



March 22, 2013

**ENGROSSED
HOUSE BILL No. 1067**

DIGEST OF HB 1067 (Updated March 21, 2013 12:29 pm - DI 73)

Citations Affected: IC 36-9.

Synopsis: Federal fund exchange program. Establishes the federal fund exchange program (program) to allow a county or municipality that receives funds from the federal surface transportation program to exchange the federal funds for an agreed upon amount of state funds. Provides that the Indiana department of transportation shall administer the program.

Effective: July 1, 2013.

Cherry, Saunders, Frye R, Stemler

(SENATE SPONSORS — WYSS, YOUNG R, CRIDER, BECKER)

January 7, 2013, read first time and referred to Committee on Roads and Transportation.
February 14, 2013, amended, reported — Do Pass.
February 18, 2013, read second time, ordered engrossed.
February 19, 2013, engrossed. Read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Homeland Security, Transportation and Veterans Affairs.
March 7, 2013, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.
March 21, 2013, amended, reported favorably — Do Pass.

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EH 1067—LS 6100/DI 103+



March 22, 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. 1067

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 36-9-42.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]:

4 **Chapter 42.2. Federal Fund Exchange Program**

5 **Sec. 1. As used in this chapter, "department" refers to the**
6 **Indiana department of transportation established by IC 8-23-2-1.**

7 **Sec. 2. As used in this chapter, "eligible entity" means a county**
8 **or municipality that receives, directly or indirectly, federal funds.**

9 **Sec. 3. As used in this chapter, "federal funds" means funds**
10 **received by an eligible entity through the federal surface**
11 **transportation program.**

12 **Sec. 4. As used in this chapter, "program" refers to the federal**
13 **fund exchange program established by section 5 of this chapter.**

14 **Sec. 5. The federal fund exchange program is established to**
15 **provide eligible entities and the department with greater flexibility**
16 **in funding transportation projects. The department shall**
17 **administer the program.**

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1 **Sec. 6. The department shall determine the amount of state**
 2 **funds available for the program. In making the determination, the**
 3 **department shall consider the following:**

4 **(1) Whether adequate state funds are available to fund the**
 5 **program without putting at risk other transportation**
 6 **activities or projects needing state funds.**

7 **(2) Whether the department can readily and effectively use**
 8 **federal funds received through the program.**

9 **Sec. 7. An eligible entity is eligible to participate in the program**
 10 **upon entering into an exchange agreement with the department.**
 11 **The department shall consider the following before entering into**
 12 **an exchange agreement with an eligible entity:**

13 **(1) The amount of federal funds the eligible entity wants to**
 14 **exchange and the proposed exchange rate.**

15 **(2) A brief description of each project the eligible entity wants**
 16 **to fund, including the estimated cost of the project.**

17 **(3) The benefit to a project described in subdivision (2) from**
 18 **the removal of federal funding, due to the project's size, type,**
 19 **location, or other features.**

20 **(4) The availability of state funds.**

21 **Subject to section 7.5 of this chapter, an eligible entity may enter**
 22 **into an exchange agreement with respect to a project at any time**
 23 **during the project development process.**

24 **Sec. 7.5. (a) The department may enter into an exchange**
 25 **agreement only if the exchange agreement is first approved by the**
 26 **office of management and budget and the attorney general.**

27 **(b) The executive of an eligible entity may enter into an**
 28 **exchange agreement on behalf of the eligible entity. However, the**
 29 **executive of an eligible entity may enter into an exchange**
 30 **agreement only if the exchange agreement is first approved by the**
 31 **fiscal body of the eligible entity.**

32 **Sec. 8. An exchange agreement must provide the following:**

33 **(1) The eligible entity may exchange only federal funds for**
 34 **state funds.**

35 **(2) The eligible entity may use state funds only for a capital**
 36 **project that will fulfill the purpose of the original federal**
 37 **project award and that is approved by the department.**

38 **(3) If the eligible entity uses state funds to replace local funds**
 39 **in order to use the local funds for purposes unrelated to**
 40 **transportation, the eligible entity:**

41 **(A) must repay the state funds to the department; and**

42 **(B) may not participate in the program during the**

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- succeeding fiscal year.
- (4) An exchange rate of not less than seventy-five cents (\$0.75) of state funds for each one dollar (\$1) of federal funds.
- (5) The eligible entity agrees to provide local matching funds equal to not less than ten percent (10%) of the estimated project cost.
- (6) The department will disburse the state funds to the eligible entity on a reimbursement basis.

Sec. 9. Not later than November 1 of each year, the department shall submit a report on the program to the general assembly in an electronic format under IC 5-14-6. A report submitted under this section must include:

- (1) a summary of the exchange agreements entered into during the previous state fiscal year; and
- (2) a status report on the implementation of projects funded through the program.

Sec. 10. An eligible entity that participates in the program shall comply with applicable public purchasing laws and competitive bidding requirements with respect to projects funded through the program.

Sec. 11. The department may adopt rules under IC 4-22-2 to implement this chapter.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1067, 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:

Page 2, delete lines 34 through 35, begin a new line block indented and insert:

"(4) The unit may exchange state funds for federal funds at a rate of seventy-five cents (\$0.75) of state funds for each one dollar (\$1) of federal funds."

and when so amended that said bill do pass.

(Reference is to HB 1067 as introduced.)

SOLIDAY, Chair

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred House Bill No. 1067, 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, between lines 6 and 7, begin a new paragraph and insert:

"Sec. 2. As used in this chapter, "eligible entity" means a county, municipality, or metropolitan planning organization that receives, directly or indirectly, federal funds."

Page 1, line 7, delete "2." and insert "3."

Page 1, line 8, delete "a unit" and insert "**an eligible entity**".

Page 1, delete lines 10 through 12.

Page 1, line 14, delete "under" and insert "**by**".

Page 1, line 16, delete "units that receive federal funds" and insert "**eligible entities**".

Page 2, line 2, delete "July" and insert "**March**".

Page 2, line 11, delete "A unit" and insert "**An eligible entity**".

Page 2, line 14, delete "a unit:" and insert "**an eligible entity:**".

Page 2, line 15, delete "unit" and insert "**eligible entity**".

Page 2, line 16, delete "unit" and insert "**eligible entity**".

Page 2, between lines 23 and 24, begin a new line blocked left and

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insert:

"An eligible entity may enter into an exchange agreement with respect to a project at any time during the project development process."

Page 2, line 25, delete "unit" and insert "**eligible entity**".

Page 2, delete lines 26 through 27, begin a new line block indented and insert:

"(2) The eligible entity may use state funds only for a purpose approved by the department."

Page 2, line 28, delete "unit" and insert "**eligible entity**".

Page 2, line 30, delete "unit:" and insert "**eligible entity:**".

Page 2, delete lines 34 through 36, begin a new line block indented and insert:

"(4) An exchange rate of not less than seventy-five cents (\$0.75) of state funds for each one dollar (\$1) of federal funds."

Page 2, line 37, delete "unit" and insert "**eligible entity**".

Page 2, line 39, delete "unit" and insert "**eligible entity**".

Page 2, line 41, delete "June 30" and insert "**November 1**".

Page 3, line 7, delete "A unit" and insert "**An eligible entity**".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1067 as printed February 15, 2013.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1067, 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, line 1, delete "IC 36-9-42" and insert "IC 36-9-42.2".

Page 1, line 4, delete "Chapter 42." and insert "**Chapter 42.2**".

Page 1, line 7, after "county" delete "," and insert "**or**".

Page 1, line 8, delete ", or metropolitan planning organization".

Page 1, line 16, after "entities" insert "**and the department**".

Page 2, line 2, delete "Not later than March 1 of each year, the" and

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insert "**The**".

Page 2, line 16, after "exchange" delete "." and insert "**and the proposed exchange rate.**".

Page 2, delete lines 22 through 23.

Page 2, line 24, delete "(5)" and insert "(4)".

Page 2, line 25, delete "An" and insert "**Subject to section 7.5 of this chapter, an**".

Page 2, between lines 27 and 28, begin a new paragraph and insert:

"Sec. 7.5. (a) The department may enter into an exchange agreement only if the exchange agreement is first approved by the office of management and budget and the attorney general.

(b) The executive of an eligible entity may enter into an exchange agreement on behalf of the eligible entity. However, the executive of an eligible entity may enter into an exchange agreement only if the exchange agreement is first approved by the fiscal body of the eligible entity."

Page 2, line 31, delete "purpose" and insert "**capital project that will fulfill the purpose of the original federal project award and that is**".

Page 3, line 9, after "the" insert "**previous state**".

and when so amended that said bill do pass.

(Reference is to EHB 1067 as printed March 8, 2013.)

KENLEY, Chairperson

Committee Vote: Yeas 12, Nays 0.

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