

SENATE BILL No. 578

DIGEST OF INTRODUCED BILL

Citations Affected: IC 21-22-3-7; IC 21-27-9-7; IC 21-28-4-4; IC 21-31-4-2; IC 21-33-3; IC 21-34-9-1; IC 21-35.

Synopsis: Contract review by budget committee. Requires the board of trustees of a state educational institution to submit a proposed lease, financing, or other capital asset related agreement to the budget committee for review if the agreement pertains to a capital asset having a value of more than \$500,000.

Effective: July 1, 2013.

Hershman

January 15, 2013, read first time and referred to Committee on Appropriations.

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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.

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SENATE BILL No. 578



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

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

1 SECTION 1. IC 21-22-3-7, IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2013]: **Sec. 7. If the board of trustees of Ivy Tech Community**
4 **College proposes to enter into a lease, financing, or other**
5 **agreement that pertains to a capital asset having a value of more**
6 **than five hundred thousand dollars (\$500,000), the proposed**
7 **agreement must be submitted to the budget committee for review**
8 **before the board of trustees may enter into the agreement.**

9 SECTION 2. IC 21-27-9-7, IS ADDED TO THE INDIANA CODE
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2013]: **Sec. 7. If the board of trustees of Vincennes University**
12 **proposes to enter into a lease, financing, or other agreement that**
13 **pertains to a capital asset having a value of more than five hundred**
14 **thousand dollars (\$500,000), the proposed agreement must be**
15 **submitted to the budget committee for review before the board of**
16 **trustees may enter into the agreement.**

17 SECTION 3. IC 21-28-4-4, AS ADDED BY P.L.2-2007, SECTION



1 269, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
 2 1, 2013]: Sec. 4. A board of trustees that wants to exercise powers
 3 granted in an enabling act must enter into a written agreement by
 4 resolution. **If a lease, financing, or other agreement pertains to a**
 5 **capital asset having a value of more than five hundred thousand**
 6 **dollars (\$500,000), the proposed agreement must be submitted to**
 7 **the budget committee for review before the board of trustees of a**
 8 **participating state educational institution may enter into the**
 9 **agreement.**

10 SECTION 4. IC 21-31-4-2, AS ADDED BY P.L.2-2007, SECTION
 11 272, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2013]: Sec. 2. (a) This section applies to the board of trustees of the
 13 following state educational institutions:

- 14 (1) Ball State University.
- 15 (2) Indiana University.
- 16 (3) Indiana State University.
- 17 (4) Purdue University.
- 18 (5) University of Southern Indiana.

19 (b) The board of trustees of a state educational institution may enter
 20 into a lease if the board of trustees determines that the lease is in the
 21 best interest of the state educational institution. A lease may not be
 22 executed under this chapter for a term exceeding four (4) years unless
 23 the execution is approved by the:

- 24 (1) governor; and
- 25 (2) budget agency.

26 **In addition, if a lease, financing, or other agreement pertains to a**
 27 **capital asset having a value of more than five hundred thousand**
 28 **dollars (\$500,000), the proposed agreement must be submitted to**
 29 **the budget committee for review before the board of trustees may**
 30 **enter into the agreement.**

31 SECTION 5. IC 21-33-3-4, AS ADDED BY P.L.2-2007, SECTION
 32 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
 33 1, 2013]: Sec. 4. (a) The budget agency may refer to the budget
 34 committee budgetary and fiscal matters under this chapter for which it
 35 would like an advisory recommendation. **If a lease, financing, or**
 36 **other agreement pertains to a capital asset having a value of more**
 37 **than five hundred thousand dollars (\$500,000), the budget agency**
 38 **shall submit the proposed agreement to the budget committee for**
 39 **review before the board of trustees may enter into the agreement.**

40 (b) If a matter is referred to the budget committee, the budget
 41 committee:

- 42 (1) shall hold hearings;

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1 (2) may exercise any powers under IC 4-12-1-11; and

2 (3) shall make an advisory recommendation to the budget agency.

3 The advisory recommendation may recommend that the matter as
4 referred be approved, disapproved, referred to the general assembly, or
5 resolved in another way.

6 SECTION 6. IC 21-33-3-5, AS AMENDED BY P.L.229-2011,
7 SECTION 237, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Subject to this section, in
9 addition to projects authorized by the general assembly, the board of
10 trustees of a state educational institution may engage in a project to:

11 (1) construct buildings or facilities of a cost greater than five
12 hundred thousand dollars (\$500,000); or

13 (2) purchase or lease-purchase land, buildings, or facilities the
14 principal value of which exceeds two hundred fifty thousand
15 dollars (\$250,000);

16 only if there are funds available for the project, the project meets any
17 of the applicable conditions, and the project is reviewed by the
18 commission for higher education and approved by the governor upon
19 recommendation of the budget agency. The review by the commission
20 for higher education must be completed not later than ninety (90) days
21 after the project is submitted for review.

22 (b) If:

23 (1) any part of the cost of a project described in subsection (a) is
24 paid by state appropriated funds or by mandatory student fees
25 assessed all students for the project; and

26 (2) the project is to:

27 (A) construct new buildings or facilities of a cost greater than
28 seven hundred fifty thousand dollars (\$750,000); or

29 (B) purchase or lease-purchase land, buildings, or facilities the
30 principal value of which exceeds five hundred thousand
31 dollars (\$500,000);

32 the project must also be approved by the general assembly.

33 (c) This section does not limit the board of trustees in
34 supplementing a project approved by the general assembly from gifts
35 or other available funds so long as approval for the expansion of the
36 project is given by the governor on review by the commission for
37 higher education and recommendation of the budget agency.

38 (d) **Except as provided in subsection (e)**, the review and approval
39 requirements of this section do not apply to a project to:

40 (1) construct buildings or facilities; or

41 (2) purchase or lease-purchase land, buildings, or facilities;

42 if the project involves the expansion or improvement of housing for

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1 students undertaken entirely by a fraternity or sorority at the state
2 educational institution.

3 **(e) If a lease, financing, or other agreement pertains to a capital**
4 **asset having a value of more than five hundred thousand dollars**
5 **(\$500,000), the proposed agreement must be submitted to the**
6 **budget committee for review before the board of trustees may**
7 **enter into the agreement.**

8 SECTION 7. IC 21-33-3-6, AS AMENDED BY P.L.229-2011,
9 SECTION 238, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) Subject to subsection (b), in
11 addition to projects authorized by the general assembly, the board of
12 trustees of a state educational institution may engage in a repair and
13 rehabilitation project for which:

14 (1) the cost of the project exceeds seven hundred fifty thousand
15 dollars (\$750,000); and

16 (2) any part of the cost of the project is paid by state appropriated
17 funds or by mandatory student fees assessed all students;

18 only if the project is reviewed by the commission for higher education
19 and approved by the governor, on recommendation of the budget
20 agency. The review by the commission for higher education must be
21 completed not later than ninety (90) days after the project is submitted
22 for review.

23 **(b) Except as provided in subsection (c), if no part of the cost of**
24 **a repair and rehabilitation project is paid by state appropriated funds or**
25 **by mandatory student fees assessed all students, the review and**
26 **approval requirements of this section apply only if the project exceeds**
27 **one million five hundred thousand dollars (\$1,500,000).**

28 **(c) If a lease, financing, or other agreement pertains to a capital**
29 **asset having a value of more than five hundred thousand dollars**
30 **(\$500,000), the proposed agreement must be submitted to the**
31 **budget committee for review before the board of trustees may**
32 **enter into the agreement.**

33 SECTION 8. IC 21-33-3-7, AS AMENDED BY P.L.31-2010,
34 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2013]: Sec. 7. In addition to projects authorized by the general
36 assembly, the board of trustees of a state educational institution may
37 engage in a project:

38 (1) to lease, other than a project to lease-purchase, a building or
39 facility; and

40 (2) for which the annual cost of the project exceeds one hundred
41 fifty thousand dollars (\$150,000);

42 only if the project is reviewed by the commission for higher education

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1 and approved by the governor, on recommendation of the budget
 2 agency. The review by the commission for higher education must be
 3 completed not later than ninety (90) days after the project is submitted
 4 for review. **In addition, if a lease agreement pertains to a capital**
 5 **asset having a value of more than five hundred thousand dollars**
 6 **(\$500,000), the proposed agreement must be submitted to the**
 7 **budget committee for review before the board of trustees may**
 8 **enter into the agreement.**

9 SECTION 9. IC 21-34-9-1, AS ADDED BY P.L.2-2007, SECTION
 10 275, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 2013]: Sec. 1. Except as provided by this chapter, contracts to:

12 (1) acquire land for or to construct, purchase, lease, sublease, or
 13 otherwise acquire; or

14 (2) engage architectural or engineering services in connection
 15 with;

16 any building facilities to be financed in whole or in part by the issuance
 17 of bonds under this article or by student building facilities fees charged
 18 and collected under this article, may not be made by a state educational
 19 institution without the specific approval of the budget agency and the
 20 governor. **In addition, if a lease, financing, or other agreement**
 21 **pertains to a capital asset having a value of more than five hundred**
 22 **thousand dollars (\$500,000), the proposed agreement must be**
 23 **submitted to the budget committee for review before the board of**
 24 **trustees may enter into the agreement.**

25 SECTION 10. IC 21-35-3-21, AS ADDED BY P.L.2-2007,
 26 SECTION 276, IS AMENDED TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2013]: Sec. 21. (a) Subject to this section,
 28 contracts to:

29 (1) acquire land for;

30 (2) construct, purchase, lease, sublease, or otherwise acquire; or

31 (3) engage architectural or engineering services in connection
 32 with;

33 any property to be financed in whole or in part by the issuance of bonds
 34 under this chapter may not be made by any state educational institution
 35 without the specific approval of the budget agency and the governor.

36 **In addition, if a lease, financing, or other agreement pertains to a**
 37 **capital asset having a value of more than five hundred thousand**
 38 **dollars (\$500,000), the proposed agreement must be submitted to**
 39 **the budget committee for review before the board of trustees may**
 40 **enter into the agreement.**

41 (b) This section does not apply to any contract relating to property,
 42 the cost of which does not exceed fifty thousand dollars (\$50,000).

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1 SECTION 11. IC 21-35-7-4, AS ADDED BY P.L.2-2007,
 2 SECTION 276, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2013]: Sec. 4. In addition to any other powers
 4 that a state educational institution has, the board of trustees of a state
 5 educational institution may:

6 (1) enter into agreements concerning and to acquire by:

7 (A) gift;

8 (B) purchase; or

9 (C) lease;

10 land or interests in land and personal property needed for the
 11 purposes of this chapter;

12 (2) purchase, lease as lessee or lessor, construct, remodel, rebuild,
 13 enlarge, or substantially improve property;

14 (3) enter into financing agreements, including leasing land or
 15 property to users or developers, subject to this chapter; and

16 (4) enter into agreements with users or developers to allow users
 17 or developers to wholly or partially construct and manage
 18 property.

19 **However, if a lease, financing, or other agreement pertains to a**
 20 **capital asset having a value of more than five hundred thousand**
 21 **dollars (\$500,000), the proposed agreement must be submitted to**
 22 **the budget committee for review before the board of trustees may**
 23 **enter into the agreement.**

24 SECTION 12. IC 21-35-7-10, AS ADDED BY P.L.2-2007,
 25 SECTION 276, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2013]: Sec. 10. **In addition to the requirement**
 27 **for budget committee review under section 4 of this chapter,** an
 28 award for the development, use, and management, if applicable, of
 29 property is not final until:

30 (1) approved by the governor and the budget agency, with the
 31 recommendation of the budget committee; and

32 (2) the notice is provided as specified in section 11 of this
 33 chapter.

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