

## **IC 36-10-11**

### Chapter 11. Gary Building Authority

#### **IC 36-10-11-1**

##### **Application of chapter**

Sec. 1. This chapter applies to a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

*As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.12-1992, SEC.197; P.L.170-2002, SEC.177.*

#### **IC 36-10-11-2**

##### **Definitions**

Sec. 2. As used in this chapter:

"Authority" refers to a building authority created under this chapter.

"Building" means a structure or a part of a structure used for a civic center or a facility that is owned by the city and used by a professional sports franchise, including the site, landscaping, parking, heating facilities, sewage disposal facilities, and other related appurtenances and supplies necessary to make the building suitable for use and occupancy.

"Governmental entity" means a state agency, state university, or political subdivision.

*As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.136.*

#### **IC 36-10-11-3**

##### **Creation; procedure; issuance of general obligation bonds by city for construction of civic center prohibited**

Sec. 3. (a) The city legislative body may adopt an ordinance to create a separate municipal corporation under this chapter known as the "\_\_\_\_\_ Building Authority" (inserting the name of the city) to finance, construct, equip, operate, and lease land and buildings to the governmental entities within the county in which the authority is created.

(b) The clerk of the city shall certify a copy of the ordinance and file the copy with the county recorder of the county in which the authority is created. When certified and filed, the ordinance is evidence in a civil action of the creation of the authority.

(c) The city may not issue general obligation bonds of the city to finance the cost, in whole or in part, of the construction or acquisition of any building for use as a civic center. For purposes of this section, the city includes any governmental entity that contains any territory of the city.

*As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.2-1995, SEC.139.*

#### **IC 36-10-11-4**

##### **Trustees; appointment; terms; vacancies; oath**

Sec. 4. (a) Within fifty (50) days after the adoption of the ordinance, the city executive shall appoint three (3) trustees and the city legislative body shall appoint two (2) trustees of the authority. All of the trustees must be at least twenty-one (21) years of age and residents of the city for at least five (5) years before appointment.

(b) Initial terms of the trustees are as follows:

(1) The legislative body's appointees for terms of two (2) years.

(2) One (1) of the executive's appointees for a term of three (3) years.

(3) Two (2) of the executive's appointees for terms of four (4) years.

At the expiration of a term, the appointing authority shall appoint a successor for a four (4) year term. Each trustee serves until his successor is appointed and qualified.

(c) If a trustee dies, resigns, ceases to be a resident of the city, fails to qualify for office within ten (10) days after he receives notice of his appointment, or is removed for cause, the appointing authority shall appoint another person as trustee for the remainder of that term.

(d) Each trustee, before entering upon his duties, shall take and subscribe an oath of office to be endorsed upon his certificate of appointment. The certificate shall be filed with the city clerk.

*As added by Acts 1982, P.L.218, SEC.5.*

#### **IC 36-10-11-5**

##### **Trustees; removal; procedure**

Sec. 5. A trustee may be removed from office for good cause by an order of the judge of the circuit or superior court of the county in which the authority is located, subject to the procedure of this section. A complaint stating the preferred charges may be filed by any person against a trustee. The cause shall be placed on the advanced calendar and be tried as other civil causes are tried by the court without the intervention of a jury.

*As added by Acts 1982, P.L.218, SEC.5.*

#### **IC 36-10-11-6**

##### **Trustees; meetings; selection of directors and officers**

Sec. 6. The trustees originally appointed shall meet within thirty (30) days after their appointment. At this meeting the trustees shall appoint the directors of the authority and shall elect the following officers from among their number:

(1) President.

(2) Vice president.

(3) Secretary.

The officers serve until the first Monday in January following their election. The trustees shall meet annually on the first Monday in January to reorganize, to appoint directors, and to transact business. Additional meetings may be called by the president or set at regular intervals by the trustees.

*As added by Acts 1982, P.L.218, SEC.5.*

**IC 36-10-11-7****Trustees; rules; reimbursement of expenses**

Sec. 7. The trustees may adopt the rules that they consider necessary for the proper conduct of their proceedings. Trustees serve without pay but are entitled to reimbursement for any expenses necessarily incurred in the performance of their duties.

*As added by Acts 1982, P.L.218, SEC.5.*

**IC 36-10-11-8****Trustees; conflicts of interest**

Sec. 8. A trustee may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. A transaction in which any trustee has a pecuniary interest is void.

*As added by Acts 1982, P.L.218, SEC.5.*

**IC 36-10-11-9****Trustees; appointment of board of directors; qualifications; tenure; conflicts of interest**

Sec. 9. The trustees shall appoint by majority vote a board of five (5) directors. The directors must meet the same qualifications, subscribe to the same oath, and receive the same reimbursements as trustees. The directors serve for one (1) year following their appointment and until their successors are appointed and qualified. A director may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. Any transaction in which any director has a pecuniary interest is void. Vacancies shall be filled by the trustees. The trustees may remove a director for cause at any time.

*As added by Acts 1982, P.L.218, SEC.5.*

**IC 36-10-11-10****Board of directors; meetings; officers; bylaws; quorum; approval of actions**

Sec. 10. (a) Not later than thirty (30) days after the directors are appointed, and on the first Monday of each following February they shall hold a meeting for the purpose of organization. They shall elect the following officers from among their members:

- (1) President.
- (2) Vice president.
- (3) Secretary.
- (4) Treasurer.

The officers shall perform the duties usually pertaining to those offices. The officers serve from the date of their election until their successors are elected and qualified.

(b) The directors may adopt bylaws and rules necessary for the proper conduct of their proceedings, the carrying out of their duties, and the safeguarding of the funds and property of the authority. In addition to the annual meeting, other regular and special meetings shall be held at the times that they determine and upon public notice that they fix, either by resolution or in accordance with the

provisions of the bylaws. A majority of the directors constitutes a quorum. A majority is necessary to authorize any action.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-11**

#### **Preliminary expenses; payment; reimbursement**

Sec. 11. (a) All necessary preliminary expenses actually incurred in the:

- (1) making of surveys;
- (2) estimates of cost and receipts;
- (3) employment of engineers or other employees;
- (4) giving of notices;
- (5) taking of options; and
- (6) all other expenses necessary to be paid before the issue and delivery of bonds or the negotiation of the loan under this chapter;

may be met and paid out of funds provided by the city from funds on hand or derived from taxes levied for that purpose.

(b) The funds of the city from which payments are made shall be fully reimbursed and repaid by the board out of the first proceeds of the sale of bonds or the loan negotiated by the authority before any other disbursements are made. The amount advanced shall be a first charge against the proceeds resulting from the sale of the bonds or the negotiation of the loan until the loan has been repaid.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-12**

#### **Board of directors; powers**

Sec. 12. The board of directors may finance, construct, and lease buildings for the joint or separate use of one (1) or more of the governmental entities within the county in which the authority has been created. The board of directors also may:

- (1) sue and be sued;
- (2) appropriate, purchase, lease, rent, and hold any land, materials, and personal property in connection with buildings constructed or to be constructed under this chapter;
- (3) acquire by gift, devise, or bequest real and personal property and hold, use, expend, or dispose of that property for the purposes authorized by this chapter;
- (4) enter upon any lots or lands for the purpose of surveying or examining them for the purposes of this chapter;
- (5) collect rentals payable as provided for in a lease; and
- (6) make and enter into all contracts and agreements necessary or incidental for the performance of its duties and the execution of its powers under this chapter.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-13**

#### **Lease to governmental entity of property controlled by authority; sublease; term; renewal**

Sec. 13. (a) A governmental entity within the county and the authority may enter into a lease for all or part of a building under the control of the authority. A governmental entity may also sublease the leased premises to other governmental entities within the county.

(b) A lease may be entered into before the actual acquisition of a site and the construction of the building. A lease may not provide for the payment of any lease rental by the lessee until the building is ready for occupancy.

(c) A lease or sublease may not be for a period longer than forty (40) years, but may be renewed for a maximum of forty (40) years. An option to renew may be included in the original lease.

*As added by Acts 1982, P.L.218, SEC.5.*

#### **IC 36-10-11-14**

##### **Lease; option to purchase**

Sec. 14. (a) An option to purchase on the dates of each year fixed in the lease, before the expiration of the lease, may also be included in the original lease. The price must be computed by a method set out in the lease. The option may be given to one (1) or more lessees acting jointly or severally.

(b) A lease may not obligate a governmental entity to purchase the leased building or pay creditors or bondholders of the authority.

*As added by Acts 1982, P.L.218, SEC.5.*

#### **IC 36-10-11-15**

##### **Lease; notice and hearing; authorization of execution**

Sec. 15. (a) When the authority and a governmental entity have agreed upon the lease, and before the final execution of the lease, a notice shall be published under IC 5-3-1 of a hearing to be held by the fiscal body of the governmental entity. The hearing shall be held on a day at least ten (10) days after the publication of notice. The proposed lease and any plans and specifications must be open to inspection by the public during the ten (10) day period and at the hearing.

(b) The notice must state:

- (1) the date, place, and time of the hearing;
- (2) a brief summary of the principal terms of the lease, including the character and location of the property to be leased;
- (3) the estimated lease rental to be paid; and
- (4) the period of the lease.

(c) All interested persons are entitled to be heard at the hearing concerning the necessity for the execution of the lease and whether the lease rental is fair and reasonable. The hearing may be adjourned to a later date fixed before adjournment. Following the hearing the fiscal body may either:

- (1) authorize the execution of the original lease; or
- (2) authorize the execution of the lease with modifications that are agreed to by the authority.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-16**

#### **Lease; execution; notice; limitation on annual rental; approval by department of local government finance; transfer of net revenue**

Sec. 16. (a) The lease shall be executed on behalf of the governmental entity by an officer authorized by law to execute contracts for the entity and on behalf of the authority by both the president or vice president of the board and the secretary of the board of directors.

(b) Notice of the execution of the lease shall be given by the governmental entity by publication as provided in IC 5-3-1.

(c) A lease may not be executed with annual lease rental exceeding an aggregate of two hundred seventy-five thousand dollars (\$275,000) unless the fiscal body of the lessee governmental entity finds that the estimated annual net income to the lessee governmental entity from the civic center, plus any other nonproperty tax funds made available annually for the payment of the lease rental, will not be less than the amount of the excess.

(d) The lease is subject to approval by the department of local government finance under IC 6-3.5. The lease may be executed before approval; however, if the department of local government finance does not approve the lease, it is void. The department of local government finance may not approve the lease under IC 6-3.5-1.1-8 unless it finds that the condition prescribed in subsection (c) is satisfied.

(e) All net revenues of the leased building, together with any other funds made available for the payment of lease rental, shall be transferred at least annually by the lessee to a fund for payment of lease rental.

*As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.73-1983, SEC.23; P.L.90-2002, SEC.525.*

### **IC 36-10-11-17**

#### **Lease; objections; petition; certification to department of local government finance; hearing; determination**

Sec. 17. (a) Ten (10) or more taxpayers whose tax rate will be affected by the lease may file a petition in the office of the county auditor within thirty (30) days after publication of notice of the execution of the lease. The petition must set forth their objections and the facts showing:

- (1) that the lease is unnecessary or unwise; or
- (2) that the lease rental is not fair and reasonable.

(b) Upon the filing of a petition, the county auditor shall certify a copy, together with other data that is necessary in order to present the questions involved, to the department of local government finance. Upon receipt of a certified petition and information, the department of local government finance shall set a time and place for the hearing of the matter. The hearing shall be held at least five (5) but not more than fifteen (15) days after receipt of the petition by the department of local government finance. Notice of the hearing shall be given by the department of local government finance to the

governmental entity and to the first ten (10) petitioners at least five (5) days before the date of the hearing. The hearing shall determine the necessity of the lease and whether the lease rental is fair and reasonable.

*As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.90-2002, SEC.526.*

#### **IC 36-10-11-18**

##### **Lease; actions to contest validity or enjoin performance; limitation**

Sec. 18. An action to contest the validity of the lease or to enjoin the performance of the lease may not be brought later than thirty (30) days after publication of notice of the execution of the lease or thirty (30) days after the decision of the department of local government finance, whichever is later.

*As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.90-2002, SEC.527.*

#### **IC 36-10-11-19**

##### **Sale or lease of land by governmental entity to authority**

Sec. 19. (a) A governmental entity or entities desiring to have buildings erected on land owned or to be acquired by it may sell or lease the land to the authority. The land may be leased at a nominal lease rental, but the term of the lease may not be less than the term of the lease of the building to the governmental entity.

(b) The governmental entity may also grant an option to the authority to purchase the land within six (6) months after the expiration of the lease on the building if the governmental entity or entities has not exercised an option to purchase the building within the terms of the contract of lease. If the option price on the land is not fixed in the original contract of lease, then the price to be paid for the land under that option shall be determined by appraisal to be made by three (3) appraisers residing in the county appointed by the judge of the circuit court of the county. A sale or lease of land by a governmental entity to the authority shall be authorized by the fiscal body of the entity by ordinance or resolution, which shall be entered in the official records of the fiscal body. The authorization shall be given concurrently with the authorization by the governmental entity of a lease by it of the particular building, or part of it, to be constructed wholly or in part on the land. The deed or lease shall be executed on behalf of the entity by the officer or officers authorized by law to enter into contracts on behalf of the entity and on behalf of the authority by the president or vice president and secretary of the board of directors.

*As added by Acts 1982, P.L.218, SEC.5.*

#### **IC 36-10-11-20**

##### **Revenue bonds; issuance; resolution**

Sec. 20. (a) In order to procure funds to pay the cost of a building to be built or improved under this chapter, and to repay advances for preliminary expenses made to the authority by the governmental

entity, the board of directors may issue revenue bonds of the authority. The bonds are payable solely from the income and revenues of the particular building financed from the proceeds of the bonds.

(b) The revenue bonds shall be authorized by resolution of the board, bear interest payable semiannually, and mature serially, either annually or semiannually, at the times that are determined by the resolution of the board authorizing the bonds. The maturities of the bonds may not extend over a period longer than the period of the lease of the building for which the bonds are issued. The bonds may and all bonds maturing after ten (10) years from the date of issuance shall be made redeemable before maturity at the option of the authority, to be exercised by the board, at par value together with the premiums and under the terms and conditions that are fixed by the resolution authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium.

(c) The resolution must determine the form of the bonds, including the interest coupons to be attached, and must fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which must be at a state or national bank or trust company within Indiana or may be at one (1) or more state or national banks or trust companies outside Indiana. All bonds must have all the qualities and incidents of negotiable instruments under statute. Provision may be made for the registration of the bonds in the name of the owner as to principal alone.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-21**

#### **Bonds; execution and sale**

Sec. 21. (a) The bonds shall be executed by the president of the board, and the corporate seal of the authority shall be affixed and attested by the secretary of the board. The interest coupons attached to the bonds shall be executed by placing the facsimile signature of the treasurer on them. The bonds shall be sold by the board at public sale and for not less than the par value. Notice of sale shall be published in accordance with IC 5-3-1.

(b) The board shall award the bonds to the highest bidder as determined by computing the total interest on the bonds from the date of issue to the dates of maturity and deducting the premium bid, if any. If the bonds are not sold on the date fixed for the sale, the sale may be continued from day to day until a satisfactory bid has been received.

(c) Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds.

(d) Before the preparation of definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The total amount of bonds issued by the authority under this section, when added to any loan or loans negotiated under section 22 of this chapter, may not exceed three million dollars (\$3,000,000).

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-22**

#### **Loans; procedure**

Sec. 22. (a) In lieu of authorizing and selling bonds as provided in this section, the board may adopt a resolution authorizing the negotiation of a loan or loans for the purpose of procuring the required funds. The resolution must set out the total amount of the loan desired and the approximate dates on which funds will be required and the amounts of them. The resolution must also set out the terms, conditions, and restrictions relative to the proposed loan or to the submission of proposals that the board considers advisable. Before the consideration of proposals for the making of a loan, a notice shall be published once each week for two (2) weeks in a newspaper published in the county and a newspaper published in the city of Indianapolis setting out the amount and purpose of the proposed loan and a brief summary of other provisions of the resolution, including the time and place where proposals will be considered. The board may accept the proposal that in its judgment is the most advantageous to the authority.

(b) The total amount of loans negotiated by the authority under this section, when added to the amount of bonds issued under section 21 of this chapter, may not exceed three million dollars (\$3,000,000).

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-23**

#### **Application of bond and loan proceeds; lien**

Sec. 23. All money received from the sale of bonds or loans negotiated under this chapter, after reimbursement to the city of all amounts advanced for preliminary expenses as provided in section 11 of this chapter, shall be applied to the payment of the costs of buildings and improvements for which the bonds were issued or the loan was negotiated, including incidental expenses and interest during construction. A lien exists on all monies until so applied in favor of the holders of the bonds, the lenders, or the trustees.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-24**

#### **Bonds or loans; trust indenture**

Sec. 24. (a) In the discretion of the board of directors, the bonds or loan may be secured by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana having trust powers. The trust indenture may mortgage all or part of the land, buildings, or both for which the bonds are issued or the loan negotiated. The trust indenture may contain the provisions for protecting and enforcing the rights and remedies of the bondholders or lenders that are reasonable and proper, including covenants setting forth the duties of the authority and board of directors in relation to the construction of the buildings and improvement, operation, repair, maintenance, and insurance of

them, and the custody, safeguarding, and application of all money received or to be received by the authority due to the building financed by the issuance of the bonds or the negotiation of the loan. The indenture may set forth the rights and remedies of the bondholders or lenders and trustee and provisions restricting the individual right of action of bondholders or lenders.

(b) Within the limits of this chapter, the board of directors may provide by resolution or in the trust indenture for the payment of the proceeds of the sale of the bonds or the negotiation of the loan to an officer, board, or depository that it determines for the custody of them and for the method of disbursement, with safeguards and restrictions that it determines.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-25**

#### **Refunding revenue bonds; issuance**

Sec. 25. (a) To procure money to refund bonds issued under section 20 of this chapter, the board of directors may issue refunding revenue bonds. The refunding bonds may not be issued unless:

- (1) the issuance will result in a savings of interest cost to the authority; or
- (2) the issuance will permit a reduction in the lease rental payable by the lessee of the building financed from the bond proceeds being refunded.

(b) The refunding bonds are subject to the following:

- (1) The issuance may not exceed the sum of:
  - (A) the principal of the bonds being refunded;
  - (B) any premium required to be paid upon their redemption;
  - (C) any interest accrued or to accrue to the date of their redemption; and
  - (D) any expenses that the board estimates will be incurred in the issuance of the refunding bonds.
- (2) The bonds may be issued at any time not more than six (6) years prior to the redemption date of the bonds being refunded.
- (3) Principal is not payable on the refunding bonds until after the redemption date.
- (4) Until the redemption of the bonds being refunded, the interest on the refunding bonds is payable solely from the money placed in escrow in accordance with section 26 of this chapter. Interest or other income earned on the investment of the funds and the principal and interest on the refunding bonds constitute a lien only against the escrowed money.
- (5) Upon redemption of all the bonds being refunded, the principal and interest on the refunding bonds is payable solely from and constitute a lien only against the income and revenues of the buildings financed from the proceeds of the bonds being refunded and any other money deposited in the sinking fund for the payment of the refunding bonds.

(c) The refunding bonds shall be issued in the same manner as bonds are issued under section 20 of this chapter and may be secured

by a trust indenture as provided in section 24 of this chapter.

(d) An action to contest the validity of the refunding bonds may not be brought after the fifth day following the receipt of bids for the bonds.

(e) The trust indenture securing the refunding bonds may provide for the transfer by the authority to the sinking fund established by the trust indenture of all or any part of the balance in the sinking fund established in the trust indenture securing, or resolution providing for the issuance of, the bonds being refunded, the transfer to be made concurrently with the redemption of all the bonds being refunded.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-26**

#### **Refunding bonds; application of proceeds**

Sec. 26. (a) The proceeds of the refunding bonds issued under section 25 of this chapter shall be placed in escrow and applied with any other available money to the payment on the date selected for redemption of the principal, accrued interest, and any redemption premiums of the bonds being refunded. In addition, if provided or permitted in the resolution authorizing the issuance of the refunding bonds or in the trust indenture securing them, the proceeds may also be applied to the payment of any interest on the refunding bonds and any costs of refunding. Pending application, the escrowed proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States, which must mature, or which must be subject to redemption by the holder of them at the option of the holder, not later than the respective dates when the proceeds, together with the accruing interest, will be required for the purposes intended.

(b) In lieu of those investments, all or part of the proceeds may be placed in interest bearing time certificates of deposit with the bank that the board designates. Other similar arrangements may be made with the bank that will assure that the proceeds, together with the accruing interest, will be available when required for the purposes intended, but time certificates of deposit or other similar arrangements must be secured to their full amount by direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of the type permitted for direct investment of the escrow fund.

(c) All interest or other income earned on these investments must first be used to pay the interest on the refunding bonds as it becomes due. Any excess becomes a part of and shall be held in the escrow fund. Any balance remaining in the escrow fund after redemption of all the bonds being refunded shall be deposited in the sinking fund established for the payment of the principal and interest on the refunding bonds.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-27**

#### **Refunding bonds; authority to amend lease**

Sec. 27. (a) In connection with the issuance of refunding bonds, the authority and the lessee, or lessees, of the building, or buildings, financed from the proceeds of the bonds being refunded may enter into an amendment to the lease modifying the lease:

- (1) to provide for a reduction in the amount of lease rental payable by the lessee, or lessees, to be effective upon the redemption of the bonds being refunded;
- (2) to provide for an extension of the time set forth in the lease before the option of the lessee, or lessees, to purchase may be exercised to the time that is agreed upon between the authority and the lessee or lessees; or
- (3) to provide that the lease rental payable by the lessee, or lessees, after the redemption of all the bonds being refunded is payable to the trustee under the trust indenture securing the refunding bonds.

(b) Proceedings or actions by the lessee and approval by any board, commission, or agency are not required for refunding. The refunding authorized in this chapter does not affect the obligation of the lessee, or lessees, to pay the lease rental under the lease of the building or buildings, except to the extent the lease rental may be reduced by any amendment as authorized by this section.

*As added by Acts 1982, P.L.218, SEC.5.*

#### **IC 36-10-11-28**

##### **Refunding bonds; redemption**

Sec. 28. For the purposes of sections 25, 26, and 27 of this chapter, bonds are redeemed on the date selected for redemption if:

- (1) the full amount necessary to effect complete redemption has been deposited in accordance with the trust indenture securing or resolution providing for the issuance of the bonds; and
- (2) all action necessary to redeem the bonds has been taken so that the bonds are no longer considered outstanding under the trust indenture or resolution and are no longer payable from the income and revenues of the particular building, or buildings, financed from the proceeds of the bonds.

*As added by Acts 1982, P.L.218, SEC.5.*

#### **IC 36-10-11-29**

##### **Governmental entity; tax levy to pay lease rental**

Sec. 29. (a) The fiscal body of a governmental entity that has entered into an approved lease under this chapter shall annually levy a tax sufficient to produce each year the necessary revenues that, with other available money, are sufficient to pay the lease rental payable under the lease.

(b) In fixing and determining the amount of the necessary levy to pay the lease rental, the fiscal body may take into consideration amounts that have been transferred to the fund for payment of the lease rental under section 16(e) of this chapter. This chapter does not relieve the governmental entity from the obligation to pay from taxes the lease rental or part of it if other funds are not available for that

purpose. The tax levies are reviewable by other bodies vested by statute with authority to ascertain that the levies are sufficient to raise the amount that, with other money available, will be sufficient to meet the rental payable under the lease.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-30**

#### **Tax exemption**

Sec. 30. All:

- (1) property owned by the authority;
- (2) revenues received by the authority; and
- (3) bonds or other securities issued by the authority, including the interest on them;

are exempt from taxation in Indiana.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-31**

#### **Handling of funds; audit; contract requirements; surety bonds of employees**

Sec. 31. (a) Authority funds shall be handled in the same manner as other public funds and shall be audited by the state board of accounts. Contracts let by the authority shall be let in accordance with the general statutes relating to public contracts.

(b) Any employee of the authority authorized to receive or disburse funds or negotiable securities of the authority shall execute a bond payable to the state conditioned upon the faithful performance of his duties and the accounting for all money and property that may come under his control. The cost of the bonds shall be paid out of funds of the authority.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-32**

#### **Civil actions against authority; venue**

Sec. 32. A civil action against the authority must be brought in the circuit or superior court of the county in which the authority is located.

*As added by Acts 1982, P.L.218, SEC.5.*

### **IC 36-10-11-33**

#### **Civic center board of managers; creation; organization**

Sec. 33. (a) The fiscal body of the lessee shall adopt an ordinance creating a board of five (5) members to be known as the "Civic Center Board of Managers". The board of managers shall supervise, manage, operate, and maintain a building and its programs.

(b) A person appointed to the board of managers must be at least twenty-one (21) years of age and a resident of the lessee governmental entity for at least five (5) years. If the lessee is a city, three (3) of the managers shall be appointed by the city executive, and two (2) of the managers shall be appointed by the city legislative body. If the lessee is not a city, all five (5) managers shall be

appointed by the fiscal body of the lessee. An officer or employee of a political subdivision may not serve as a manager. The managers serve for terms of three (3) years.

(c) Notwithstanding subsection (b), if the lessee is a city, initial terms of the managers appointed by the executive are as follows:

- (1) One (1) manager for a term of one (1) year.
- (2) One (1) manager for a term of two (2) years.
- (3) One (1) manager for a term of three (3) years.

The initial term of one (1) of the managers appointed by the legislative body is two (2) years, and the other is three (3) years.

(d) Notwithstanding subsection (b), if the lessee is not a city, initial terms of the managers are as follows:

- (1) One (1) manager for a term of one (1) year.
- (2) Two (2) managers for terms of two (2) years.
- (3) Two (2) managers for terms of three (3) years.

(e) A manager may be removed for cause by the appointing authority. Vacancies shall be filled by the appointing authority, and any person appointed to fill a vacancy serves for the remainder of the vacated term. The managers shall be reimbursed for any expenses necessarily incurred in the performance of their duties. The fiscal body of the lessee may adopt an ordinance providing for the payment of a salary or a per diem to a manager who does not hold another lucrative elective or appointive office.

(f) The board of managers shall annually elect officers to serve during the calendar year. The board of managers may adopt resolutions and bylaws governing its operations and procedure and may hold meetings as often as necessary to transact business and to perform its duties. A majority of the managers constitutes a quorum. *As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.137; P.L.7-2006, SEC.1.*

### **IC 36-10-11-34**

#### **Board of managers; powers**

Sec. 34. The board of managers may do the following:

- (1) Receive and collect money due to or otherwise related to a building; employ an executive manager, an associate manager, and other agents and employees that are considered necessary for the fulfillment of its duties, and fix the compensation of all employees. However, a contract of employment or other arrangement must be terminable at the will of the board of managers, except that a contract may be entered into with an executive manager for a period not exceeding four (4) years and subject to extension or renewal for similar or shorter periods.
- (2) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of the a building.
- (3) Lease a part of a building from time to time to any association, corporation, or individual, with or without the right to sublet.

- (4) Fix charges and establish rules governing the use and operation of a building.
- (5) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations; accept funds, loans, or advances on the terms and conditions that the board of managers considers necessary or desirable from the federal government, the state, or any of their agencies or political subdivisions.
- (6) Receive and collect all money due to the use or leasing of a building or any part of it and from concessions or other contracts and expend that money for proper purposes.
- (7) Provide coverage for its employees under IC 22-3 and IC 22-4.
- (8) Purchase public liability and other insurance that it considers necessary.
- (9) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including enforcement of them.
- (10) Maintain and repair a building and employ a building superintendent and other employees that are necessary to properly maintain a building.
- (11) Prepare and publish descriptive materials and literature relating to a building and specifying the advantages of a building; do all other acts and things that the board of managers considers necessary to promote and publicize a building and serve the commercial, industrial, and cultural interests of Indiana and all its citizens by the use of a building; and assist and cooperate with the state and other public, governmental, and private agencies and groups of citizens for those purposes.
- (12) Supervise, manage, operate, and maintain any other public facility owned or leased by the lessee governmental entity or by an agency of it when so directed by a resolution adopted by the fiscal body of the entity.
- (13) Exercise other powers and perform other duties not in conflict with this chapter that are specified by ordinance or resolution of the fiscal body of the lessee governmental entity.
- (14) Perform all other acts necessarily incidental to its duties and the powers listed in this section.

*As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.8-1993, SEC.522; P.L.178-2002, SEC.138.*

### **IC 36-10-11-35**

#### **Board of managers; preparation and review of annual budget; approval of expenditures**

Sec. 35. (a) The board of managers shall prepare a budget for each calendar year governing the projected operating expenses, the estimated income, and reasonable reserves. It shall submit that budget for review, approval, or addition to the fiscal body of the lessee governmental entity.

(b) The board of managers may not make expenditures except as

provided in the approved budget, and all additional expenditures are subject to approval by the fiscal body of the entity.

(c) Payments to the users of a building or a part of it that constitute a contractual share of box office receipts are not considered an operating expense or an expenditure within the meaning of this section, and the board of managers may make those payments without approval.

*As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.139.*

### **IC 36-10-11-36**

#### **Board of managers; controller and assistant controller; duties**

Sec. 36. (a) The fiscal officer of the lessee governmental entity shall act as controller of the board of managers and is responsible for proper safeguarding and accounting. The controller shall, with the approval of the board of managers, appoint an assistant to act as auditor for the board of managers.

(b) The assistant is the official custodian of all books of account and other financial records of the board of managers and has the other powers and duties that are delegated by the controller and the lesser powers and duties that the board of managers prescribes. The assistant, and any other employee or member of the board of managers authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of him in an amount and with surety and other conditions that are prescribed and approved by the board of managers.

(c) The assistant shall keep an accurate account of:

- (1) all money due a building and the board of managers; and
- (2) all money received, invested, and disbursed;

in accordance with generally recognized governmental accounting principles and procedures. All accounting forms and records shall be prescribed or approved by the state board of accounts. The assistant shall issue all warrants for the payment of money from the funds of the board of managers in accordance with procedures prescribed by the board of managers, but a warrant may not be issued for the payment of any claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the controller or financial officer or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(d) If the board of managers or the lessee governmental entity has entered into any agreement to lease building facilities from the authority, the controller shall pay the lease rental to the authority within a reasonable period before the date on which principal or interest on any bonds outstanding issued under this chapter becomes due. The assistant shall submit to the board of managers at least annually a report of his accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which the

disbursements were made. The board of managers may require that the report be prepared by a designated, independent certified public accountant. Handling and expenditure of funds is subject to audit and supervision by the state board of accounts.

*As added by Acts 1982, P.L.218, SEC.5. Amended by P.L.178-2002, SEC.140.*

### **IC 36-10-11-37**

#### **Board of managers; conflicts of interest**

Sec. 37. Persons serving on the board of managers shall disclose any pecuniary interest, direct or indirect, in any employment, financing agreement, or other contract made under this chapter before any action is taken on it by the board of managers. Any manager having a pecuniary interest may not vote on the matter. Real property acquired under this chapter in which a manager has a pecuniary interest may be acquired by the board of managers only by gift or condemnation.

*As added by Acts 1982, P.L.218, SEC.5.*