Reprinted
February 19, 2013

SENATE BILL No. 91

DIGEST OF SB 91 (Updated February 18, 2013 2:23 pm - DI 73)

Citations Affected: IC 4-4; IC 5-1.

Synopsis: Motorsports investment district. Provides that the Indiana finance authority (authority) may adopt a resolution establishing a motorsports investment district. Specifies that the budget committee shall review and make a recommendation to the budget agency regarding a resolution establishing a motorsports investment district. Provides that if a resolution establishing a motorsports investment district is approved by the budget agency, state sales tax and state individual income tax generated in the district shall be allocated to the authority. Specifies that the maximum amount of covered taxes that may be captured from the motorsports investment district and allocated to the authority in a state fiscal year may not exceed $5,000,000. Provides that covered taxes may be captured from the motorsports investment district only for 20 years. Provides that the authority may issue bonds for the purpose of obtaining money to pay the cost of improving, constructing, reconstructing, renovating, acquiring, or equipping structures and capital improvements within a qualified motorsports facility.

Effective: Upon passage.

Young R Michael, Kenley, Hershman, Wyss, Waltz, Miller Patricia, Merritt, Crider, Taylor, Schneider, Hume, Skinner

January 7, 2013, read first time and referred to Committee on Rules and Legislative Procedure.
February 11, 2013, amended; reassigned to Committee on Appropriations.
February 14, 2013, amended, reported favorably — Do Pass.
February 18, 2013, read second time, amended, ordered engrossed.

C o p y

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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.

C o p y

SENATE BILL No. 91

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

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

SECTION 1. IC 4-4-10.9-1.2, AS AMENDED BY P.L.1-2010, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, IC 4-4-11.4, IC 4-4-11.6, IC 4-4-21, IC 4-13.5, IC 5-1-16, IC 5-1-16.5, **IC 5-1-17.5,** IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-15.5, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, and IC 14-14.

SECTION 2. IC 4-4-11-2, AS AMENDED BY P.L.235-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The legislature makes the following findings of fact:

(1) That there currently exists in certain areas of the state critical conditions of unemployment, inadequate drinking water, inadequate wastewater and storm water management, or environmental pollution, including water pollution, air pollution, sewage and solid waste, radioactive waste, thermal pollution,

radiation contamination, and noise pollution, and that these conditions may well exist, from time to time, in other areas of the state.

(2) That in some areas of the state such conditions are chronic and of long standing and that without remedial measures they may become so in other areas of the state.

(3) That economic insecurity due to unemployment, inadequate drinking water, inadequate wastewater and storm water management, or environmental pollution is a menace to the health, safety, morals, and general welfare of not only the people of the affected areas but of the people of the entire state.

(4) That involuntary unemployment and its resulting burden of indigency falls with crushing force upon the unemployed worker and ultimately upon the state in the form of public assistance and unemployment compensation.

(5) That security against unemployment and the resulting spread of indigency and economic stagnation in the areas affected can best be provided by:

(A) the promotion, attraction, stimulation, rehabilitation, and revitalization of industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products;

(B) the promotion and stimulation of international exports; and

(C) the education, both formal and informal, of people of all ages throughout the state by the promotion, attraction, construction, renovation, rehabilitation, and revitalization of and assistance to educational facility projects.

(6) That the present and prospective health, safety, morals, right to gainful employment, and general welfare of the people of the state require as a public purpose the provision of safe drinking water, the provision of wastewater and storm water management, the abatement or control of pollution, the promotion of increased educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) for people of all ages through new, expanded, or revitalized educational facility projects or through assisting educational facility projects, and the promotion of employment creation or retention through development of new and expanded industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products.

(7) That there is a need to stimulate a larger flow of private investment funds from commercial banks, investment bankers,

C o p y

insurance companies, other financial institutions, and individuals into such industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products in the state.

(8) That the authority can encourage the making of loans or leases for creation or expansion of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, thus putting a larger portion of the private capital available in Indiana for investment to use in the general economic development of the state.

(9) That the issuance of bonds of the authority to create a financing pool for industrial development projects and carrying out the purposes of IC 13-18-13 and IC 13-18-21 promoting a substantial likelihood of opportunities for:

(A) gainful employment;

(B) business opportunities;

(C) educational enrichment (including cultural, intellectual, scientific, or artistic opportunities);

(D) the abatement, reduction, or prevention of pollution;

(E) the provision of safe drinking water;

(F) the provision of wastewater and storm water management;

(G) the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used; or

(H) increased options for and availability of child care;

will improve the health, safety, morals, and general welfare of the people of the state and constitutes a public purpose for which the authority shall exist and operate.

(10) That the issuance of bonds of the authority to create a funding source for the making of guaranteed participating loans will promote and encourage an expanding international exports market and international exports sales and will promote the general welfare of all of the people of Indiana by assisting Indiana businesses through stimulation of the expansion of international exports sales for Indiana products and services, especially those of small and medium-sized businesses, by providing financial assistance through the authority.

(b) The Indiana finance authority shall exist and operate for the public purposes of:

(1) promoting opportunities for gainful employment and business

C o p y

opportunities by the promotion and development of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, in any areas of the state;

(2) promoting the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of all the people of the state by the promotion, development, and assistance of educational facility projects;

(3) promoting affordable farm credit and agricultural loan financing at interest rates that are consistent with the needs of borrowers for farming and agricultural enterprises;

(4) preventing and remediating environmental pollution, including water pollution, air pollution, sewage and solid waste disposal, radioactive waste, thermal pollution, radiation contamination, and noise pollution affecting the health and well-being of the people of the state by:

(A) the promotion and development of industrial development projects; and

(B) carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(5) promoting the provision of safe and adequate drinking water and wastewater and storm water management to positively affect the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(6) otherwise positively affecting the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21; ~~and~~

(7) promoting affordable and accessible child care for the people of the state by the promotion and development of child care facilities; **and**

(8) carrying out the purposes of IC 5-1-17.5 concerning a motorsports investment district.

SECTION 3. IC 4-4-11-15.6, AS AMENDED BY P.L.182-2009(ss), SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.6. In addition to the powers listed in section 15 of this chapter, the authority may:

(1) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire obligations issued by any entity authorized to acquire, finance, construct, or lease capital improvements under IC 5-1-17;

(2) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by the northwest Indiana regional development

C o p y

authority established by IC 36-7.5-2-1; ~~and~~

(3) after December 31, 2009, issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by either the commuter rail service board established under IC 8-24-5 or the regional demand and scheduled bus service board established under IC 8-24-6; **and**

(4) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to carry out the purposes of IC 5-1-17.5 within a motorsports investment district.

SECTION 4. IC 5-1-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 17.5. Motorsports Investment District

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority.

Sec. 2. As used in this chapter, "bonds" has the meaning set forth in IC 4-4-10.9-2.

Sec. 3. As used in this chapter, "budget agency" means the budget agency established by IC 4-12-1-3.

Sec. 4. As used in this chapter, "budget committee" means the budget committee established by IC 4-12-1-3.

Sec. 5. As used in this chapter, "covered taxes" means the part of the following taxes generated in a motorsports investment district designated under this chapter:

(1) The state gross retail tax imposed under IC 6-2.5-2-1 or use tax imposed under IC 6-2.5-3-2.

(2) An adjusted gross income tax imposed under IC 6-3-2-1 on an individual.

Sec. 6. As used in this chapter, "department" refers to the department of state revenue.

Sec. 7. As used in this chapter, "motorsports investment district" means the special taxing district containing the geographic area established as a motorsports investment district under this chapter.

Sec. 8. (a) As used in this chapter, "qualified motorsports facility" means a facility that:

(1) is located within the town of Speedway;

(2) is used for professional motorsports racing events;

(3) has a motorsports racetrack that is greater than two (2) miles in length; and

C o p y

(4) holds at least two (2) professional motorsports racing events at which the combined admissions total at least two hundred thousand (200,000).

(b) For purposes of this section, a professional motorsports racing event includes a professional motorsports racing practice session that is open to the general public.

Sec. 9. (a) The authority may, after a public hearing, adopt a resolution establishing a motorsports investment district. Notice of the public hearing must be provided in accordance with IC 5-3-1.

(b) In establishing the motorsports investment district, the authority must make the following findings:

(1) There are capital improvements that will be undertaken in the motorsports investment district that will have a positive effect on the activities of a qualified motorsports facility.

(2) The capital improvements that will be undertaken in the motorsports investment district will benefit the public health and welfare and will be of public utility and benefit.

(3) The capital improvements that will be undertaken in the motorsports investment district will protect or increase state and local tax bases and tax revenues.

(c) A motorsports investment district consists of:

(1) the geographic area that is included within the qualified motorsports facility; and

(2) adjacent property that is:

(A) related to the operation of the qualified motorsports facility; and

(B) owned by the owner of the qualified motorsports facility;

as determined in the resolution adopted by the authority and approved by the budget agency under section 12 of this chapter.

Sec. 10. (a) A resolution establishing a motorsports investment district must provide for the allocation to the professional motorsports development area fund (established under section 14 of this chapter) of covered taxes generated in the motorsports investment district. The allocation provision must apply to the entire motorsports investment district. The resolution must state an expiration date for the motorsports investment district, which must be not later than thirty (30) years after the date of the adoption of the resolution. The authority shall specify in the resolution the geographic area that is included within the motorsports investment district.

(b) The department may adopt rules under IC 4-22-2 and

C o p y

guidelines to govern the allocation of covered taxes to the motorsports investment district.

Sec. 11. (a) Upon adoption by the authority of a resolution establishing a motorsports investment district under this chapter, the authority shall submit the resolution to the budget committee for review and recommendation to the budget agency.

(b) The budget committee shall meet not later than sixty (60) days after receipt of a resolution under subsection (a) and shall make a recommendation on the resolution to the budget agency.

Sec. 12. (a) The budget agency must approve the resolution establishing the motorsports investment district before covered taxes may be allocated under this chapter.

(b) To approve a resolution to establish a motorsports investment district, the budget committee and the budget agency must find that the capital improvements to be made within the qualified motorsports facility are economically sound and will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the motorsports investment district.

(c) The maximum amount of covered taxes that may be captured from the motorsports investment district and allocated to the professional motorsports development area fund (established under section 14 of this chapter) in a state fiscal year may not exceed five million dollars ($5,000,000).

(d) Covered taxes may be captured from the motorsports investment district and allocated to the professional motorsports development area fund (established under section 14 of this chapter) only for twenty (20) years from the date on which covered taxes are first allocated to the professional motorsports development area fund.

Sec. 13. (a) If the authority adopts a resolution establishing a motorsports investment district, the authority shall notify the department by certified mail of the adoption of the resolution and shall include with the notification a complete list of the following:

(1) Employers in the motorsports investment district.

(2) Street names and the range of street numbers of each street in the motorsports investment district.

(b) The authority shall update the list prepared under subsection (a) before July 1 of each year.

Sec. 14. (a) If a motorsports investment district is established under this chapter, a state fund known as the professional motorsports development area fund is established for the

C o p y

motorsports investment district. The fund shall be administered by the department. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Covered taxes attributable to a motorsports investment district shall be deposited in the professional motorsports development area fund as provided in this chapter.

(c) On or before the twentieth day of each month, all amounts held in the professional motorsports development area fund shall be distributed to the authority.

(d) The department shall notify the fiscal officer of the authority of the amount of covered taxes to be distributed to the authority under this section.

(e) All distributions from the professional motorsports development area fund to the authority shall be made by warrants issued by the auditor of state to the treasurer of state ordering those payments to the authority.

(f) Distributions from the professional motorsports development area fund to the authority may be used for the following:

(1) Structures or other capital improvements that are located in a qualified motorsports facility.

(2) Financing or refinancing structures or other capital improvements described in subdivision (1) or the payment of bonds or leases for structures or other capital improvements described in subdivision (1).

Sec. 15. (a) The authority may do any of the following:

(1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip structures and capital improvements within a qualified motorsports facility.

(2) Lease or sell structures or capital improvements to a qualified motorsports facility.

(3) Exercise the authority's powers under IC 4-4-11 within a qualified motorsports facility.

(b) The authority is subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes. In addition, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents

C o p y

in the same market.

Sec. 16. (a) Subject to subsection (g), the authority may issue bonds for the purpose of obtaining money to pay the cost of improving, constructing, reconstructing, renovating, acquiring, or equipping structures and capital improvements within a qualified motorsports facility. The total amount of bonds that the authority may issue under this chapter may not exceed one hundred million dollars ($100,000,000).

(b) The bonds shall be authorized by a resolution of the authority.

(c) The terms and form of the bonds must be set out either in the resolution or in a form of trust indenture approved by the resolution.

(d) The bonds must mature within twenty (20) years.

(e) The authority shall sell the bonds at public or private sale upon the terms determined by the authority.

(f) All money received from any bonds issued under this chapter shall be applied to the payment of the cost of improving, constructing, reconstructing, renovating, acquiring, or equipping structures and capital improvements within a qualified motorsports facility, or payment of the cost of refunding or refinancing outstanding bonds for which the bonds are issued. The cost may include:

(1) planning and development of the capital improvement and all buildings, facilities, structures, and improvements related to it;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest

C o p y

on the bonds being refunded or refinanced.

(g) The authority may not issue bonds under this chapter unless the authority first finds that the following conditions are met:

(1) Each contract or subcontract for the construction of a capital improvement to be financed in whole or in part through the issuance of the bonds:

(A) requires payment of the common construction wage required by IC 5-16-7; and

(B) requires the contractor or subcontractor to enter into a project labor agreement as a condition of being awarded and performing work on the contract.

(2) The qualified motorsports facility and the authority have entered into a written agreement concerning the terms of the financing of the capital improvement.

Sec. 17. (a) This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the authority or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds under this chapter, except as prescribed in this chapter.

(b) Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 18. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign:

(A) covered taxes; and

(B) lease rentals, receipts, and income from leased capital improvements;

but may not mortgage land or capital improvements;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders,

C o p y

including covenants setting forth the duties of the authority;

(3) set forth the rights and remedies of bondholders and trustee; and

(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the authority under this section is valid and binding from the time that the pledge or assignment is made, against all persons whether or not they have notice of the lien. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties by filing the trust indenture in the records of the authority.

Sec. 19. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or

(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.

SECTION 5. **An emergency is declared for this act.**

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 91, 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:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

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

(Reference is to SB 91 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 91, 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 5, line 25, delete "attributable to the operation of facilities".

Page 5, line 26, delete "located" and insert "**generated**".

Page 5, delete lines 32 through 33.

Page 6, line 5, after "which" insert "**the combined**".

Page 6, line 5, delete "one" and insert "**two**".

Page 6, line 6, delete "(100,000) for each racing event." and insert "**(200,000).**".

Page 6, line 24, delete "only".

Page 6, line 24, after "of" insert "**:**

(1)".

Page 6, line 26, after "facility" delete "." and insert "**; and**

(2) adjacent property that is:

(A) related to the operation of the qualified motorsports facility; and

(B) owned by the owner of the qualified motorsports

C o p y

facility;
as determined in the resolution adopted by the authority and approved by the budget agency under section 12 of this chapter.".

Page 6, line 30, delete "attributable to a taxable event or".

Page 6, line 31, delete "covered taxes earned" and insert "**generated**".

Page 6, line 36, after "resolution." insert "**The authority shall specify in the resolution the geographic area that is included within the motorsports investment district.**".

Page 6, line 37, after "rules" insert "**under IC 4-22-2**".

Page 7, line 10, delete "make the following findings:" and insert "**find that**".

Page 7, line 11, delete "(1) The" and insert "**the**".

Page 7, run in lines 10 through 15.

Page 7, delete lines 16 through 19.

Page 9, line 6, after "facility." insert "**The total amount of bonds that the authority may issue under this chapter may not exceed one hundred million dollars ($100,000,000).**".

Page 10, line 18, after "bonds" delete "," and insert "**under this chapter,**".

and when so amended that said bill do pass.

(Reference is to SB 91 as printed February 12, 2013.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 91 be amended to read as follows:

Page 8, line 20, delete "the motorsports investment district." and insert "**a qualified motorsports facility.**".

(Reference is to SB 91 as printed February 15, 2013.)

YOUNG R MICHAEL

C o p y