

## **IC 4-30-17**

### **Chapter 17. Build Indiana Fund**

#### **IC 4-30-17-0.1**

##### **Application of certain amendments to chapter**

Sec. 0.1. The amendments made to this chapter by P.L.33-1990 apply as follows:

(1) The amendments made to section 10 of this chapter and to sections 1, 4, 5, 7, 8, and 9 of this chapter (before their repeal) apply to vehicles registered after December 31, 1990.

(2) The addition of section 3.5 of this chapter and section 7.5 of this chapter (repealed) applies to vehicles registered after December 31, 1990.

*As added by P.L.220-2011, SEC.50.*

#### **IC 4-30-17-1**

##### **Repealed**

*(Repealed by P.L.186-2002, SEC.14.)*

#### **IC 4-30-17-2**

##### **Definitions**

Sec. 2. As used in this chapter, "eligible recipient" means the following:

(1) Any political subdivision (as defined in IC 36-1-2-13).

(2) A volunteer fire department (as defined in IC 36-8-12-2) or another group recognized by a political subdivision (as defined in IC 36-1-2-13) as a group providing firefighting or other emergency services to the area served by the political subdivision, the majority of members of which receive no compensation or nominal compensation for their services.

(3) A corporation, community chest, community fund, or community foundation that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(4) The state.

(5) A state educational institution.

(6) Any body corporate and politic that serves as an instrumentality of the state.

*As added by P.L.341-1989(ss), SEC.1. Amended by P.L.186-2002, SEC.1; P.L.2-2007, SEC.63.*

#### **IC 4-30-17-3**

##### **Establishment; purpose; administration; investment of funds**

Sec. 3. There is established the build Indiana fund to receive deposits of surplus lottery revenues collected under this article. The fund shall be administered by the treasurer of state. The treasurer of state shall invest the money in the fund that is not needed to meet the obligations of the fund in the same manner as other public funds are invested. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

*As added by P.L.341-1989(ss), SEC.1.*

### **IC 4-30-17-3.3**

#### **Build Indiana fund account; build Indiana fund; references; applications for funds**

Sec. 3.3. (a) As used in this section, "build Indiana fund account" means any of the following accounts in the build Indiana fund established by section 3 of this chapter:

- (1) The state and local projects account.
- (2) The lottery and gaming surplus account.
- (3) The job creation and economic development account.

(b) As used in this section, "capital project" has the meaning set forth in section 4.1 of this chapter, as amended by P.L.186-2002.

(c) As used in this section, "eligible recipient" has the meaning set forth in section 2 of this chapter, as amended by P.L.186-2002.

(d) Any reference to a build Indiana fund account in a law, agreement, or other document that was created before March 28, 2002, shall be treated on and after March 28, 2002, as a reference to the build Indiana fund.

(e) If an eligible recipient submitted an application to the state for funding from the build Indiana fund before March 28, 2002, and the budget agency has available to it the information necessary to process the application, the budget agency shall use the information to process the application without requiring resubmission of the information on any particular form or in a different format.

*As added by P.L.220-2011, SEC.51.*

### **IC 4-30-17-3.5**

#### **Transfer of revenue**

Sec. 3.5. (a) Before the twenty-fifth day of the month, the auditor of state shall transfer from the build Indiana fund to the state general fund motor vehicle excise tax replacement account nineteen million six hundred eighty-four thousand three hundred seventy dollars (\$19,684,370) per month.

(b) This subsection applies only if insufficient money is available in the build Indiana fund to make the distributions to the state general fund motor vehicle excise tax replacement account that are required under subsection (a). Before the twenty-fifth day of each month, the auditor of state shall transfer from the state general fund to the state general fund motor vehicle excise tax replacement account the difference between:

- (1) the amount that subsection (a) requires the auditor of state to distribute from the build Indiana fund to the state general fund motor vehicle excise tax replacement account; and
- (2) the amount that is available for distribution from the build Indiana fund to the state general fund motor vehicle excise tax replacement account.

The transfers required under this subsection are annually appropriated from the state general fund.

*As added by P.L.33-1990, SEC.3. Amended by P.L.25-1995, SEC.4; P.L.260-1997(ss), SEC.39; P.L.186-2002, SEC.2.*

#### **IC 4-30-17-4**

##### **Repealed**

*(Repealed by P.L.1-1991, SEC.22.)*

#### **IC 4-30-17-4.1**

##### **Use of funds; state and local capital projects**

Sec. 4.1. (a) Money credited to the build Indiana fund, after making the disbursements required under section 3.5 of this chapter, may be used only for:

- (1) state or local capital projects that are managed or carried out by an eligible recipient; or
- (2) deposit in a revolving loan fund for capital projects.

(b) An expenditure of money from the build Indiana fund for a state or local capital project must be certified by the budget agency to the budget committee under section 4.5 of this chapter before the project may be reviewed and approved under section 10 of this chapter.

(c) As used in this chapter, "capital project" refers to a capital project to which the general assembly has appropriated money from the build Indiana fund by project name, name of an eligible recipient, or other description of the capital project. The term includes:

- (1) the construction of airports, airport facilities, and local street and road projects;
- (2) an airport development project that is eligible for a grant or loan under IC 8-21-11; and
- (3) any other:
  - (A) acquisition of land;
  - (B) site improvements;
  - (C) infrastructure improvements;
  - (D) construction of buildings or structures;
  - (E) rehabilitation, renovation, or enlargement of buildings or structures; or
  - (F) acquisition or improvement of machinery, equipment, furnishings, or facilities;

(or any combination of these), that comprises or is functionally related to an activity that serves a governmental, a recreational, a cultural, a community, a health, a charitable, a scientific, a public safety, a literary, or an educational purpose, fosters amateur sports competition, or fosters prevention of cruelty to children.

(d) As used in this chapter, "state project" refers to a capital project that is managed or carried out by an eligible recipient described in section 2(4) through 2(6) of this chapter.

(e) As used in this chapter, "local project" refers to a capital project that is managed or carried out by an eligible recipient described in section 2(1) through 2(3) of this chapter.

(f) In appropriating money from the build Indiana fund for state and local capital projects, the general assembly shall, to the extent practicable, allocate money:

- (1) equally among legislative districts for the house of

representatives; and

(2) equally among legislative districts for the senate;

without regard to the political affiliation of the member of the general assembly representing the legislative district or the voting preferences of the legislative district.

(g) In reviewing and approving projects under section 10 of this chapter, the budget committee and the governor shall carry out a program under which, to the extent that projects otherwise qualify for funding, money for projects is disbursed:

(1) equally among legislative districts for the house of representatives; and

(2) equally among legislative districts for the senate;

without regard to the political affiliation of the member of the general assembly representing the legislative district or the voting preferences of the legislative district.

*As added by P.L.1-1991, SEC.23. Amended by P.L.25-1995, SEC.5; P.L.186-2002, SEC.3.*

#### **IC 4-30-17-4.5**

##### **Project statement**

Sec. 4.5. (a) To receive funding for a state or local capital project, an eligible recipient must provide the budget agency with a project statement on a form prescribed under subsection (b).

(b) The budget agency shall prescribe a project statement form for its use in certifying eligible recipients under this section. The form must require the entity submitting the project statement to provide the following information:

(1) The name, mailing address, federal tax identification number, and state tax identification number of the eligible recipient.

(2) The legal status of the eligible recipient, including whether the eligible recipient is a governmental entity, a state educational institution, a volunteer fire department, or an entity exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code.

(3) The full name, title, address, and telephone number of the individual who will serve as the contact person for the project and a description of any contractual relationship that the person has with the eligible recipient, if the person is not a member or an employee of the eligible recipient.

(4) A list of the full name and address of any individual who is associated with the eligible recipient and who serves as a presiding officer of a governing board, a managing partner, an officer, or an office manager of the eligible recipient.

(5) The name and a description of the project.

(6) The street or other physical address where the project will be located when completed.

(7) A statement of the need for the project.

(8) An estimate of the total project cost.

(9) The current status of the project, including the percentage of

completion at the time the project statement is submitted, for which funding is requested.

(10) The anticipated completion date for the project.

(11) The amounts of funding previously appropriated or received from the build Indiana fund, including information concerning any funds not spent at the time the project statement is submitted.

(12) An itemization of all other governmental and private sources of funds for the particular project.

(13) The name, position, and telephone number of a contact person associated with any funding source identified under subdivision (12).

(14) The financial institution where all funds received under this chapter will be deposited.

(15) The name, position, and telephone number of a contact person employed by the financial institution listed under subdivision (14).

(16) Any additional or alternative information required by the budget agency.

(c) The budget agency shall review each project statement submitted under this section. If the budget agency determines that:

(1) the project statement is complete;

(2) the recipient qualifies as an eligible recipient; and

(3) an appropriation applies to the eligible recipient and project;

the budget agency shall certify to the budget committee that the eligible recipient and capital project have complied with this section and provide a copy of the project statement to the budget committee.

*As added by P.L.186-2002, SEC.4.*

#### **IC 4-30-17-5**

##### **Repealed**

*(Repealed by P.L.186-2002, SEC.14.)*

#### **IC 4-30-17-6**

##### **Repealed**

*(Repealed by P.L.186-2002, SEC.14.)*

#### **IC 4-30-17-7**

##### **Repealed**

*(Repealed by P.L.186-2002, SEC.14.)*

#### **IC 4-30-17-7.5**

##### **Repealed**

*(Repealed by P.L.186-2002, SEC.14.)*

#### **IC 4-30-17-8**

##### **Repealed**

*(Repealed by P.L.186-2002, SEC.14.)*

#### **IC 4-30-17-9**

*(Repealed by P.L.186-2002, SEC.14.)*

#### **IC 4-30-17-10**

##### **Use of money appropriated for capital projects; prior review and approval of project**

Sec. 10. Money appropriated from the build Indiana fund may not be expended on a state or local capital project or transferred to a revolving fund for capital projects until the state or local capital project or transfer is reviewed by the budget committee and approved by the governor upon the recommendation of the budget agency.

*As added by P.L.341-1989(ss), SEC.1. Amended by P.L.33-1990, SEC.10; P.L.25-1995, SEC.6; P.L.186-2002, SEC.5.*

#### **IC 4-30-17-11**

##### **Grant agreement**

Sec. 11. (a) Each eligible recipient that is approved to receive money from the build Indiana fund under section 10 of this chapter must, as a condition of receiving money from the build Indiana fund, enter into a funding agreement with the budget agency.

(b) The agreement required under subsection (a) must obligate the eligible recipient to do the following:

(1) Complete the project in conformity with the information in the project statement reviewed and approved under section 10 of this chapter and any subsequent agreements reviewed by the budget committee and approved by the governor, upon recommendation of the budget agency.

(2) Acknowledge, on a form prescribed by the budget agency, the receipt and deposit of money received from the build Indiana fund. The written acknowledgment must include proof that the funds have been deposited in the financial institution listed in the documents described in subdivision (1) and must be submitted to the budget agency within ten (10) business days after receipt of the money.

(3) Account for money received from the build Indiana fund in accordance with generally accepted accounting principles, the accounting guidelines established by the state board of accounts, or an alternative method of accounting approved by the state board of accounts.

(4) Be subject to the audit and the reporting requirements under IC 5-11-1 (state board of accounts) for each year, beginning with the year in which money from the build Indiana fund is received and ending with the year in which the project is completed.

(5) Upon request, provide for the contact person specified in the project statement or another person who is knowledgeable about the project to appear and give testimony to the budget committee concerning the project.

(6) Submit to the budget agency, on a form prescribed by the budget agency, verification of the completion of the project not later than ten (10) business days after the project is complete.

(7) If a project is not completed by the anticipated completion date specified in the documents described in subdivision (1), submit to the budget agency, on a form prescribed by the budget agency, information as to the reason the project is not complete and the revised completion date of the project. The form must be submitted before the anticipated completion date specified in the documents described in subdivision (1).

(8) Pay reasonable attorney's fees and other reasonable expenses incurred to enforce the provisions of the agreement described in subdivisions (1) through (7), collect reimbursement of project funds under subsection (d), or prosecute a violation of the agreement.

(c) The budget agency shall monitor compliance with the agreement required under subsection (a).

(d) In addition to any other remedy provided by law, if the eligible recipient fails to comply with a condition of the agreement required under subsection (a), the budget agency may, under the procedures set forth in IC 4-21.5, require the entity to repay all the funds distributed to the eligible recipient under this chapter. The budget agency shall give notice of the order under IC 4-21.5-3-4. Money repaid under this section shall be deposited in the build Indiana fund. *As added by P.L.186-2002, SEC.6.*

#### **IC 4-30-17-12**

##### **Distribution of project funds; procedures**

Sec. 12. (a) Upon compliance with this chapter, the appropriated amount for the state or local capital project shall be distributed to the eligible recipient. Subject to the review and approval required under section 10 of this chapter, the authorized amount may be distributed as a lump sum distribution in the full amount of the appropriation or in a series of progress payments. Upon receipt of documentation showing that the eligible recipient has paid or is contractually obligated to pay an expenditure for a project, the appropriation may be distributed to the eligible recipient. Before making the initial distribution of money from the build Indiana fund for a state or local capital project, at least seven (7) days notice of the following shall be given to each member of the general assembly who represents the area that will be most benefited by the state or local capital project and each regular member of the budget committee (as determined under IC 4-12-1-3) who is affiliated with the same political party and serves in the same legislative chamber as a member of the general assembly who represents the area:

(1) A copy of the project statement for the project.

(2) The approximate date that the money will be distributed.

(b) Money distributed under this section must be distributed either by:

(1) means of an electronic funds transfer (as defined in IC 4-8.1-2-7); or

(2) delivery of a warrant of the auditor of state by certified mail.

*As added by P.L.186-2002, SEC.7.*

**IC 4-30-17-13**

**Continuing appropriation**

Sec. 13. There is annually appropriated to the budget agency a sufficient amount from the build Indiana fund for the budget agency to:

- (1) carry out its responsibilities under this chapter; and
- (2) notwithstanding IC 5-11-4-3, pay the expense of examination and investigation of accounts related to a state or local capital project.

*As added by P.L.186-2002, SEC.8.*