatherstripping;
- 23 (C) multiglazed windows and doors;
- 24 (D) heat absorbing or heat reflective glazed and coated
- 25 windows and doors;
- 26 (E) additional glazing;
- 27 (F) the reduction in glass area; and
- 28 (G) other modifications that reduce energy consumption.

- 29 (3) Installing automatic energy control systems.
- 30 (4) Modifying or replacing heating, ventilating, or air
- 31 conditioning systems.
- 32 (5) Unless an increase in illumination is necessary to conform
- 33 to Indiana laws or rules or local ordinances, modifying or
- 34 replacing lighting fixtures to increase the energy efficiency of
- 35 the lighting system without increasing the overall illumination
- 36 of a facility or structure.

37 **Sec. 5. As used in this chapter, "designated body" refers to a**
 38 **legislative body that administers this chapter with respect to a**
 39 **district. The term includes a legislative body designated under**
 40 **section 7(c) of this chapter.**

41 **Sec. 6. As used in this chapter, "district" refers to a clean energy**
 42 **improvement financing district established in a resolution or**

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1 ordinance adopted under section 7 of this chapter.
 2 Sec. 7. (a) The legislative body of a political subdivision, or the
 3 legislative bodies of two (2) or more political subdivisions, may
 4 adopt a preliminary resolution or ordinance to:
 5 (1) establish a clean energy improvement financing district;
 6 and
 7 (2) authorize in the district the financing of clean energy
 8 improvements under this chapter.
 9 (b) A preliminary resolution or ordinance adopted under
 10 subsection (a) must contain the following:
 11 (1) The geographic boundaries of the proposed district.
 12 (2) A description of the proposed method of financing of clean
 13 energy improvements installed in the district.
 14 (c) If the legislative bodies of two (2) or more political
 15 subdivisions adopt a preliminary resolution or ordinance, the
 16 preliminary resolutions or ordinances must:
 17 (1) comply with subsection (b);
 18 (2) be identical; and
 19 (3) designate one (1) legislative body to administer the
 20 requirements of this chapter with respect to the district
 21 established in the preliminary resolution or ordinance.
 22 A legislative body designated under subdivision (3) must have
 23 authority to issue bonds.
 24 (d) The boundaries of a district need not coincide with those of
 25 other political subdivisions.
 26 Sec. 8. A designated body may do the following:
 27 (1) Enter into an agreement with another entity concerning
 28 the following:
 29 (A) The development of marketing and public information
 30 programs for a district.
 31 (B) The issuance of bonds under this chapter.
 32 (2) Apply for grants, loans, or other awards on behalf of the
 33 district.
 34 Sec. 9. The designated body shall publish notice of a hearing on
 35 the preliminary resolution or ordinance in accordance with
 36 IC 5-3-1 and on the designated body's web site. The notice must
 37 state the date, time, and place at which the designated body will
 38 hear all interested persons.
 39 Sec. 10. (a) At the hearing specified in the notice under section
 40 9 of this chapter, the designated body shall do the following:
 41 (1) Hear interested persons.
 42 (2) Receive and compile data on the costs of clean energy

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1 improvements proposed to be installed in buildings located in
 2 the district.
 3 (3) Rescind, modify, or confirm the resolution or ordinance.
 4 (b) If the designated body confirms, or modifies and confirms,
 5 the resolution or ordinance:
 6 (1) the clean energy improvement financing district is
 7 established; and
 8 (2) the clean energy improvements installed in buildings
 9 located in the district may be financed according to the
 10 resolution or ordinance.
 11 Sec. 11. (a) A property owner that desires to participate in the
 12 proposed clean energy improvement financing shall submit an
 13 application to the designated body in the form and according to a
 14 schedule determined by the designated body. The application must
 15 contain the following:
 16 (1) The address and legal description of the property on which
 17 the clean energy improvement for which the property owner
 18 desires financing will be installed.
 19 (2) A description and the cost of all clean energy
 20 improvements proposed to be installed on the property.
 21 (3) A statement of intent to participate in the financing of the
 22 clean energy improvement through the imposition of a special
 23 assessment on the property.
 24 (4) A statement showing no delinquent property taxes or
 25 special assessments on the property for the shorter of the
 26 following:
 27 (A) The two (2) immediately preceding taxable years.
 28 (B) The period during which the property owner has
 29 owned the property.
 30 (5) A statement that the assumed cost savings to the owner of
 31 the property over the useful life of the clean energy
 32 improvement, based on industry standards, will exceed the
 33 actual cost of the clean energy improvement.
 34 (b) The designated body shall:
 35 (1) review; and
 36 (2) approve or deny;
 37 an application submitted under subsection (a) according to a
 38 schedule determined by the designated body. The designated body
 39 shall use the costs reported under subsection (a)(2) to determine a
 40 total assessment for each property for which an application was
 41 approved.
 42 (c) A property owner may withdraw or amend an application at

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1 any time before a special assessment is levied on the owner's
2 property under section 12 of this chapter.

3 (d) The designated body shall establish a procedure by which
4 the designated body may adjust the amounts of assessments
5 determined under subsection (b) to ensure that collections from the
6 assessments are adequate to make all payments on the bonds as
7 described in section 15 of this chapter.

8 Sec. 12. (a) Based on the assessments determined under section
9 11(b) of this chapter, and subject to any withdrawal or amendment
10 of an application under section 11(c) of this chapter, a designated
11 body shall have an assessment roll prepared and levy a special
12 assessment on each property in the clean energy improvement
13 financing district for which one (1) or more clean energy
14 improvements will be financed under this chapter. The assessment
15 roll must include the following for each property subject to an
16 assessment under this chapter:

- 17 (1) The name of the owner.
- 18 (2) A description of the property.
- 19 (3) The total assessment.
- 20 (4) The annual installment of the assessment determined
- 21 under section 13 of this chapter.

22 An assessment indicated against a property on the assessment roll
23 is presumed to be of special benefit to the property.

24 (b) Immediately after the assessment roll is prepared and filed,
25 the designated body shall publish a notice according to IC 5-3-1.
26 The assessment roll is not considered to be completed for purposes
27 of the subsection until any adjustments under section 11(d) of this
28 chapter are made. The notice must do the following:

- 29 (1) Describe the purpose of the assessment.
- 30 (2) State that the assessment roll, with the names of owners
- 31 and descriptions of property subject to assessment and the
- 32 amounts of any assessments, is on file and may be inspected in
- 33 the designated body's office.

34 (c) Following any adjustments under section 11(d) of this
35 chapter, the designated body shall complete and confirm the
36 assessment roll. The assessment roll must show the total assessment
37 opposite each name and a description of the property on the roll.
38 The designated body shall:

- 39 (1) deliver the completed assessment roll to:
 - 40 (A) the auditor and treasurer of each county in which a
 - 41 property listed on the roll is located; and
 - 42 (B) the municipal fiscal officer if the financing under this

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chapter is initiated by a municipality; and
(2) publish a notice of the completed assessment roll according to IC 5-3-1.

(d) Except as provided in subsection (e), the decision of the designated body as to all assessments is final and conclusive on all parties.

(e) An owner of an assessed property may appeal a special assessment to the circuit or superior court for the county in which the assessed property is located. The clerk of the court shall certify the judgment to the designated body. The designated body shall immediately notify the property owner of the amount of the assessment fixed by the court.

Sec. 13. (a) All assessments under this chapter are payable to the treasurer of the county in which the property that is subject to the assessment is located. The county treasurer shall:

- (1) annually over the twenty (20) year bond payment period under section 15 of this chapter bill to the property an amount equal to the quotient of the total assessment determined for the property under this chapter divided by twenty (20); and
- (2) bill the amount under subdivision (1) annually to a property regardless of any changes in ownership of the property.

(b) Subject to subsection (d), a county treasurer shall bill, collect, and enforce the assessments in the same manner that property taxes are billed, collected, and enforced.

(c) A county treasurer shall distribute assessments collected under subsection (b) to the auditor of the county in which the designated unit that levied the assessments is located for deposit in a separate special fund under section 14 of this chapter.

(d) The county treasurer shall specify on each property tax statement that the assessment under this chapter is separate and distinct from the property tax.

Sec. 14. The proceeds from assessments levied by a designated body under this chapter constitute a separate special fund for the security and payment of any bonds issued by the designated body under section 15 of this chapter, including:

- (1) debt service reserves to secure the payment of the bonds; and
- (2) expenses, duties, and costs associated with:
 - (A) the issuance, sale, or payment of the bonds;
 - (B) the billing, collection, or enforcement of the assessments; or

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1 (C) an agreement described in section 8 of this chapter.
 2 **Sec. 15. (a)** The designated body shall issue bonds in anticipation
 3 of the collection of the assessments to finance the installation of
 4 clean energy improvements in buildings, regardless of whether the
 5 buildings or the real property on which the buildings are located
 6 are privately or publicly owned. The designated body shall:
 7 (1) issue and sell the bonds in the manner prescribed for other
 8 bonds of the political subdivision; and
 9 (2) make the payments on the bonds described in section 14 of
 10 this chapter over a term of twenty (20) years.
 11 The designated body may issue the bonds at any time after a
 12 district is established.
 13 (b) The designated body shall use the proceeds of the bonds
 14 issued under subsection (a) to pay:
 15 (1) the costs of the clean energy improvements for the
 16 properties for which applications were approved under
 17 section 11(b) of this chapter, subject to any adjustments under
 18 section 11(d) of this chapter or any appeals under section 12
 19 of this chapter; and
 20 (2) to the extent permitted by federal law, any expenses,
 21 duties, or costs described in section 14(2) of this chapter.
 22 (c) Bonds issued under this section:
 23 (1) are not an obligation of the political subdivision that issued
 24 bonds but are an indebtedness of the district; and
 25 (2) are payable solely from proceeds of special assessments
 26 levied by the designated body under section 12 of this chapter.

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