



March 27, 2013

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## ENGROSSED HOUSE BILL No. 1045

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DIGEST OF HB 1045 (Updated March 25, 2013 12:33 pm - DI 106)

**Citations Affected:** IC 5-30; IC 8-22.

**Synopsis:** Airports. Provides that: (1) a local department of aviation; and (2) an airport authority; are public agencies for purposes of entering into design-build contracts for a public works project. Provides that a lease for the maintenance, operation, or use of an airport is not limited to a 15 year term. (Current law limits contracts and leases for maintenance, operation, or use of an airport to 15 year terms.) Specifies that the jurisdiction granted to an airport authority is superior to that of other local units or entities with respect to airport lands, and removes a requirement that a cumulative building fund be used only to support commercial intrastate air transportation.

**Effective:** July 1, 2013.

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### Friend, Karickhoff, Forestal

(SENATE SPONSOR — WYSS)

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January 7, 2013, read first time and referred to Committee on Roads and Transportation.  
January 17, 2013, amended, reported — Do Pass.  
January 22, 2013, read second time, ordered engrossed. Engrossed.  
January 23, 2013, read third time, passed. Yeas 92, nays 1.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Civil Law.  
March 26, 2013, amended, reported favorably — Do Pass.

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EH 1045—LS 6851/DI 103+



March 27, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1045

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

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

- 1 SECTION 1. IC 5-30-1-11, AS AMENDED BY P.L.7-2012,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2013]: Sec. 11. (a) "Public agency" means:  
4 (1) a state agency (as defined in IC 4-13-1-1);  
5 (2) a state educational institution;  
6 (3) a unit (as defined in IC 36-1-2-23);  
7 (4) a body corporate and politic created by state statute;  
8 (5) a school corporation (as defined in IC 20-26-2-4);  
9 (6) a conservancy district established for a purpose described in  
10 IC 14-33-1-1(a)(4) or IC 14-33-1-1(a)(5); ~~or~~  
11 (7) a fire protection district established under IC 36-8-11;  
12 **(8) a department of aviation established under IC 8-22-2-1(a);**  
13 **or**  
14 **(9) an airport authority established under IC 8-22-3-1.**  
15 (b) The term does not include the Indiana department of  
16 transportation.  
17 SECTION 2. IC 8-22-3-11, AS AMENDED BY P.L.139-2011,

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1 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2013]: Sec. 11. The board may do all acts necessary or  
3 reasonably incident to carrying out the purposes of this chapter,  
4 including the following:

5 (1) As a municipal corporation, to sue and be sued in its own  
6 name.

7 (2) To have all the powers and duties conferred by statute upon  
8 boards of aviation commissioners. The board supersedes all  
9 boards of aviation commissioners within the district. The board  
10 has exclusive jurisdiction within the district.

11 (3) To protect all property owned or managed by the board.

12 (4) To adopt an annual budget and levy taxes in accordance with  
13 this chapter.

14 (A) The board may not levy taxes on property in excess of the  
15 following rate schedule, except as provided in sections 17 and  
16 25 of this chapter:

17 Total Assessed	Rate Per \$100 Of
18 Property Valuation	Assessed Valuation
19 \$300 million or less	\$0.10
20 More than \$300 million	
21 but not more than \$450 million	\$0.0833
22 More than \$450 million	
23 but not more than \$600 million	\$0.0667
24 More than \$600 million	
25 but not more than \$900 million	\$0.05
26 More than \$900 million	\$0.0333

27 (B) Clause (A) does not apply to an authority that was  
28 established under IC 19-6-2 or IC 19-6-3 (before their repeal  
29 on April 1, 1980).

30 (C) The board of an authority that was established under  
31 IC 19-6-3 (before its repeal on April 1, 1980) may levy taxes  
32 on property not in excess of six and sixty-seven hundredths  
33 cents (\$0.0667) on each one hundred dollars (\$100) of  
34 assessed valuation.

35 (5) To incur indebtedness in the name of the authority in  
36 accordance with this chapter.

37 (6) To adopt administrative procedures, rules, and regulations.

38 (7) To acquire property, real, personal, or mixed, by deed,  
39 purchase, lease, condemnation, or otherwise and dispose of it for  
40 use or in connection with or for administrative purposes of the  
41 airport; to receive gifts, donations, bequests, and public trusts and  
42 to agree to conditions and terms accompanying them and to bind

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- 1 the authority to carry them out; to receive and administer federal  
 2 or state aid; and to erect buildings or structures that may be  
 3 needed to administer and carry out this chapter.
- 4 (8) To determine matters of policy regarding internal organization  
 5 and operating procedures not specifically provided for otherwise.
- 6 (9) To adopt a schedule of reasonable charges and to collect them  
 7 from all users of facilities and services within the district.
- 8 (10) To purchase supplies, materials, and equipment to carry out  
 9 the duties and functions of the board in accordance with  
 10 procedures adopted by the board.
- 11 (11) To employ personnel that are necessary to carry out the  
 12 duties, functions, and powers of the board.
- 13 (12) To establish an employee pension plan. The board may, upon  
 14 due investigation, authorize and begin a fair and reasonable  
 15 pension or retirement plan and program for personnel, the cost to  
 16 be borne by either the authority or by the employee or by both, as  
 17 the board determines. If the authority was established under  
 18 IC 19-6-2 (before its repeal on April 1, 1980), the entire cost must  
 19 be borne by the authority, and ordinances creating the plan or  
 20 making changes in it must be approved by the mayor of the city.  
 21 The plan may be administered and funded by a trust fund or by  
 22 insurance purchased from an insurance company licensed to do  
 23 business in Indiana or by a combination of them. The board may  
 24 also include in the plan provisions for life insurance, disability  
 25 insurance, or both.
- 26 (13) To sell surplus real or personal property in accordance with  
 27 law. If the board negotiates an agreement to sell trees situated in  
 28 woods or forest areas owned by the board, the trees are considered  
 29 to be personal property of the board for severance or sale.
- 30 (14) To adopt and use a seal.
- 31 (15) To acquire, establish, construct, improve, equip, maintain,  
 32 control, lease, and regulate municipal airports, landing fields, and  
 33 other air navigation facilities, either inside or outside the district;  
 34 to acquire by lease (with or without the option to purchase)  
 35 airports, landing fields, or navigation facilities, and any structures,  
 36 equipment, or related improvements; and to erect, install,  
 37 construct, and maintain at the airport or airports facilities for the  
 38 servicing of aircraft and for the comfort and accommodation of air  
 39 travelers and the public. The Indiana department of transportation  
 40 must grant its approval before land may be purchased for the  
 41 establishment of an airport or landing field and before an airport  
 42 or landing field may be established.

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- 1 (16) To fix and determine exclusively the uses to which the  
 2 airport lands may be put, **including land use planning and**  
 3 **zoning**. All uses must be necessary or desirable to the airport or  
 4 the aviation industry and must be compatible with the uses of the  
 5 surrounding lands as far as practicable. **The jurisdiction granted**  
 6 **under this subdivision is superior to that of any other local**  
 7 **government unit or entity with respect to airport lands.**  
 8 (17) To elect a secretary from its membership, or to employ a  
 9 secretary, an airport director, superintendents, managers, a  
 10 treasurer, engineers, surveyors, attorneys, clerks, guards,  
 11 mechanics, laborers, and all employees the board considers  
 12 expedient, and to prescribe and assign their respective duties and  
 13 authorities and to fix and regulate the compensation to be paid to  
 14 the persons employed by it in accordance with the authority's  
 15 appropriations. All employees shall be selected irrespective of  
 16 their political affiliations.  
 17 (18) To make all rules and regulations, consistent with laws  
 18 regarding air commerce, for the management and control of its  
 19 airports, landing fields, air navigation facilities, and other  
 20 property under its control.  
 21 (19) To acquire by lease the use of an airport or landing field for  
 22 aircraft pending the acquisition and improvement of an airport or  
 23 landing field.  
 24 (20) To manage and operate airports, landing fields, and other air  
 25 navigation facilities acquired or maintained by an authority; to  
 26 lease all or part of an airport, landing field, or any buildings or  
 27 other structures, and to fix, charge, and collect rentals, tolls, fees,  
 28 and charges to be paid for the use of the whole or a part of the  
 29 airports, landing fields, or other air navigation facilities by aircraft  
 30 landing there and for the servicing of the aircraft; to construct  
 31 public recreational facilities that will not interfere with air  
 32 operational facilities; to fix, charge, and collect fees for public  
 33 admissions and privileges; and to make contracts for the operation  
 34 and management of the airports, landing fields, and other air  
 35 navigation facilities; and to provide for the use, management, and  
 36 operation of the air navigation facilities through lessees, its own  
 37 employees, or otherwise. Contracts ~~or leases~~ for the maintenance,  
 38 operation, or use of the airport or any part of it may be made for  
 39 a term not exceeding fifteen (15) years and may be extended for  
 40 similar terms of years. ~~except that any parcels of~~ **However, the**  
 41 ~~land~~ **of the airport, including all or part of its land, facilities, or**  
 42 **structures,** may be leased for any use connected with the

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1 operation and convenience of the airport for an initial term not  
 2 exceeding forty (40) years and may be extended for a period not  
 3 to exceed ten (10) years. If a person whose character, experience,  
 4 and financial responsibility have been determined satisfactory by  
 5 the board offers to erect a permanent structure that facilitates and  
 6 is consistent with the operation, use, and purpose of the airport on  
 7 land belonging to the airport, a lease may be entered into for a  
 8 period not to exceed ninety-nine (99) years. However, the board  
 9 must pass an ordinance to enter into such a lease. The board may  
 10 not grant an exclusive right for the use of a landing area under its  
 11 jurisdiction. However, this does not prevent the making of leases  
 12 in accordance with other provisions of this chapter. All contracts,  
 13 and leases, are subject to restrictions and conditions that the board  
 14 prescribes. The authority may lease its property and facilities for  
 15 any commercial or industrial use it considers necessary and  
 16 proper, including the use of providing airport motel facilities. For  
 17 the airport authority established by the city of Gary, the board  
 18 may approve a lease, management agreement, or other contract:

19 (A) with a person:

- 20 (i) who is selected by the board using the procedures under  
 21 IC 36-1-9.5; and  
 22 (ii) whose character, experience, and financial responsibility  
 23 have been determined satisfactory by the board; and

24 (B) to use, plan, design, acquire, construct, reconstruct,  
 25 improve, extend, expand, lease, operate, repair, manage,  
 26 maintain, or finance all or any part of the airport and its  
 27 landing fields, air navigation facilities, and other buildings and  
 28 structures for a period not to exceed ninety-nine (99) years.  
 29 However, the board must pass an ordinance to enter into such  
 30 a lease, management agreement, or other contract. All  
 31 contracts, leases, and management agreements are subject to  
 32 restrictions and conditions that the board prescribes. The  
 33 authority may lease its property and facilities for any  
 34 commercial or industrial use it considers necessary and proper,  
 35 including the use of providing airport motel facilities. A lease,  
 36 management agreement, or other contract entered into under  
 37 this section or any other provision of this chapter may be  
 38 entered into without complying with IC 5-23.

39 (21) To sell machinery, equipment, or material that is not required  
 40 for aviation purposes. The proceeds shall be deposited with the  
 41 treasurer of the authority.

42 (22) To negotiate and execute contracts for sale or purchase,

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1 lease, personal services, materials, supplies, equipment, or any  
 2 other transaction or business relative to an airport under the  
 3 board's control and operation. However, whenever the board  
 4 determines to sell part or all of aviation lands, buildings, or  
 5 improvements owned by the authority, the sale must be in  
 6 accordance with law.

7 (23) To vacate all or parts of roads, highways, streets, or alleys,  
 8 whether inside or outside the district, in the manner provided by  
 9 statute.

10 (24) To annex lands to itself if the lands are owned by the  
 11 authority or are streets, roads, or other public ways.

12 (25) To approve any state, county, city, or other highway, road,  
 13 street or other public way, railroad, power line, or other  
 14 right-of-way to be laid out or opened across an airport or in such  
 15 proximity as to affect the safe operation of the airport.

16 (26) To construct drainage and sanitary sewers with connections  
 17 and outlets as are necessary for the proper drainage and  
 18 maintenance of an airport or landing field acquired or maintained  
 19 under this chapter, including the necessary buildings and  
 20 improvements and for the public use of them in the same manner  
 21 that the authority may construct sewers and drains. However, with  
 22 respect to the construction of drains and sanitary sewers beyond  
 23 the boundaries of the airport or landing field, the board shall  
 24 proceed in the same manner as private owners of property and  
 25 may institute proceedings and negotiate with the departments,  
 26 bodies, and officers of an eligible entity to secure the proper  
 27 orders and approvals; and to order a public utility or public  
 28 service corporation or other person to remove or to install in  
 29 underground conduits wires, cables, and power lines passing  
 30 through or over the airport or landing field or along the borders or  
 31 within a reasonable distance that may be determined to be  
 32 necessary for the safety of operations, upon payment to the utility  
 33 or other person of due compensation for the expense of the  
 34 removal or reinstallation. The board must consent before any  
 35 franchise may be granted by state or local authorities for the  
 36 construction of or maintenance of railway, telephone, telegraph,  
 37 electric power, pipe, or conduit line upon, over, or through land  
 38 under the control of the board or within a reasonable distance of  
 39 land that is necessary for the safety of operation. The board must  
 40 also consent before overhead electric power lines carrying a  
 41 voltage of more than four thousand four hundred (4,400) volts and  
 42 having poles, standards, or supports over thirty (30) feet in height

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- 1 within one-half (1/2) mile of a landing area acquired or  
 2 maintained under this chapter may be installed.
- 3 (27) To contract with any other state agency or instrumentality or  
 4 any political subdivision for the rendition of services, the rental  
 5 or use of equipment or facilities, or the joint purchase and use of  
 6 equipment or facilities that are necessary for the operation,  
 7 maintenance, or construction of an airport operated under this  
 8 chapter.
- 9 (28) To provide air transportation in furtherance of the duties and  
 10 responsibilities of the board.
- 11 (29) To promote or encourage aviation-related trade or commerce  
 12 at the airports that it operates.
- 13 (30) To provide aviation services to public use airports within or  
 14 outside Indiana either directly or through an affiliate entity  
 15 established by the board.
- 16 SECTION 3. IC 8-22-3-25 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 25. (a) Subject to  
 18 subsection (c), the board may provide a cumulative building fund in  
 19 compliance with IC 6-1.1-41 to provide for the acquisition of real  
 20 property, and the construction, enlarging, improving, remodeling,  
 21 repairing, or equipping of buildings, structures, runways, or other  
 22 facilities for use in connection with the airport needed to carry out this  
 23 chapter and to facilitate and support commercial ~~intrastate~~ air  
 24 transportation.
- 25 (b) The board may levy in compliance with IC 6-1.1-41 a tax not to  
 26 exceed:
- 27 (1) thirty-three hundredths of one cent (\$0.0033) on each one  
 28 hundred dollars (\$100) of assessed value of taxable property  
 29 within the district, if an eligible entity other than a city established  
 30 the district or if the district was established jointly with an eligible  
 31 entity that is not a city;
- 32 (2) one and thirty-three hundredths cents (\$0.0133) on each one  
 33 hundred dollars (\$100) of assessed value of taxable property  
 34 within the district, if the authority was established under  
 35 IC 19-6-3 (before its repeal on April 1, 1980); and
- 36 (3) for any other district not described in subdivision (1) or (2),  
 37 the following:
- | 38 Total Assessed                  | Rate Per \$100 Of  |
|------------------------------------|--------------------|
| 39 Property Valuation              | Assessed Valuation |
| 40 \$300 million or less           | \$0.0167           |
| 41 More than \$300 million         |                    |
| 42 but not more than \$450 million | \$0.0133           |

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1 More than \$450 million  
 2 but not more than \$600 million \$0.01  
 3 More than \$600 million  
 4 but not more than \$900 million \$0.0067  
 5 More than \$900 million \$0.0033  
 6 As the tax is collected it may be invested in negotiable United States  
 7 bonds or other securities that the federal government has the direct  
 8 obligation to pay. Any of the funds collected that are not invested in  
 9 government obligations shall be deposited in accordance with  
 10 IC 5-13-6 and shall be withdrawn in the same manner as money is  
 11 regularly withdrawn from the general fund but without further or  
 12 additional appropriation. The levy authorized by this section is in  
 13 addition to the levies authorized by section 11 and section 23 of this  
 14 chapter.  
 15 (c) Spending under subsection (a) to facilitate and support  
 16 commercial intrastate air transportation is subject to a maximum of one  
 17 million dollars (\$1,000,000) cumulatively for all years in which money  
 18 is spent under that subsection.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1045, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1045 as introduced.)

SOLIDAY, Chair

Committee Vote: yeas 12, nays 0.

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 COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred House Bill No. 1045, 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 4, line 2, delete "put." and insert "put, **including land use planning and zoning.**".

Page 4, line 4, after "practicable." insert "**The jurisdiction granted under this subdivision is superior to that of any other local government unit or entity with respect to airport lands.**".

Page 4, line 39, reset in roman "for any use connected with the".

Page 4, line 40, reset in roman "operation and convenience of the airport".

Page 7, after line 12, begin a new paragraph and insert:

"SECTION 3. IC 8-22-3-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 25. (a) Subject to subsection (c), the board may provide a cumulative building fund in compliance with IC 6-1.1-41 to provide for the acquisition of real property, and the construction, enlarging, improving, remodeling, repairing, or equipping of buildings, structures, runways, or other facilities for use in connection with the airport needed to carry out this chapter and to facilitate and support commercial **intrastate** air transportation.

(b) The board may levy in compliance with IC 6-1.1-41 a tax not to exceed:

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- (1) thirty-three hundredths of one cent (\$0.0033) on each one hundred dollars (\$100) of assessed value of taxable property within the district, if an eligible entity other than a city established the district or if the district was established jointly with an eligible entity that is not a city;
- (2) one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of assessed value of taxable property within the district, if the authority was established under IC 19-6-3 (before its repeal on April 1, 1980); and
- (3) for any other district not described in subdivision (1) or (2), the following:

Total Assessed Property Valuation	Rate Per \$100 Of Assessed Valuation
\$300 million or less	\$0.0167
More than \$300 million but not more than \$450 million	\$0.0133
More than \$450 million but not more than \$600 million	\$0.01
More than \$600 million but not more than \$900 million	\$0.0067
More than \$900 million	\$0.0033

As the tax is collected it may be invested in negotiable United States bonds or other securities that the federal government has the direct obligation to pay. Any of the funds collected that are not invested in government obligations shall be deposited in accordance with IC 5-13-6 and shall be withdrawn in the same manner as money is regularly withdrawn from the general fund but without further or additional appropriation. The levy authorized by this section is in addition to the levies authorized by section 11 and section 23 of this chapter.

(c) Spending under subsection (a) to facilitate and support commercial intrastate air transportation is subject to a maximum of one million dollars (\$1,000,000) cumulatively for all years in which money is spent under that subsection."

and when so amended that said bill do pass.

(Reference is to HB 1045 as printed January 18, 2013.)

ZAKAS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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