

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1007 be amended to read as follows:

- 1 Page 4, between lines 14 and 15, begin a new paragraph and insert:
2 "SECTION 3. IC 4-4-11-15, AS AMENDED BY P.L.98-2008,
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 15. (a) The authority is granted all powers
5 necessary or appropriate to carry out and effectuate its public and
6 corporate purposes under the affected statutes, including but not
7 limited to the following:
8 (1) Have perpetual succession as a body politic and corporate and
9 an independent instrumentality exercising essential public
10 functions.
11 (2) Without complying with IC 4-22-2, adopt, amend, and repeal
12 bylaws, rules, guidelines, and policies not inconsistent with the
13 affected statutes, and necessary or convenient to regulate its
14 affairs and to carry into effect the powers, duties, and purposes of
15 the authority and conduct its business under the affected statutes.
16 These bylaws, rules, guidelines, and policies must be made by a
17 resolution of the authority introduced at one (1) meeting and
18 approved at a subsequent meeting of the authority.
19 (3) Sue and be sued in its own name.
20 (4) Have an official seal and alter it at will.
21 (5) Maintain an office or offices at a place or places within the
22 state as it may designate.
23 (6) Make, execute, and enforce contracts and all other instruments
24 necessary, convenient, or desirable for the purposes of the
25 authority or pertaining to:
26 (A) a purchase, acquisition, or sale of securities or other
27 investments; or
28 (B) the performance of the authority's duties and execution of
29 any of the authority's powers under the affected statutes.
30 (7) Employ architects, engineers, attorneys, inspectors,

- 1 accountants, agriculture experts, silviculture experts, aquaculture
2 experts, and financial experts, and such other advisors,
3 consultants, and agents as may be necessary in its judgment and
4 to fix their compensation.
- 5 (8) Procure insurance against any loss in connection with its
6 property and other assets, including loans and loan notes in
7 amounts and from insurers as it may consider advisable.
- 8 (9) Borrow money, make guaranties, issue bonds, and otherwise
9 incur indebtedness for any of the authority's purposes, and issue
10 debentures, notes, or other evidences of indebtedness, whether
11 secured or unsecured, to any person, as provided by the affected
12 statutes. Notwithstanding any other law, the:
- 13 (A) issuance by the authority of any indebtedness that
14 establishes a procedure for the authority or a person acting on
15 behalf of the authority to certify to the general assembly the
16 amount needed to restore a debt service reserve fund or
17 another fund to required levels; or
- 18 (B) execution by the authority of any other agreement that
19 creates a moral obligation of the state to pay all or part of any
20 indebtedness issued by the authority;
- 21 is subject to review by the budget committee and approval by the
22 budget director.
- 23 (10) Procure insurance or guaranties from any public or private
24 entities, including any department, agency, or instrumentality of
25 the United States, for payment of any bonds issued by the
26 authority, including the power to pay premiums on any insurance
27 or reinsurance.
- 28 (11) Purchase, receive, take by grant, gift, devise, bequest, or
29 otherwise, and accept, from any source, aid or contributions of
30 money, property, labor, or other things of value to be held, used,
31 and applied to carry out the purposes of the affected statutes,
32 subject to the conditions upon which the grants or contributions
33 are made, including but not limited to gifts or grants from any
34 department, agency, or instrumentality of the United States, and
35 lease or otherwise acquire, own, hold, improve, employ, use, and
36 otherwise deal in and with real or personal property or any
37 interest in real or personal property, wherever situated, for any
38 purpose consistent with the affected statutes.
- 39 (12) Enter into agreements with any department, agency, or
40 instrumentality of the United States or this state and with lenders
41 and enter into loan agreements, sales contracts, and leases with
42 contracting parties, including participants (as defined in
43 IC 13-11-2-151.1) for any purpose permitted under IC 13-18-13
44 or IC 13-18-21, borrowers, lenders, developers, or users, for the
45 purpose of planning, regulating, and providing for the financing
46 and refinancing of any agricultural enterprise (as defined in

- 1 IC 5-28-31-1), rural development project (as defined in
2 IC 5-28-31-20), industrial development project, purpose permitted
3 under IC 13-18-13 and IC 13-18-21, or international exports, and
4 distribute data and information concerning the encouragement
5 and improvement of agricultural enterprises and agricultural
6 employment, rural development projects, industrial development
7 projects, international exports, and other types of employment in
8 the state undertaken with the assistance of the authority under this
9 chapter.
- 10 (13) Enter into contracts or agreements with lenders and lessors
11 for the servicing and processing of loans and leases pursuant to
12 the affected statutes.
- 13 (14) Provide technical assistance to local public bodies and to
14 profit and nonprofit entities in the development or operation of
15 agricultural enterprises, rural development projects, and industrial
16 development projects.
- 17 (15) To the extent permitted under its contract with the holders of
18 the bonds of the authority, consent to any modification with
19 respect to the rate of interest, time, and payment of any
20 installment of principal or interest, or any other term of any
21 contract, loan, loan note, loan note commitment, contract, lease,
22 or agreement of any kind to which the authority is a party.
- 23 (16) To the extent permitted under its contract with the holders of
24 bonds of the authority, enter into contracts with any lender
25 containing provisions enabling it to reduce the rental or carrying
26 charges to persons unable to pay the regular schedule of charges
27 when, by reason of other income or payment by any department,
28 agency, or instrumentality of the United States of America or of
29 this state, the reduction can be made without jeopardizing the
30 economic stability of the agricultural enterprise, rural
31 development project, or industrial development project being
32 financed.
- 33 (17) Notwithstanding IC 5-13, but subject to the requirements of
34 any trust agreement entered into by the authority, invest:
- 35 (A) the authority's money, funds, and accounts;
36 (B) any money, funds, and accounts in the authority's custody;
37 and
38 (C) proceeds of bonds or notes;
- 39 in the manner provided by an investment policy established by
40 resolution of the authority.
- 41 (18) Fix and revise periodically, and charge and collect, fees and
42 charges as the authority determines to be reasonable in connection
43 with:
- 44 (A) the authority's loans, guarantees, advances, insurance,
45 commitments, and servicing; and
46 (B) the use of the authority's services or facilities.

- 1 (19) Cooperate and exchange services, personnel, and information
2 with any federal, state, or local government agency, or
3 instrumentality of the United States or this state.
- 4 (20) Sell, at public or private sale, with or without public bidding,
5 any loan or other obligation held by the authority.
- 6 (21) Enter into agreements concerning, and acquire, hold, and
7 dispose by any lawful means, land or interests in land, building
8 improvements, structures, personal property, franchises, patents,
9 accounts receivable, loans, assignments, guarantees, and
10 insurance needed for the purposes of the affected statutes.
- 11 (22) Take assignments of accounts receivable, loans, guarantees,
12 insurance, notes, mortgages, security agreements securing notes,
13 and other forms of security, attach, seize, or take title by
14 foreclosure or conveyance to any industrial development project
15 when a guaranteed loan thereon is clearly in default and when in
16 the opinion of the authority such acquisition is necessary to
17 safeguard the industrial development project guaranty fund, and
18 sell, or on a temporary basis, lease or rent such industrial
19 development project for any use.
- 20 (23) Expend money provided to the authority by the Indiana
21 economic development corporation from the industrial
22 development project guaranty fund created by IC 5-28-30, subject
23 to the terms of any agreement with the Indiana economic
24 development corporation governing the expenditure of that
25 money.
- 26 (24) Purchase, lease as lessee, construct, remodel, rebuild,
27 enlarge, or substantially improve industrial development projects,
28 including land, machinery, equipment, or any combination
29 thereof.
- 30 (25) Lease industrial development projects to users or developers,
31 with or without an option to purchase.
- 32 (26) Sell industrial development projects to users or developers,
33 for consideration to be paid in installments or otherwise.
- 34 (27) Make direct loans from the proceeds of the bonds to users or
35 developers for:
- 36 (A) the cost of acquisition, construction, or installation of
37 industrial development projects, including land, machinery,
38 equipment, or any combination thereof; or
- 39 (B) eligible expenditures for an educational facility project
40 described in IC 4-4-10.9-6.2(a)(2);
- 41 with the loans to be secured by the pledge of one (1) or more
42 bonds, notes, warrants, or other secured or unsecured debt
43 obligations of the users or developers.
- 44 (28) Lend or deposit the proceeds of bonds to or with a lender for
45 the purpose of furnishing funds to such lender to be used for
46 making a loan to a developer or user for the financing of industrial

- 1 development projects under this chapter.
- 2 (29) Enter into agreements with users or developers to allow the
- 3 users or developers, directly or as agents for the authority, to
- 4 wholly or partially construct industrial development projects to be
- 5 leased from or to be acquired by the authority.
- 6 (30) Establish reserves from the proceeds of the sale of bonds,
- 7 other funds, or both, in the amount determined to be necessary by
- 8 the authority to secure the payment of the principal and interest on
- 9 the bonds.
- 10 (31) Adopt rules and guidelines governing its activities authorized
- 11 under the affected statutes.
- 12 (32) Use the proceeds of bonds to make guaranteed participating
- 13 loans.
- 14 (33) Purchase, discount, sell, and negotiate, with or without
- 15 guaranty, notes and other evidences of indebtedness.
- 16 (34) Sell and guarantee securities.
- 17 (35) Make guaranteed participating loans under IC 4-4-21-26.
- 18 (36) Procure insurance to guarantee, insure, coinsure, and
- 19 reinsure against political and commercial risk of loss, and any
- 20 other insurance the authority considers necessary, including
- 21 insurance to secure the payment of principal and interest on notes
- 22 or other obligations of the authority.
- 23 (37) Provide performance bond guarantees to support eligible
- 24 export loan transactions, subject to the terms of the affected
- 25 statutes.
- 26 (38) Provide financial counseling services to Indiana exporters.
- 27 (39) Accept gifts, grants, or loans from, and enter into contracts
- 28 or other transactions with, any federal or state agency,
- 29 municipality, private organization, or other source.
- 30 (40) Sell, convey, lease, exchange, transfer, or otherwise dispose
- 31 of property or any interest in property, wherever the property is
- 32 located.
- 33 (41) Cooperate with other public and private organizations to
- 34 promote export trade activities in Indiana.
- 35 (42) Cooperate with the Indiana economic development
- 36 corporation in taking any actions necessary for the administration
- 37 of the agricultural loan and rural development project guarantee
- 38 fund established by IC 5-28-31.
- 39 (43) In cooperation with the Indiana economic development
- 40 corporation, take assignments of notes and mortgages and security
- 41 agreements securing notes and other forms of security, and attach,
- 42 seize, or take title by foreclosure or conveyance to any
- 43 agricultural enterprise or rural development project when a
- 44 guaranteed loan to the enterprise or rural development project is
- 45 clearly in default and when in the opinion of the Indiana
- 46 economic development corporation the acquisition is necessary to

- 1 safeguard the agricultural loan and rural development project
 2 guarantee fund, and sell, or on a temporary basis, lease or rent the
 3 agricultural enterprise or rural development project for any use.
 4 (44) Expend money provided to the authority by the Indiana
 5 economic development corporation from the agricultural loan and
 6 rural development project guarantee fund created by IC 5-28-31,
 7 subject to the terms of any agreement with the Indiana economic
 8 development corporation governing the expenditure of that
 9 money.
 10 (45) Reimburse from bond proceeds expenditures for industrial
 11 development projects under this chapter.
 12 (46) Acquire, hold, use, and dispose of the authority's income,
 13 revenues, funds, and money.
 14 (47) Purchase, acquire, or hold debt securities or other
 15 investments for the authority's own account at prices and in a
 16 manner the authority considers advisable, and sell or otherwise
 17 dispose of those securities or investments at prices without
 18 relation to cost and in a manner the authority considers advisable.
 19 (48) Fix and establish terms and provisions with respect to:
 20 (A) a purchase of securities by the authority, including dates
 21 and maturities of the securities;
 22 (B) redemption or payment before maturity; and
 23 (C) any other matters that in connection with the purchase are
 24 necessary, desirable, or advisable in the judgment of the
 25 authority.
 26 (49) To the extent permitted under the authority's contracts with
 27 the holders of bonds or notes, amend, modify, and supplement any
 28 provision or term of:
 29 (A) a bond, a note, or any other obligation of the authority; or
 30 (B) any agreement or contract of any kind to which the
 31 authority is a party.
 32 (50) Subject to the authority's investment policy, do any act and
 33 enter into any agreement pertaining to a swap agreement (as
 34 defined in IC 8-9.5-9-4) related to the purposes of the affected
 35 statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7,
 36 whether the action is incidental to the issuance, carrying, or
 37 securing of bonds or otherwise.
 38 (51) Do any act necessary or convenient to the exercise of the
 39 powers granted by the affected statutes, or reasonably implied
 40 from those statutes, including but not limited to compliance with
 41 requirements of federal law imposed from time to time for the
 42 issuance of bonds.
 43 **(52) Sell bonds and enter into agreements with the**
 44 **department of workforce development and an instrumentality**
 45 **of the United States to carry out the purposes of IC 22-4-44.**
 46 (b) The authority's powers under this chapter shall be interpreted

1 broadly to effectuate the purposes of this chapter and may not be
 2 construed as a limitation of powers. The omission of a power from the
 3 list in subsection (a) does not imply that the authority lacks that power.
 4 The authority may exercise any power that is not listed in subsection
 5 (a) but is consistent with the powers listed in subsection (a) to the
 6 extent that the power is not expressly denied by the Constitution of the
 7 State of Indiana or by another statute.

8 (c) This chapter does not authorize the financing of industrial
 9 development projects for a developer unless any written agreement that
 10 may exist between the developer and the user at the time of the bond
 11 resolution is fully disclosed to and approved by the authority.

12 (d) The authority shall work with and assist the Indiana housing and
 13 community development authority established by IC 5-20-1-3, the ports
 14 of Indiana established under IC 8-10-1-3, and the state fair commission
 15 established by IC 15-13-2-1 in the issuance of bonds, notes, or other
 16 indebtedness. The Indiana housing and community development
 17 authority, the ports of Indiana, and the state fair commission shall work
 18 with and cooperate with the authority in connection with the issuance
 19 of bonds, notes, or other indebtedness."

20 Page 167, between lines 39 and 40, begin a new paragraph and
 21 insert:

22 "SECTION 114. IC 22-4-2-9, AS AMENDED BY P.L.1-2007,
 23 SECTION 160, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE UPON PASSAGE]: Sec. 9. "Fund" means the
 25 unemployment insurance benefit fund established by IC 22-4-26-1, in
 26 which all contributions required, all payments in lieu of contributions,
 27 ~~and~~ all money received from the federal government as reimbursements
 28 pursuant to section 204 of the Federal-State Extended Compensation
 29 Act of 1970, 26 U.S.C. 3304n, **and all advances under Section 1201**
 30 **of the federal Social Security Act (42 U.S.C. 1321)** shall be deposited
 31 and from which all benefits provided under this article shall be paid.

32 SECTION 115. IC 22-4-44 IS ADDED TO THE INDIANA CODE
 33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2011]:

35 **Chapter 44. Advances From Federal Trust Fund and Financing**

36 **Sec. 1. (a) The general assembly makes the following findings of**
 37 **fact:**

38 **(1) It is an essential governmental function to maintain funds**
 39 **in an amount sufficient to pay unemployment benefits when**
 40 **due.**

41 **(2) At the time of the enactment of this chapter, obtaining**
 42 **advances from the federal government was the only option**
 43 **available to obtain sufficient funds to pay benefits when the**
 44 **balance in the fund is depleted.**

45 **(3) Alternative methods of replenishing the fund may reduce**
 46 **the costs of providing unemployment benefits and employers'**

1 cost of doing business in Indiana.

2 (4) Funds representing revenues received from any
3 unemployment obligation assessment that may be authorized
4 and any income from the investment of those funds are not
5 state property.

6 (b) The purpose of this chapter is to provide appropriate
7 methods through which the state may continue the unemployment
8 compensation program at the lowest possible cost to the state and
9 employers in the state.

10 Sec. 2. As used in this chapter, "authority" means the Indiana
11 finance authority established by IC 4-4-11-4.

12 Sec. 3. As used in this chapter, "bond" means any type of
13 revenue obligation, including a bond, note, certificate, or other
14 instrument.

15 Sec. 4. As used in this chapter, "bond administrative expenses"
16 means expenses incurred to administer bonds issued under this
17 chapter, including fees for paying agents, trustees, and attorneys,
18 and for other professional services necessary to ensure compliance
19 with applicable state or federal law.

20 Sec. 5. As used in this chapter, "bond obligations" means the
21 principal of a bond and any premium and interest on a bond issued
22 under this chapter, together with any amount owed under a related
23 credit agreement.

24 Sec. 6. As used in this chapter, "credit agreement" means a loan
25 agreement, a revolving credit agreement, an agreement
26 establishing a line of credit, a letter of credit, an interest rate swap
27 agreement, an interest rate lock agreement, a currency swap
28 agreement, a forward payment conversion agreement, an
29 agreement to provide payments based on levels of or changes in
30 interest rates or currency exchange rates, an agreement to
31 exchange cash flows or a series of payments, an option, put, or call
32 to hedge payment, currency, interest rate, or other exposure, or
33 another agreement that enhances the marketability, security, or
34 creditworthiness of a bond issued under this chapter.

35 Sec. 7. An amount owed by the authority under a credit
36 agreement must be payable from and secured by a pledge of
37 revenues received from the department.

38 Sec. 8. (a) If the authority determines:

39 (1) that it is in the public interest to enter into an agreement
40 with the department to provide funding necessary to
41 refinance an advance received before July 1, 2011, by the
42 department under Section 1201 of the federal Social Security
43 Act (42 U.S.C. 1321) or any similar federal law; and

44 (2) that this is the most cost effective method of returning an
45 advance;

46 the authority may issue bonds. The authority may not issue bonds
47 under this chapter after June 30, 2013.

1 **(b) The maximum principal amount of the bonds is two billion**
2 **dollars (\$2,000,000,000) for any separate bond issue, and the**
3 **maximum term of the bonds is twenty (20) years.**

4 **(c) The principal amount may be increased to include an**
5 **amount sufficient to:**

6 **(1) pay the costs of issuance of the authority;**

7 **(2) provide a bond reserve fund; and**

8 **(3) capitalize interest for the period determined necessary by**
9 **the department, not to exceed two (2) years.**

10 **Sec. 9. (a) The authority shall determine the method of sale, type**
11 **of bond, bond form, maximum interest rates, and other terms of**
12 **the bonds.**

13 **(b) The authority may enter into a credit agreement in**
14 **connection with the bonds.**

15 **Sec. 10. (a) The proceeds of bonds issued by the authority under**
16 **this chapter shall be deposited with a trustee selected by the**
17 **authority and the department or held by the authority.**

18 **(b) Bond proceeds, including investment income, shall be held**
19 **in trust to:**

20 **(1) repay the principal and interest of previous advances from**
21 **the federal trust fund;**

22 **(2) pay the costs of issuing the bonds;**

23 **(3) provide a bond reserve; and**

24 **(4) pay capitalized interest on the bonds for the period**
25 **determined necessary by the department, not to exceed two**
26 **(2) years.**

27 **(c) Any excess money remaining after the purposes for which**
28 **the bonds were issued are satisfied may be used to purchase or**
29 **redeem outstanding bonds.**

30 **Sec. 11. (a) The authority shall obtain a legal opinion, including**
31 **a court judgment if necessary, setting forth a determination that**
32 **bonds may be issued under this chapter.**

33 **(b) The department may enter into one (1) or more agreements**
34 **with the authority to make lease payments or other payments**
35 **permitted by law.**

36 **Sec. 12. (a) Revenues received by the authority may be applied**
37 **only to fund the authority's obligations under an agreement with**
38 **the department as provided by this chapter.**

39 **(b) The authority may pay bond obligations with other legally**
40 **available funds.**

41 **Sec. 13. Revenue collected from the department in any year**
42 **(including earnings on those revenues) that exceeds the amount of**
43 **the bond obligations and bond administrative expenses payable in**
44 **that year may, in the discretion of the authority, be:**

45 **(1) used to pay bond obligations payable in the subsequent**
46 **year; or**

47 **(2) used to redeem or purchase outstanding bonds.**

1 **Sec. 14. (a) A bond issued under this chapter, and any related**
2 **credit agreement, is not a debt of the state or any state agency or**
3 **political subdivision of the state and is not a pledge of the faith and**
4 **credit of any of them. A bond or credit agreement is payable solely**
5 **from revenue as provided by this chapter.**

6 **(b) A bond, and any related credit agreement, issued under this**
7 **chapter must contain on its face a statement to the effect that:**

8 **(1) neither the state nor a state agency, political corporation,**
9 **or political subdivision of the state is obligated to pay the**
10 **principal of or interest on the bond except as provided by this**
11 **chapter; and**

12 **(2) neither the faith and credit nor the taxing power of the**
13 **state or any state agency, political corporation, or political**
14 **subdivision of the state is pledged to the payment of the**
15 **principal of or interest on the bond.**

16 **Sec. 15. If bonds under this chapter are outstanding, the state**
17 **may not:**

18 **(1) take action to limit or restrict the rights of the department**
19 **or authority to fulfill its responsibility to pay obligations**
20 **under the lease or agreement between the authority and the**
21 **department; or**

22 **(2) in any way impair the rights and remedies of the bond**
23 **owners until the bonds are fully discharged.**

24 **Sec. 16. A bond issued under this chapter, any transaction**
25 **relating to the bond, and profits made from the sale of the bond are**
26 **exempt from taxation by the state or by a political subdivision of**
27 **the state.**

28 **Sec. 17. The members of the department, department**
29 **employees, the board of directors of the authority, and the**
30 **employees of the authority are not personally liable as a result of**
31 **exercising the rights and responsibilities granted under this**
32 **chapter."**

33 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1007 as printed April 15, 2011.)

Senator HERSHMAN